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A TALE OF TWO CITIES

Review of the Development
Paradigm in Phnom Penh



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Sahmakum Teang Tnaut • a Cambodian Urban NGO



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A REVIEW OF THE DEVELOPMENT PARADIGM IN PHNOM PENH

EXECUTIVE SUMMARY

The city of Phnom Penh abounds with opportunities and challenges. Amidst a booming economy and rapid urbanization, different stakeholders in the metropolis including the government, private and informal sectors interact along with the indelible presence of the international community. In the legacy of the city's history and the current challenges it faces, Phnom Penh essentially stands at a crossroads. Ahead is the continuation of a "planned" development of the city first developed by the French and then adopted by the Sihanouk regime. To either side is the new "unplanned" approach, a path that already seems to be the favored choice, in which a laissez faire attitude to development sees the city becoming increasingly similar to Bangkok and other Asian mega cities with unbridled construction, few planning restrictions, sporadic and uncoordinated infrastructure provision, rising gentrification, major traffic issues and tiny pockets of usable open space.

The rapidity of development and change driven by the current boom is challenging the capacity of the city to keep pace. Significant progress has been made in urban services and infrastructure, predominantly driven by Overseas Development Assistance (ODA) and Foreign Direct Assistance (FDI). Formidable challenges remain however, and in some cases the viability of developments has been undermined by a concerning lack of planning regarding basic services. Electricity prices remain among the highest in the region and domestic capacity for production is low. Inconsistencies in supply are frequent and there remains a heavy reliance on generators city wide. The accessibility and quality of potable water has increased significantly

through a commercial 'public enterprise' model of service delivery, although issues persist on the urban periphery. The system of wastewater management is problematic outside of the central Khans. Events such as the overflow of open sewerage canals caused by storm water inundations have significant adverse environmental and public health impacts.

The challenges of managing storm and flood water continue to be a constant accompaniment to the city's development. The existing network of drainage, dykes, levies, canals and Boeungs is problematic and frequently overwhelmed. The temporary inundation of the streets in certain areas following rainfall events is common. In recent years the demand for well-located urban land has included some of the drainage reserve system, placing further pressure on an already overloaded network. Development of the city without a coordinated infrastructure plan is effectively creating the foundations for major problems in the future, some of which are already evident during heavy rainfall.

Meeting the mobility needs of the population amidst the rapidity of growth is an ongoing challenge. In the absence of viable rail and public transport alternatives the burden predominantly falls on the road network, which must accommodate the majority of freight volume as well as an increasing population that is increasingly mobile. The National Road (NR) network has been extensively rehabilitated, and regional connectivity enhanced. However the suburban road network remains in varying states of disrepair. Issues of congestion and road safety are becoming more apparent especially on the urban periphery, compounded by a lack of

planning for effective traffic management. Some promising developments in rail, marine and air transport have the potential to alleviate some of the burden on the road network.

Progress has been made to the body of legislation and policy that forms the regulatory framework for development. However inconsistencies in application, and a lack of political will and capacity to enforce compliance with the framework remain pressing question marks for progress. ODA interventions have undoubtedly made significant contributions to the framework but these tend to be developed in isolation and a lack of coordination between different international actors can be detrimental to overall coherence.

What is being produced through the current paradigm and its impact on the cityscape give rise to questions of stewardship of the development process in Phnom Penh. Concerns such as environmental management, heritage conservation, housing, and coordinated planning that are in the wider long term interest of the city as a whole appear subservient to the interests and needs of the private sector. Amidst the optimism surrounding the boom a sobering addendum is the continuing inequitable distribution of the benefits and a worrying trend of accumulation by dispossession. Ultimately, a development process that benefits some whilst undermining the livability of the city for many is not desirable or sustainable. How closely the current paradigm resembles this situation is a question to pose when considering the future of Phnom Penh.

"In the legacy of the city's history and the current challenges it faces, Phnom Penh essentially stands at a crossroads. Ahead is the continuation of a "planned" development of the city ... [t]o either side is the new "unplanned" approach"

ACRONYMS

ADB:	Asian Development Bank
AFD:	Agence Francais pour Developpement
AusAID:	Australian Agency for International Development
BAU:	Bureau des Affaires Urbaines
CDS:	City Development Strategy
CSO:	Civil Society Organisation
CPP:	Cambodian People's Party
CBO:	Community Based Organization
EIA:	Environmental Impact Assessment
ELC:	Economic Land Concession
EU:	European Union
GDP:	Gross Domestic Product
GIZ:	Deutsche Gesellschaft für Internationale Zusammenarbeit
GTZ:	Deutsche Gesellschaft für Technische Zusammenarbeit
HRTF:	Housing Rights Task Force
IMF:	International Monetary Fund
JICA:	Japan International Cooperation Agency
LMAP:	Land Management and Administration Project
MAFF:	Ministry of Agriculture Forestry and Fisheries
MCFA:	Ministry of Culture and Fine Arts
MEF:	Ministry of Economics and Finance
MOH:	Ministry of Health
MOI:	Ministry of Interior
MLMUPC:	Ministry of Land Management, Urban Planning, and Construction
MPP:	Municipality of Phnom Penh
MPWT:	Ministry of Public Works and Transport
MOT:	Ministry of Tourism
NGO:	Non-Governmental Organization
NR:	National Road
OCIC:	Overseas Cambodia Investment Corporation
ODA:	Overseas Development Assistance
PPWSA:	Phnom Penh Water Supply Authority
RGC:	Royal Government of Cambodia
RRC:	Royal Railways of Cambodia
SD:	Sub-Decree
TRR:	Toll Royal Railways
UN:	United Nations
UNTAC:	United Nations Transitional Authority in Cambodia
UPDF:	Urban Poor Development Fund
USAID:	United States Agency for International Development
WWII:	World War II

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1 INTRODUCTION

THE DEVELOPMENT PARADIGM IN PHNOMPENH

The city of Phnom Penh abounds with opportunities and challenges. Amidst a booming economy and rapid urbanization, different stakeholders in the metropolis including the government, private and informal sectors interact along with the indelible presence of the international community. In the legacy of the city's history and the current challenges it faces, Phnom Penh essentially stands at a crossroads. Ahead is the continuation of a "planned" development of the city first developed by the French and then adopted by the Sihanouk regime. To either side is the new "unplanned" approach, a path that already seems to be the favoured choice, in which a laissez faire attitude to development sees the city becoming increasingly similar to Bangkok and other Asian mega cities with unbridled construction, few planning restrictions, sporadic and uncoordinated infrastructure provision, major traffic issues and tiny pockets of usable open space.

This report is a review of city's development paradigm, including an examination of the following elements;

URBAN SERVICES AND INFRASTRUCTURE

Following the forced evacuation of the city by the Khmer Rouge in 1975, three decades of conflict and instability took a severe toll on urban infrastructure. Since then, a slow rehabilitation process driven by Overseas Development Assistance (ODA) and Foreign Direct Investment (FDI) has seen progress in all sectors, however significant issues persist. The rapidity of development and change driven by the current economic boom is in many ways challenging the capacity of the city authorities to keep pace. Recent developments and the current state of urban services are examined, including; electricity, potable water, waste water and storm water management.

REGULATORY FRAMEWORK

The body of legislation and policy that forms the regulatory framework for development in Phnom Penh has been the subject of significant ODA interventions in recent decades. Whilst progress has been made, inconsistencies in the application of the framework, and question marks over political will and capacity to enforce compliance is an ongoing concern. The major elements of the framework and their implications for development in both theory and practice are explored.

MOBILITY NETWORKS

Meeting the mobility needs of the population amidst the rapid growth is an ongoing challenge for Phnom Penh. Currently the road network is facing the dual stressors of accommodating the majority of freight as well as an increasing population that is increasingly mobile. Significant improvements have been made to the National Road (NR) network and regional connectivity enhanced. However, the suburban road network is in varying states of disrepair. Issues of congestion and road safety are becoming more apparent especially on the urban periphery, compounded in some cases by a lack of planning for traffic management. Some promising developments in other transport modes have the potential to alleviate some of the burden. The current state of mobility networks including road, rail, marine, air and cycling are examined, and major issues explored.



Figure 1: Phnom Penh city as seen from Gold Tower, Photo by Conor Wall

MAJOR STAKEHOLDERS

Relationships between different stakeholders in Phnom Penh's development are at times contentious. The relative underdevelopment of the public sector and a reliance on ODA are persistent issues. The weakness of the regulatory framework raises questions as to the influence of the private sector and the position of the public interest in decision making. The different roles and interactions between major stakeholders are examined including; the Royal Government of Cambodia (RGC), Development Partners, Civil Society Organizations (CSOs) the private sector and the informal sector.

KEY ISSUES IN PHNOMPENH'S DEVELOPMENT

Reviewing the current paradigm is illuminative of several major challenges to Phnom Penh's ongoing development. These include; the rapidity of growth, the increasing economic and spatial inequality, a lack of affordable housing, persistently weak tenure and titling system for the informal settlements, the weak regulatory framework, predominance of private developer-driven urban change, and the poorly coordinated development of the periphery. Issues are examined in light of their implications for the city's development.

The culmination of the review is intended to shed light on the key actors and key issues in the current development paradigm; its implications on the cityscape, and its appropriateness for Phnom Penh.

1.1 METHODOLOGY

This report is based on a desk review of relevant literature, including national and international reports and research findings related to urban development, as outlined in the bibliography.

2 PHNOM PENH CITY PROFILE

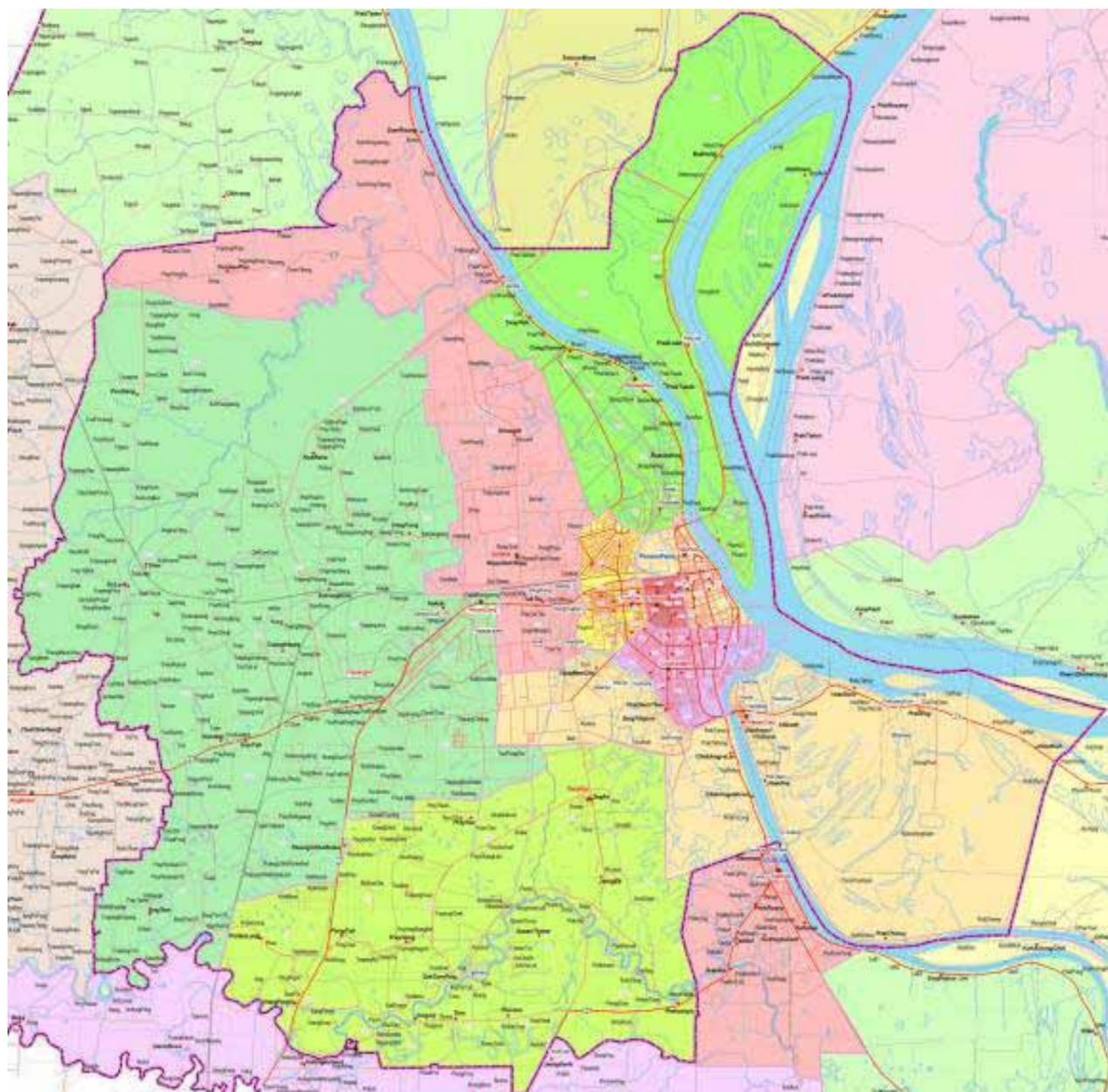


Figure 2: Phnom Penh Administrative Map, Source: Municipality of Phnom Penh http://www.phnompenh.gov.kh/_design/mapbox/map-2-en.jpg

As Cambodia's largest and most populous city, Phnom Penh functions as the economic, administrative, educational and diplomatic heart of the country. Relatively small in the context of Southeast Asian capitals, the boundaries of the metropolis encompass an area of 684,434 hectares. The city is reportedly home to more than 1.6 million people, increasing by an estimated 40,000 per year¹.

The city's location at the intersection of four rivers - the Lower and Upper Mekong, the Tonle Sap and the Bassac - is both an asset and a constraint to the development of Phnom Penh. The degraded monsoonal climate is characterized by short bouts of intense rainfall, with the peak of the wet season in September/October coinciding with the annual flooding of the Mekong². The management of storm and flood waters continues to be one of the city's principal challenges.

The forced evacuation of the city in 1975 at the hands of the Khmer Rouge resulted in much of Phnom Penh's infrastructure and urban fabric falling into disrepair. The elimination of the educated classes was followed by decades of instability and conflict culminating in the low capacity of the population to administer the city's reconstruction and management³. The United Nations Transitional Authority in Cambodia (UNTAC) was established following the Paris Peace Accords in 1991; its mandate included the provision of administrative and electoral support, law and order, civil administration and reconstruction⁴. The UNTAC period had profound implications for Phnom Penh. The influx of some 20,000 foreign workers to a city of 625,000 destitute locals distorted markets and permanently altered the urban and social fabric of the city⁵. The continuing international presence has an indelible influence on the cityscape.

Although the majority of ODA to Cambodia has a rural focus⁶ and some argue that urban growth and the living conditions of the urban poor have received inadequate attention in the development programmes of major international agencies⁷, ODA has been the driving force behind much of the city's infrastructural development. Multilateral organizations such as the World Bank, the Asian Development Bank (ADB) and the United Nations (UN), as well as bilateral institutions such as Japanese International Cooperation Agency (JICA), Agence Francais pour Developpement (AFD) and the Australian Agency for International Development (AusAID) have all made their mark on the city's development.

1 Municipality of Phnom Penh (2010) *Facts Phnom Penh City*. However, there are concerns regarding the accuracy of census data, particularly relating to the inclusion of the urban poor, and transient residents.

2 *Climate and Flood Data* Mekong River Commission

3 De Walque D (2004) *The Long Term Effects of the Khmer Rouge* World Bank Development Research Group p16

4 United Nations Transitional Authority in Cambodia

5 Jennar R (1994) *UNTAC: International Triumph in Cambodia?* Security Dialogue, 25: 145 1994

6 Council for the Development of Cambodia (2010) *Cambodian Aid Effectiveness Report 2010* Third Cambodia Development Cooperation Forum May 2010 p2

7 Huy Rumduol (1996) *Forced Evictions and Housing: Urban Poor in Phnom Penh*



Figure 3: Phnom Penh Satellite Image © 2012 Google Maps



Figure 3: Outside central Phnom Penh, living conditions are often poorer

Cambodia as a whole has experienced remarkable sustained economic growth at an average rate of 7% per annum for 14 consecutive years until 2008⁸. Driven by booming garment, construction and tourism industries Phnom Penh is wealthy in a national context, but remains significantly poorer than other South-East Asian capital cities⁹. Concerns regarding the inequitable distribution of benefits from economic growth remain¹⁰. Recent years have seen a trend of private sector actors closely aligned with Government actors becoming increasingly dominant in urban development, creating a nexus of developers, politicians, and the well-connected driving urban change. Booming property prices have led to an increase in real estate speculation and construction, driven in part by amendments to investment laws enabling limited foreign ownership of property¹¹.

8 Guimbert S (2010) 'Cambodia 1998 – 2008 An Episode of Rapid Growth' World Bank Poverty Reduction and Economic Management Department April

9 Global Finance Magazine (2012) 'Data and Country Reports: Global Finance'

10 World Bank (2008) 'Growth, Poverty and Inequality in Cambodia' Consultation with External Advisory Panel for; Cambodia: Sustaining Rapid Growth

11 GTZ (2009) 'Foreign Direct Investment in Land in Cambodia'

STAKEHOLDERS

3

As with any city, Phnom Penh has a range of stakeholders pursuing their interests in the urban development paradigm. Those interests are not always compatible, at times oppositional, and give rise to contested spaces in the cityscape. Examining the different roles and interactions of stakeholders in theory and practice gives some insights into the dynamics of the development process and what implications that may have for the city as a whole. Examined in the following are the Royal Government of Cambodia (RGC), Development Partners, Civil Society Organisations (CSOs), the private and informal sectors.

3.1 THE ROYAL GOVERNMENT OF CAMBODIA

As the implementing authority, the Royal Government of Cambodia's (RGC) role in Phnom Penh's development is critical. Administration is theoretically structured around three tiers of government, the uppermost Central Government, intermediate municipality, and local Khans (districts) and Sangkats (communes). The relationship between the three is characterized by the dominance of the Central Government which in reality retains the vast majority of key decision making authority. Elements of the legislative and policy framework provide the foundations for the tiers to enjoy some degree of autonomy, however, in most cases the requisite financial mechanisms, political will, and capacity for this to occur do not exist¹². Extensive donor funding for "good governance" policies and de-centralization efforts has seen some progress in building the capacity of relevant urban ministries, however strong private sector influence in urban development remains and continues to raise questions about who is driving development policy and key decision making.

The major activities of the three tiers pertaining to the city's development are as follows;

3.1.1 CENTRAL GOVERNMENT

The Central Government is the highest tier of the RGC. The Ministry of Interior (MOI) headed by the Deputy Prime Minister is the leading central agency, with a broad mandate, including public administration, law enforcement and the judiciary¹³.

Reducing the dominance of the Central Government on the lower tiers has been high on the reform agenda of the RGC and Development Partners in recent years. Under the umbrella of 'Decentralization and Deconcentration', programs have made some progress in building capacity of the lower tiers and establishing the legislative foundation for greater autonomy. However, in practice progress has been modest and Municipal and Local Government remain largely politically and economically subservient¹⁴. In the land sector, a key area in terms of urban development, the Ministry of Land Management,

12 Smoke P, Morrison J (2008) 'Decentralization in Cambodia: Consolidating Central Power of Building Accountability from Below?' International Studies Program, Andrew Young School of Policy Studies p9

13 Ministry of Interior (ND) 'Domains of Responsibility'

14 Palling W (2012) 'Planning a Future for Phnom Penh: Mega Projects, Aid Dependence and Disjointed Governance' Urban Studies 2049: 2889

Urban Planning, and Construction (MLMUPC) is the governing body responsible for land use, urban planning, construction projects, and, together with the Ministry of Interior (MOI), is responsible for the resolution of conflicts over land that is not yet registered. State property management falls under the Ministry of Economics and Finance. This set-up limits the authority of Phnom Penh Municipality over land in the municipal area, although, as ever in Cambodia, the influence of powerful individuals often overrides procedure; large private development projects have been announced by the Prime Minister before having been submitted to either the MPP or the MLMUPC. It has further been reported that the Prime Minister in some cases has “advised” Phnom Penh Governor Kep Chuktema to agree to development proposals¹⁵.

3.1.2 MUNICIPAL AUTHORITIES

The peak body of Municipal Authorities is the Municipality of Phnom Penh (MPP). Its mandate includes the development and implementation of strategic plans and regulatory policies, the organization of public works and the management and operation of public utilities. The executive of the MPP consists of a Governor and two Vice Governors, appointed by the RGC as “delegates of the Royal Government”¹⁶.

Services and utilities under the jurisdiction of the MPP include roads, public lighting, sports and cultural facilities, parks and public gardens, waste management, water supply, sanitation and drainage, education, hospitals and administrative buildings¹⁷. The following authorities are involved in service delivery and come under varying degrees of supervision of the MPP.

- Phnom Penh Water Supply Authority (PPWSA)
- Electricité du Cambodge (EDC)
- Phnom Penh Port Authority (PPPA)
- Royal Railways of Cambodia (RRC)
- Phnom Penh Waste Management Authority (PPWMA)

Although the MPP is entitled to generate revenue through tax (on items such as vacant land, property transfer, slaughter of animals, transport and rental of public property) the mechanisms for tax collection are not well established, undermining the Municipality’s financial autonomy¹⁸.

15 *ibid.* p10

16 UNDP/UNHCS (1999) ‘Strategy to Build the Capacity of the Municipality of Phnom Penh for Urban Poverty Reduction’ Support Services for Program Development p13

17 Municipality of Phnom Penh www.phnompenh.gov.kh

18 Smoke P, Morrison J (2008) ‘Decentralization in Cambodia: Consolidating Central Power of Building Accountability from Below?’ International Studies Program, Andrew Young School of Policy Studies p9

3.1.3 KHAN&SANGKAT

At the local governance level, Phnom Penh is divided into nine Khans (districts) and 96 Sangkats (communes). Khans are administered by Councils, appointed by and accountable to the MOI. Under the relevant legislation, the mandate of the Khans reads much the same as that of the MPP; provision of public services, promotion of development etc¹⁹. However as is the case with the MPP, the mechanisms that would allow some financial autonomy are largely absent, Khans thus remain politically subservient to the higher tiers²⁰. Sangkats are administered by Councils, although its members are directly elected by the population on a five year mandate. Since their inception in 2001 every election has been dominated by the ruling Cambodian People’s Party (CPP)²¹.

3.2 DEVELOPMENT PARTNERS

Since the UNTAC period of 1992-3 the international community has played a significant role in the development of Phnom Penh. ODA is the driving force behind virtually all public construction projects. Multilateral institutions such as the World Bank, Asian Development Bank (ADB) and United Nations Development Program (UNDP) are heavily involved in the rehabilitation and enhancement of public utilities²², typically providing financial and technical support.

The UN Human Settlements Program (UN HABITAT) has previously been involved in physical upgrades to impoverished areas in Phnom Penh²³, and in 1999 together with the MPP developed an Urban Poverty Reduction Strategy (UPRS) to improve access to basic social and physical infrastructure, enhancing economic opportunities and strengthening participatory governance mechanisms.²⁴ This culminated in the 2002 Prime Ministerial pledge to “upgrade 100 slum-settlements per year over the next 5 years”²⁵. However, such upgrades never materialized. Subsequently, UN HABITAT closed its office at the MPP, though it continued with providing limited technical guidance and capacity building with local actors to enhance livelihoods of the urban poor.²⁶²⁷

Other international actors such as Japan International Cooperation Agency (JICA), Australian Agency for International Development (AusAID), Bureau des Affaires Urbaines (BAU), and recently the Government of China have been active in the rehabilitation and construction of infrastructure, drainage and flood protection²⁸. Development Partners and various international agencies - notably the BAU and the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) - have also been active in the development of a regulatory framework for Phnom Penh²⁹. However, despite some promising outputs and publications, policies are typically either

19 Peng H, Phallack K, Menzel J eds. (2012) ‘Introduction to Cambodian Law’ Konrad Adenauer Stiftung p257

20 Smoke P, Morrison J (2008) ‘Decentralization in Cambodia: Consolidating Central Power of Building Accountability from Below?’ International Studies Program, Andrew Young School of Policy Studies p11

21 *ibid.*

22 See Road Asset Management Project (2008), Urban Water Supply and Sanitation Project #3 2011, Railway Rehabilitation Project 2009

23 See UN HABITAT Phnom Penh Urban Poverty Reduction Project 2001

24 UN-Habitat (2003) *Global Report on Human Settlements 2003, The Challenge of Slums*, Earthscan, London; Part IV: ‘Summary of City Case Studies’, pp195-228.

25 UN HABITAT (ND) *Phnom Penh Urban Poverty Reduction Project (Completed)* retrieved from http://www.fukuoka.unhabitat.org/projects/cambodia/detail02_en.html

26 See UNHABITAT (2011) Safer Phnom Penh City 2011

27 UN-Habitat is currently in negotiations with the RGC about extensive re-engagement in Phnom Penh

28 See Project for Flood Protection and Drainage Improvement in Phnom Penh, Project for Traffic Improvement in Phnom Penh City, Project on Strengthening of Solid Waste Management for the Municipality of Phnom Penh 2006, China Cambodia Friendship Bridge 2011

29 BAU developed the Livre Blanc pour Développement et Aménagement de Phnom Penh (2007). GIZ’s activities include; assisting with the establishment of an Ombudsman’s Office, establishment of legal units within ministries and publication of legal gazette



Figure 5: Police tend to be present at protests in the city. Violence has also been reported

not prescriptive or are simply not adopted. Largely confined to recommendations, ODA policy initiatives typically include guidelines for domestic institutions to create their own binding regulations, however this rarely materializes³⁰. By the same token much of the legislation contains some sound urban development principles which, if applied, could be the basis of more progressive urban growth³¹.

Given the extent of activity of the international community, dependency on ODA is an ongoing issue. A typical project partnership sees the RGC contribute 15% of costs, usually focused on expenses in Cambodia (e.g. labour)³². Almost ubiquitous in the objectives of projects is the development of the capacity of the implementing partner and/or other domestic institutions. However, the realization of these objectives involves significant challenges, including; issues of corruption, human resource shortfalls, and the current low remuneration for government employees.

3.3 CIVIL SOCIETY ORGANIZATIONS

Reflecting the wider orientation of international aid, the majority of civil society organizations (CSOs) in Cambodia have a rural focus, with comparatively few active in the urban development process. Of the few groups focused on urban issues in the 1990s and early 2000s, most played a key role in supporting community level infrastructure particularly in the city's poor settlements, working with communities to improve elements such as infrastructure, dwellings and communal buildings, and water and sanitation services. At the time, work tended to be collaborative in nature, with non-governmental organizations (NGOs) such as the Urban Resource Centre (URC) and the Urban Sector Group (USG) worked alongside the MPP and CBOs (e.g. Solidarity for Urban Poor Federation (SUPF)).

More recently, the sharp rise in demand for urban space has made this type of work increasingly controversial and the extensive wave of forced evictions that followed the Bassac fires of 2001³³ has eroded cross-sectoral cooperation, gradually replacing it with an environment marked by distrust and wariness between all actors. Concomitantly, the RGC's view of poor settlements has hardened leading settlements to be considered illegal and "temporary" as opposed to poor areas that should be assisted, with any resistance to displacement branded "opposition to national development". As a result, the past decade has seen a sharp decline in NGO-funded upgrading projects, the collapse of the CBO leadership system, and a substantial increase in advocacy campaigning.

30 See BAU (2007) *Livre Blanc pour Développement et Aménagement de Phnom Penh* p18 for a comprehensive review of the implementation of different public policies relating to development

31 For example it is not uncommon for development projects to involve transgressions of principles of the Land Law 2001, particularly regarding dispossession, as well as the Law on Environmental Protection and Natural Resource Management 1996, particularly regarding the requirement that all public and private developments conduct an EIA

32 BAU (2007) *Livre Blanc pour Développement et Aménagement de Phnom Penh* p168

33 In May 2001 a fire razed an urban poor community on the banks of the Bassac River, 500 homes were destroyed. The fire was then used by the MPP as a catalyst for the de facto eviction of the community, who were subsequently prevented from reconstructing on site; more than 2000 people were displaced.

The creation of the Housing Rights Task Force (HRTF) in 2004/5 in the aftermath of the Bassac fires exemplifies the shift towards a stronger advocacy role among NGOs. In addition to advocating on behalf of the urban poor, HRTF also facilitates knowledge sharing between various expert partners and the poor, as well as between communities themselves³⁴. Established as a membership organization, the Task Force works alongside local NGOs including Sahmakum Teang Tnaut (STT), Equitable Cambodia (EC), Building Community Voices (BCV), Community Legal Education Centre (CLEC) and the Cambodian League for the Defense and Promotion of Human Rights (LICADHO).

Advocacy activities typically include efforts to provide a platform for the urban poor and other groups marginalized from public discourse to express their concerns. Another facet of this activity is the independent monitoring of development and other projects in terms of their implications on the urban poor. Advocacy activities are often assisted through well-developed linkages with human rights organizations and the domestic and international media. A nascent outcome of these activities is the slow re-surgence of CBOs, most prominently in the form of the League of Boeung Kak Women Struggling for Housing Rights.

NGOs are also occupying a gap in the authorities' political will and capacity to obtain accurate information on the urban poor. CSOs such as STT, Community Managed Development Partners (CMDP), and Community Empowerment and Development Team (CEDT), have focused on enumeration and mapping activities which are conducted to gain an accurate picture of physical and socio-economic composition of communities. Data gathered by STT is typically used for the purposes of advocacy by partner CSOs or by the communities themselves, enhancing a community's self-awareness and organizational capacity, and/or as the basis for alternative development proposals in the event of an eviction threat.

CSOs are also gradually becoming more engaged in relocation sites, places on the city's periphery many of the urban poor were displaced to as a result of the RGC's program of evictions.³⁵ This occupies some difficult moral territory, as in providing assistance to relocated communities CSOs could be seen as enabling the practice of eviction. However, relocation sites typically lack basic services, adequate housing, health and educational facilities, and employment opportunities, with evictees often in dire need of assistance³⁶. While rights-based organizations have been hesitant, the Urban Poor Development Fund (UPDF), a government aligned group chaired by a former Vice Governor of Phnom Penh³⁷, has been involved in setting up savings groups and providing credit for the development of

34 See www.hrtfcambodia.org

35 Sahmakum Teang Tnaut (2009) 'The 8 Khan Survey'

36 Sahmakum Teang Tnaut (2012) 'Railway Relocations in Phnom Penh; Six Women Tell their Stories'

37 Asian Coalition for Housing Rights (ND) 'Urban Poor Development Fund'



Figure 6: NGOs are involved in mapping urban poor communities

housing and services in relocated communities³⁸. In an ambitious joint project, UPDF together with American based NGO People for Care and Learning are aiming to construct an entire new 'city' at the Andong relocation site approximately 30kms from Phnom Penh³⁹. While the project may offer benefits to some residents at the site, at least 19 families in the area have simultaneously received eviction notices.⁴⁰



Figure 7: Chinese compartment houses under construction, Photo by Marcus Tudehope

3.4 THE PRIVATE SECTOR

Amidst the relative stability following the 1997 coup and bolstered by the recent boom, the private sector has become increasingly prominent in Phnom Penh's development paradigm. There exists a significant overlap between the political and business elite, with interactions between the two spheres seemingly characterized by a high degree of opacity⁴¹, although this is regularly refuted by the RGC. Levels of private foreign investment have recently for the first time eclipsed levels of ODA⁴². The sector is predominantly involved in the construction of high end residential, hotel, commercial and office developments, culminating in the most visible impact of the sector on the cityscape. However, private actors are also heavily involved in the finance or management of urban public services. Recent trends in private sector activities in service provision, housing supply and satellite cities are discussed below.

3.4.1 SERVICE PROVISION

The following services in Phnom Penh are partially or wholly delivered by the private sector:

- Potable Water;
- Electricity;
- Telecommunications;
- Road Construction;
- Operation of the International Airport;
- Waste Collection;
- Construction and rehabilitation of markets, heritage buildings and cultural centers⁴³.

38 ibid

39 People for Care and Learning (2012) 'Who We Are'

40 Mom K Worrell S (2012) 'Families await second eviction in Phnom Penh's Andong Village' Phnom Penh Post

41 For example Senator Ly Yong Phat, President of the corporation LYP Group, Senator Sok Kong President of the corporation Sokimex Group, Senator Lao Meng Khin, head of the Cambodian Chamber of Commerce and president of the corporation Shukaku Group

42 GTZ (2009) 'Foreign Direct Land Investment in Cambodia' p22 Also see Global Property Guide (2011) 'Cambodia's Property Recovery Helped by Foreign Ownership Law'

43 UNESCAP (2009) 'Public Private Partnerships in Infrastructure Development' Also see BAU (2007) Livre Blanc pour Developpement et Amenagement de Phnom Penh p145

Although the private model of service delivery has delivered some significant favorable outcomes - as with the Phnom Penh Water Supply Authority (PPWSA) - it is problematic for several reasons. The relevant legislative and regulatory framework is ambiguous and applied inconsistently⁴⁴. The process of awarding of contracts is rarely transparent. The commitments of the various parties are generally not well articulated and the capacity of the MPP to monitor compliance with those commitments and/or the quality of service provision is generally low⁴⁵.

3.4.2 HOUSING SUPPLY

Government ventures into public housing is limited to a few isolated (and occasionally disastrous) cases⁴⁶ and the private sector is virtually the sole source of the formal housing supply in Phnom Penh. This is problematic given the market is primarily catering for upper income cohorts with access to credit⁴⁷.

Residential development in Phnom Penh is dominated by two housing types; Chinese style 'compartment' houses and single detached villas, with the former by far the most prominent⁴⁸. The Chinese compartment house is a medium rise brick and concrete dwelling, typically with a 50-80m² building footprint and characterized by a large entrance space on the ground floor. They are highly adaptable, conducive to rental accommodation and ground floor commercial uses. Large developments of compartment houses have an immediate and profound effect on the urban fabric, in that they largely remove the interface between the dwelling and the street. In contrast to the traditional Cambodian wooden house on stilts, interfaces between neighbors and between spaces are increasingly removed and located behind fences and razor wire. This effect is perhaps most observable on the periphery of Phnom Penh, where a stark juxtaposition is created by compartment houses adjoining traditional dwellings or vacant lots.

Compartment houses are frequently constructed at the beginning of large projects due to their quick profitability. Frequently built and/or purchased for investment purposes rather than occupation, it is not uncommon for dwellings to remain vacant for several years⁴⁹. In the absence of various authorities enforcing compliance with plans and other conditions, a concerning trend has been observed where housing is built on land reserved for public or other facilities such as drainage canals, rights of way, and educational or health facilities⁵⁰.

44 BAU (2007) Livre Blanc pour Developpement et Amenagement de Phnom Penh p208

45 ibid

46 See LICADHO (2008) 'Borei Keila: Cambodia's Social Housing Project Five Years On' and Rabe P (2010) 'Land Sharing in Phnom Penh and Bangkok Lessons from Four Decades of Innovative Slum Redevelopment in Two Southeast Asian 'Boom Towns'' University of Southern California, School of Policy Planning and Development

47 Asia Real Estate Cambodia (2001) 'Phnom Penh Real Estate Market' retrieved from

48 BAU (2007) Livre Blanc pour Developpement et Amenagement de Phnom Penh p70

49 ibid. p76

50 ibid



Figure 8: New Villas, Camko City Photo by Philip Lawton

Following Compartment Houses the most significant dwelling type being produced is the villa⁵¹. Villas are detached or semi-detached dwellings on private land parcels between 100-400m², typically oriented at foreign or local clientele with very high incomes⁵². Less significant numerically but increasingly prevalent high rise luxury residential developments have a highly visible impact on the cityscape.

3.4.3 SATELLITE CITIES

The development of self-contained satellite cities is one of the most observable facets of Phnom Penh's development in recent years. Driven by international investment, five projects are currently planned or underway, ranging in size from 75 hectares to 375 hectares⁵³. Touted as a solution to congestion and the housing and high quality office space shortage, satellite cities include residential uses, commercial and industrial areas, educational and medical facilities and recreational areas. Projects are typically very grand in scale and characterized by the provision of facilities oriented at a local or foreign clientele with high incomes. For example Phnom Penh Grand International City located in the Russei Keo District, Northwest of Phnom Penh includes 4,400 luxury villas, and a 70 hectare golf course⁵⁴.

Satellite city projects have attracted criticism for various sources. Concerns have been raised at the scale and nature of developments, arguing that they are out of character with Phnom Penh and reinforce spatial segregation⁵⁵. From an urban planning perspective the location of some projects is questionable with regard to efficient urban growth. Some complications in service provision appear likely. The displacement of existing residents from development sites has been a major source of contention. Conflict over relocation and adequate compensation has seen several projects significantly delayed or suspended. Most notable perhaps is the case of Boeung Kak, however displacement issues have also hampered Chroy Changvar, and Camko City⁵⁶.

51 *ibid.* p81

52 *ibid.*

53 See e.g. **Koh Pich City, Boeung Snor, Sunway City, Grand Phnom Penh City and Camko City**

54 Grand Phnom Penh International City on http://www.grandphnompenh.com/About_Us.aspx

55 Ching Chhom Mony, dean of the Faculty of Architecture at the Royal University of Fine Arts, quoted in Post Staff (2010) 'Honoring the Suburban Dream' Phnom Penh Post

56 Pi X (2012) *Eviction Worries Delay Phnom Penh Mega Project* Phnom Penh Post



Figure 9: Artist's Impression Camko City Source: www.worldcitycambodia.com

The circumstances surrounding the financing and FDI into Satellite city projects is typically opaque and inaccessible⁵⁷. With FDI predominantly derived from East Asia (most notably China and Korea) allegations of corruption against investors - both in Cambodia and abroad - have brought the future of some projects into question⁵⁸. Others, particularly in the wake of the 2008 global financial crisis - appear to have exhausted sources of funding. The commercial viability of some projects such as the 2,600ha AZ Town development appear questionable and it remains unclear whether they will go ahead⁵⁹. Moreover the scale of development appears to drastically outweigh demand in this very top end of the housing market⁶⁰.



Figure 10: Camko City Under Construction, Photo by Philip Lawton

57 Paling W (2012) 'Planning a Future for Phnom Penh: Mega Projects, Aid Dependence and Disjointed Governance' *Urban Studies* 2049: 2889

58 *Ibid.*

59 ING Holdings (2011) *AZ TOWN – The Future of Phnom Penh*

60 Barnes L (ND) 'Phnom Penh's Satellite Cities Property Report' Property Report Asia



Figure 11: Habitat for Humanity relocation site in Srah Po Phnom Bat, some 50km from Phnom Penh

3.5 THE INFORMAL SECTOR

The informal sector in Phnom Penh performs a variety of functions, and maintains a mixed relationship with the private sector and other stakeholders. In one sense the informal and private sectors are mutually reinforcing; low skilled workers are drawn to the opportunities created by the metropolis, the formal economy of which is subsidized by their presence⁶¹. In other respects the expanding activities of the private sector are increasingly marginalizing those of the informal, and undermining the presence of low income earners in Phnom Penh.

In recent years, the growth in the construction and the garment industry has created a high demand for low skilled labor in Phnom Penh⁶². Subsequently there exists a high demand for affordable housing in the vicinity of the metropolis. However the private sector currently does not produce any housing suitable for low income earners, or suitable plots for families to build their own housing⁶³. The gap in supply is thus occupied by the growing rental market and the informal sector; which provides almost all of the low income housing in Phnom Penh⁶⁴. Close to employment centers virtually all dwellings have at least some portion dedicated to rental accommodation⁶⁵. There are also growing instances of employers providing rental accommodation especially in the case of garment factory workers⁶⁶.

Conditions inside rental accommodation for garment workers have been the subject of criticism from labour unions and various NGO's. One investigation found between two and five women housed in rooms of approximately 2x2m.⁶⁷ Rooms were typically constructed of wood or concrete with zinc roofing and poor ventilation culminating in very high internal temperatures. Routes between accommodation and workplaces were found to be poorly lit and insecure, exposing female workers to robbery and sexual assault particularly following night shifts. In some instances a lack of access to sanitary latrines and adequate drinking water was also reported⁶⁸.

As the city develops and urban space becomes more contested, the informal sector is increasingly in competition with the private sector for the same space. New commercial and residential developments aimed at high income earners can serve to further compound the housing shortage should they involve the active removal of a portion of the informal housing supply. Over the past 15 years, the MPP has pursued an extensive program of demolition and eviction of informal settlements; since 1999 an estimated 150,000 people have been displaced, representing around 11% of Phnom Penh's current

61 Flodman Becker K (2004) 'The Informal Economy'
 62 Sjoberg O, Sjobjol F (2005) 'The Cambodian Economy, Ready for Take Off?' Stockholm School of Economics p12
 63 BAU (2007) *Livre Blanc Livre Blanc pour Developpement et Amenagement de Phnom Penh* p80
 64 ibid
 65 ibid
 66 ibid
 67 Taylor A (2011) 'Women and the City: Examining the Gender Impact of Violence and Urbanization' Actionaid Cambodia p28
 68 ibid



Figure 12: Relocation Site Tang Khiev

population⁶⁹. While conditions in relocation sites vary, most lack adequate housing (displaced households are expected to build their own housing), basic services, access to education and health care and livelihood opportunities⁷⁰. In addition to the severing of social networks, relocation is typically associated with significant economic and emotional trauma. Separation from sources of livelihood generally results in a drastic reduction in income⁷¹.

In both complementing the activities and addressing the shortfalls of its private counterpart, the informal sector occupies an important position in Phnom Penh's development paradigm. The trend of the activities of other stakeholders increasingly marginalizing the informal sector is contributing to a situation of growing spatial and economic inequality in the city. The provision of infrastructure and services to Phnom Penh continues to present a unique series of challenges. Following the fall of the Khmer Rouge in 1979, Phnom Penh's repopulation represented an influx into a severely degraded metropolis, by a population with very low capacity to rehabilitate and manage it⁷². Issues of institutional capacity and over-reliance on ODA continue to be problematic, with the city's geography and climate further compounding service provision. The following is a brief examination of urban services, including major actors, issues and opportunities in the provision of storm and flood water management, electricity, waste water and potable water.

69 Sahmakum Tenag Tnaut (2011) 'Facts & Figures 19, May 2011, Displaced Families: Phnom Penh 1990 – 2011'
 70 Sahmakum Teang Tnaut (2010) 'Railway Relocations in Phnom Penh; Six Women Tell their Stories'
 71 Sahmakum Teang Tnaut (2012) 'Losing the Plot: Rapid Assessment of Household Debt in Trapeang Anchanh'
 72 De Walque D 2004 'The Long Term Effects of the Khmer Rouge' World Bank Development Research Group p21

4 INFRASTRUCTURE & URBAN AMENITIES

4.1 STORM/FLOOD WATER MANAGEMENT

Water is both a resource and constraint for Phnom Penh; the challenge of flooding has been a constant accompaniment to the city's development. The wet season is characterized by short bouts of very intense rainfall, compounded by the city's location at the intersection of four rivers, and the most intense rainfalls coinciding with the annual flooding of the Mekong⁷³.

The existing network of storm and flood water infrastructure includes an extensive system of drainage, levies, dams and dykes, as well as canals and natural reservoirs (Boeungs)⁷⁴. The current system is inadequate; much of it is in varying states of disrepair and is frequently overwhelmed. In many areas inadequate capacity to absorb storm water leads to the accumulation of water on roadways for periods that can exceed several hours following a storm⁷⁵. As well as presenting public health risks, mobility and all social and economic activities in affected areas are severely limited as a result.

The system functions by channeling storm and flood water to natural reservoirs (Boeungs) throughout the city, where typically only a single significant rainfall event can be accommodated due to a lack of absorptive capacity⁷⁶. Water is subsequently channeled to discharge points past dykes or dams; however this operation is compounded by the topography of the city⁷⁷. During flood events, the water level of the river is higher than the level of low lying areas behind the dykes and levees. Thus the gravitational force that otherwise moves water out of these areas is negated⁷⁸. High levels of silting in some areas further impede water flows. The system is thus reliant on pumping stations to move water from these areas to outside the dykes⁷⁹.

The reliance on pumping stations adds an additional element of vulnerability to the system. The network of stations is in varying condition, with some having been recently rehabilitated with ODA assistance⁸⁰. The reliance on electricity is problematic, as non-operation of one or more of the stations caused by a power shortage would likely result in flooding of upper water shed areas⁸¹.



Figures 13 & 14: Flooding of Phnom Penh Streets Photos by Shelby Doyle

The network of Boeungs serving as natural water retention basins is fundamental to the functioning of the system as a whole⁸². The central four Khans have seven catchment pools of varying sizes; however the network is frequently overwhelmed⁸³. In the absence of an alternative water management system it is of vital importance to the city that Boeungs be maintained. However, the demand for well-located urban land is increasingly posing a threat. Boeungs are shallow and thus easily filled, making them attractive to investors with ambitions for real estate development. A high profile example is the case of Boeung Kak, a 90 ha centrally located lake (and catchment pool) that was recently filled in amidst much controversy. A 2008 hydrological assessment found the lake to be 'closed system' meaning that there is no outlet for water from the lake and hence that direct rainfall is stored on the lake until it evaporates or infiltrates⁸⁴. As such, without adequate mitigation measures⁸⁵, the newly filled in lake is likely to

73 Mekong River Commission (ND) 'Climate and Flood Data'

74 BAU (2007) *Livre Blanc pour Développement et Aménagement de Phnom Penh* p292

75 Doyle S E (2012) 'Rainy Season Phnom Penh'

76 BAU (2007) *Livre Blanc pour Développement et Aménagement de Phnom Penh* p292

77 ibid

78 ibid

79 Municipality of Phnom Penh (2010) '8 Pumping Stations Actively Work during Heavy Rainfall'

80 Municipality of Phnom Penh (2011) 'All Pumping Stations Ready for Operation'

81 BAU (2007) *Livre Blanc pour Développement et Aménagement de Phnom Penh* p294

82 ibid

83 ibid

84 Benham S Caddis B (2008) *Boeung Kak Area Drainage and Flooding Assessment* p61

85 For example the Hydrological Assessment found that in one rainfall event-considered by residents as typical of the wet season-the volume of direct rainfall to the lake was

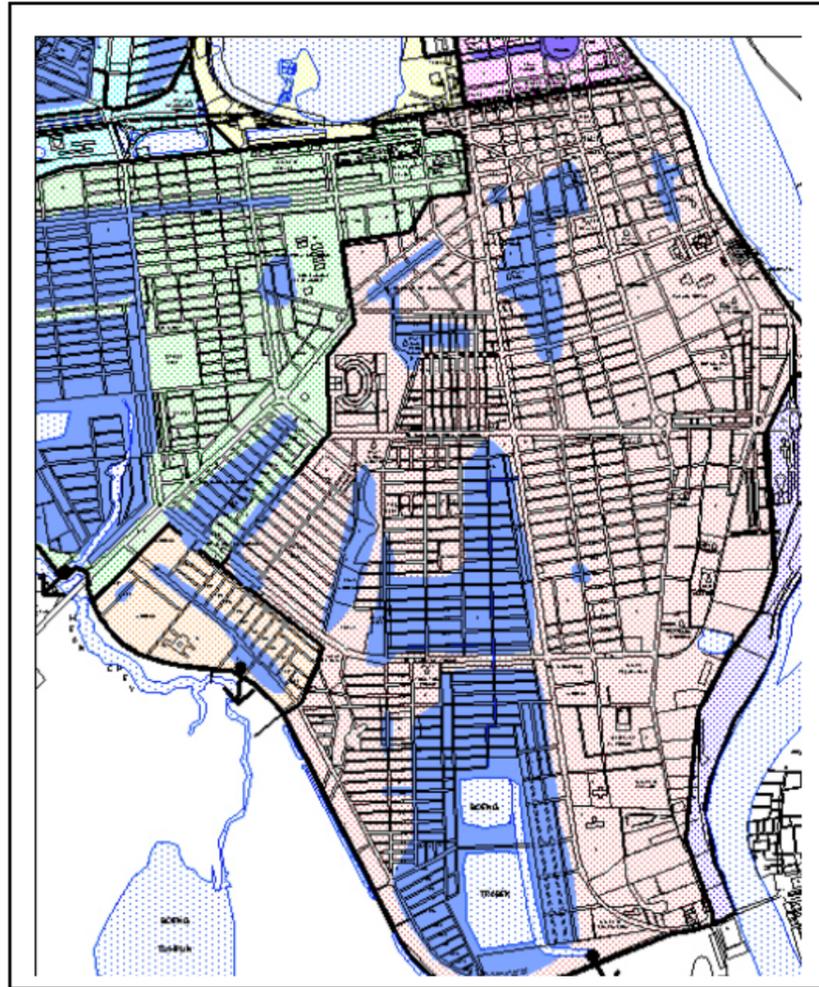


Figure 15: Low Lying and Frequently Flooded Areas Phnom Penh 2005 Source: Livre Blanc Master Plan 2007 p178

generate flooding in and around the area as well as further afield in in the surrounding Russei Keo District. The capacity of the of the network appears set for further reduction amidst plans to fill and develop a portion of Boeung Tompun - the city's largest lake and a significant storm and waste water collector - for the construction of the 'AZ' satellite city and Hun Sen Boulevard⁸⁶.

Development Partners - most notably JICA - have been extensively involved in the rehabilitation and enhancement of flood protection and drainage infrastructure in Phnom Penh⁸⁷. Amidst increasing pressures of urbanization, and alarming trend is emerging in the gradual reduction in the capacity of the storm and flood water management network. In addition to the encroachment of Boeungs, in some instances (notably around the Olympic Stadium) concessions have been granted to developers to fill and construct on canals and

estimated at 360,000m. An Environmental and Social Impact Assessment released by the developer Shukaku Inc, proposes only vague mitigation measures such as digging a 'canal 20-21m² in area'. The development has the potential to generate very large volumes of runoff and it is highly unlikely the proposed mitigation measures will be sufficient to avoid significant flooding impacts in the surrounding Russei Kai District

86 Post Staff (2012) 'Eviction Fears Grow at Lake' Phnom Penh Post

87 Municipality of Phnom Penh (2012) 'The Project for Flood Protection and Drainage Improvement in Phnom Penh capital City Phase 3'



Figure 16: Boeung Kak prior to the commencement of filling



Figure 17: Boeung Kak partially filled

other land previously reserved for drainage purposes, further reducing the capacity of the system⁸⁸.

The consequences of the continuation of the trend are predictable; excess water that cannot be stored in reservoirs will flow to low lying areas and much of the city's urban and suburban areas would be inundated. This concern over the inadequacy of the flood management system was expressed by eminent Khmer architect Vann Molyvann in his 2006 treatise *Modern Khmer Cities*:

*"The system of building dikes and then pumping water from one low-lying area to another in order to move water away from the city is not an infinitely extendable system. During heavy rains, flooding in Phnom Penh at present can cause a third of the city to be paralysed. It is of great urgency to stop such flooding and to improve drainage at the centre of the city. In the case of exceptional flooding, it will be necessary to evacuate hundreds of thousands of people."*⁸⁹

88 BAU (2007) Livre Blanc pour Développement et Aménagement de Phnom Penh p296

89 Molyvann V (2006) 'Modern Khmer Cities' Reyum Editions Phnom Penh



Figure 18: Electricity lines are an eyesore in the city

4.2 ELECTRICITY

The lack of a stable electricity grid is a significant challenge for Phnom Penh, with both social and economic consequences. Despite some positive developments in recent years in the area serviced by the existing grid, electricity prices in Phnom Penh remain among the highest in the world⁹⁰.

Cambodia currently has no national electricity grid. Phnom Penh's grid utilizes a diversity of sources including imported electricity from Vietnam, the hydro-electricity station at Kirirom, two thermal power stations and one diesel plant operated by EDC, and six private producers located throughout the metropolis⁹¹. The electricity grid covers almost the entire urban area, however production is insufficient to meet the growing needs of the population and inconsistencies in supply are common⁹². Approximately 50% of poor settlements are not connected to grid. Instead, they often rely on private electricity suppliers, at extremely marked up prices⁹³. The implications of power outages for commerce and industry are significant as productive activities are impeded. To compensate for shortfalls the city is heavily reliant on private diesel generators⁹⁴. This reliance has several drawbacks; the demand for fuel is significant, increasing the reliance on imported oil, and creating a vulnerability of the city to price fluctuations⁹⁵. The presence of more than 20,000 generators in the city also has adverse environmental consequences and health impacts⁹⁶.

90 UNHABITAT (2010) 'Energy Sector in Cambodia' p4

91 Ritouch E (2011) 'Kingdom of Cambodia Country report Presentation, Cambodia Power Development Planning' Electricite du Cambodge.

92 BAU (2007) Livre Blanc pour Developpement et Amenagement de Phnom Penh p196

93 Sahmakum Teang Tnaut (2009) 'The 8 Khan Survey'

94 Reegle (2012) 'Energy Profile of Cambodia'

95 ibid

96 ibid

4.3 POTABLE WATER

The detrimental effects of the period of conflict and instability were particularly evident on Phnom Penh's potable water supply. Production capacity fell from 155,000 litres per day in the 1960's to 65,000 litres per day in the early 1990's⁹⁷. Significant progress in increasing access and water quality has since been made since; and the majority of inner Phnom Penh is now serviced by the network⁹⁸. However, difficulties in providing access to water in high population growth areas on the urban periphery is an ongoing issue of concern.

The Phnom Penh Water Supply Authority (PPWSA) is the responsible body for water provision. In 1996 the PPWSA was listed as a 'public enterprise' and in theory is financially autonomous and operates for a profit⁹⁹. In the absence of any mechanism to grant universal access, the PPWSA funding is derived from charges levied on water users. This is challenging as systems of metering and bill collection are largely absent in areas of Phnom Penh, although the situation is improving¹⁰⁰. The PPWSA in theory maintains a balance between profitable connections and others that are in the public interest¹⁰¹. No specific obligations in terms of service provision exist however. Although a revolving fund to subsidize unprofitable connections is in use, the need to remain profitable hampers service provision in outlying areas¹⁰².

The PPWSA utilizes both surface and ground water sources, with both experiencing quality issues. Surface water is affected by seasonal flooding and run off, where storm water can carry pollutants from sources such as open sewerage canals¹⁰³. Increasing urbanization also puts pressure on water sources, through backfilling, unmanaged waste water from domestic and industrial sources, and uncollected solid waste¹⁰⁴. Groundwater in certain areas is affected by high concentrations of heavy metals and other contaminants such as arsenic¹⁰⁵. A network of treatment plants is thus essential for potable water production, although some quality issues remain¹⁰⁶.

ODA has supported a number of projects involving the rehabilitation of treatment plants and other supply infrastructure¹⁰⁷. Recent years have seen positive developments in quality, production capacity and accessibility¹⁰⁸. There remains however some concerning disparities between developments in the network and the locations of highest demand on the periphery.

97 ADB (2010) 'Phnom Penh Water Supply and Drainage'

98 Agence Francais de Developpement (2008) 'Phnom Penh Water Supply Authority; Achieving Development Results through Restructuring a Public Company'

99 ibid

100 ibid

101 PPWSA (ND) 'Sharing the Reform Process'

102 BAU (2007) Livre Blanc pour Developpement et Amenagement de Phnom Penh p201

103 ibid p203

104 ibid

105 ibid

106 ibid

107 See Urban Water Supply Project 2004, Urban Water Supply and Sanitation Project #3 2011, Water Treatment Station Phnom Penh 2007, Water for Asian Cities Program 2003

108 The PPWSA was the recipient of the Stockholm International Water Institute Award in 2010 in recognition of its achievements



Figure 19: Accumulation of Solid Waste in an Open Canal, Photo by Shelby Doyle

4.4 WASTE WATER

The majority of the waste water management system in central Phnom Penh was constructed by the French colonial administration in the 1960's, and subsequently fell into disrepair following the city's evacuation¹⁰⁹. The rehabilitation and ongoing development of the system is an ongoing challenge, further complicated by the city's topography and climate.

Domestic wastewater from high or medium standard dwellings is typically collected in septic tanks, before being discharged into the Municipal sewerage system, which includes both subterranean drains and open canals¹¹⁰. Lower standard dwellings typically use traditional pour flush latrines, which either leach or discharge into nearby water courses. Informal dwellings typically have no access to sanitation facilities, and rely on a shared pit or other latrine, water body, drainage or landfill site¹¹¹. Public toilet facilities are scarce and poorly maintained.

Industrial wastewater can have significant adverse environmental effects through the discharge of chemicals, heavy metals and other harmful substances. The majority of waste water is ultimately discharged into the Tonle Sap, Tonle Bassac or into Boeungs, the ecosystems of which naturally remove some biological contaminants¹¹². The system is delicate however; pollutants entering in large quantities can upset the balance and compromise natural purification processes. Subsequent effects can include; the accumulation of pollution, odor, visual blight, and an increase of water borne disease¹¹³.

109 BAU (2007) *Livre Blanc pour Développement et Aménagement de Phnom Penh* p191

110 *ibid*

111 *ibid*

112 Sokha C (2008) *'State of Wastewater Treatment in Cambodia'*

113 *ibid*

Additional challenges are posed by storm water run-off. During the rainy season, open sewerage canals (such as those on Street 271 and Street 95 in the city's south) can overflow. Agricultural run-off containing fertilizer and pesticides can contaminate water bodies, as can run off from urban impervious surfaces such as roads and verges where solid waste accumulates¹¹⁴. The extent of run off renders it difficult to monitor the amount of pollution entering water bodies. As development simultaneously increases impervious surfaces and puts pressure on different elements of the management system, waste water has the potential to become increasingly problematic for Phnom Penh.

4.5 PUBLIC SPACES

In the decades preceding the conflict, Phnom Penh was renowned for its green spaces integrated with the city's hydrology. The current situation unfortunately bears little resemblance to its former splendor; in addition to the deterioration of public spaces following the city's evacuation, much of what was formerly green space has been sold off to the private sector and developed¹¹⁵. The city currently has approximately 70 hectares of public space, the majority located in the central four Khans. Most parks resemble the classical Baroque style parade gardens, characterized by decorative symmetrical planting and few trees¹¹⁶. There is a shortage of public spaces for both active and passive recreation, with many areas - especially in the city's West - completely devoid of green space. Those green spaces that do exist are well utilized, most notably at dawn and dusk when the climate is most favorable. However, the focus of many parks on amenity rather than functionality renders them inappropriate for some forms of active recreation.

Areas dedicated solely to active recreation are few, with the most notable being the iconic Olympic Stadium. Designed by Vann Molyvann for the (later cancelled) Southeast Asian Peninsular Games, the stadium was the largest in Southeast Asia at the time of construction in 1964¹¹⁷. With a 50,000 seat capacity, Olympic Stadium's facilities include a football pitch and Olympic size athletics track and swimming pool. Despite sections being in a state of disrepair the stadium is very well utilized¹¹⁸. The smaller 'Old' Stadium in the north of the city also contains a football pitch and athletics track.

Although the 2005 *Plan du Réseau Vert et Bleu de la Ville* by the BAU created the foundations for a public open space management strategy for the city, space for both active and passive recreation is increasingly under threat from privatization and the pressures of urbanization. In the absence of effective regulatory controls and political will to enforce compliance with plans, land earmarked for public space is frequently developed for housing or other purposes¹¹⁹. Additionally there are growing fears for the future of Olympic Stadium following the Overseas Cambodia Investment Corporation (OCIC) obtaining approval to develop luxury condominiums, a hotel and shopping mall on the land surrounding the stadium¹²⁰.

114 BAU (2007) *Livre Blanc pour Développement et Aménagement de Phnom Penh* p191

115 Paling W (2012) *'Planning a Future for Phnom Penh: Mega Projects, Aid Dependence and Disjointed Governance'* Urban Studies p2896

116 Englund G, Rytta S (2008) *'The blue pearl of Asia: flooding as an urban asset: a beautiful and resilient future Phnom Penh'* Swedish University of Agricultural Sciences p24

117 Stand Up Cambodia (2009) *'The Olympic Stadium Phnom Penh'*

118 *ibid*

119 BAU (2007) *Livre Blanc pour Développement et Aménagement de Phnom Penh* p76

120 Marks S (2011) *'Luxury Projects Set for Olympic Stadium Area'* Cambodia Daily



Figure 20: Public Open Space, Photo by Conor Wall

Continuing improvements in mobility and connectedness are essential to the viability of Phnom Penh's growth. Meeting the task however involves some significant challenges. As with urban services the legacy of decades of instability has contributed to an underdeveloped system of movement networks¹²¹. The majority of infrastructure projects are driven by ODA, with a lack of local institutional capacity for ongoing maintenance and management a persistent issue¹²². The following examines recent trends and issues in movement networks including road, rail, port and air and their implications for the city's development.

121 BAU (2007) *Livre Blanc pour Développement et Aménagement de Phnom Penh* p42
122 *ibid*

MOBILITY NETWORKS

5.1 ROAD

Phnom Penh's road network is facing the double stressors of a population boom and increases in mobility associated with increases in income¹²³. The national road (NR) network is highly significant as in the absence of viable alternatives it is the primary means to transfer goods and people¹²⁴.

5.1.1 REGIONAL LINKAGES

The most important transport corridors in terms of volumes of road traffic are NR 4 to the seaport of Sihanoukville and NR 1 to Ho Chi Minh City¹²⁵. Much of the NR network has or is currently being rehabilitated with ODA support¹²⁶. A lack of capacity of domestic institutions to fund manage the maintenance of the NR network is an issue concern for the sustainability of projects. The means to obtain the funds for road maintenance through avenues such as taxation are not well established¹²⁷. Recent efforts to address this such as an increase in petroleum tax have been hampered by low tax rates in neighboring countries and the widespread practice of illegally importing fuel¹²⁸.

5.1.2 INTRA-CITY

The majority of arterials within Phnom Penh are in reasonable condition. However secondary streets are often inadequate to accommodate traffic volumes and many are in a state of disrepair¹²⁹. Inadequate parking facilities compound congestion, and result in a concentration of traffic on arterial roads. The situation in some areas has been worsened by construction of certain larger developments without regard for their impact on traffic¹³⁰.

Developments of the road network have not kept pace with rapid growth on the urban periphery. Suburban areas are often poorly serviced by unsealed roads¹³¹. Simultaneously, the increasing number of commuters to and from the periphery is resulting in heavy congestion, road degradation, and issues of safety.

123 World Bank 'Income Dynamics, Mobility and Welfare in Developing Countries'
124 MPWT (ND) 'Urban Transport Policy Summary Statements'
125 UNESCAP 2007 'Kingdom of Cambodia MPWT Presentation Paper'
126 See Road Asset Management Project 2008, Project for Traffic Improvement in Phnom Penh City, Safer Phnom Penh City 2011
127 BAU (2007) *Livre Blanc pour Développement et Aménagement de Phnom Penh* p167
128 *ibid*
129 MPWT (ND) 'Urban Transport Policy Summary Statements'
130 BAU (2007) *Livre Blanc pour Développement et Aménagement de Phnom Penh* p203
131 *ibid* p167

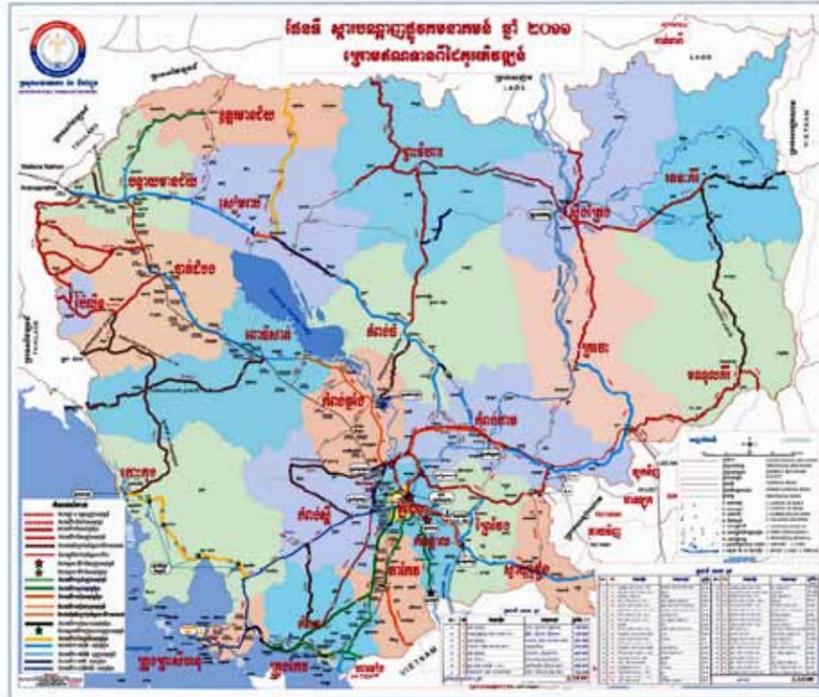


Figure 21: Cambodia National Road Network, Source: www.mpwt.gov.kh

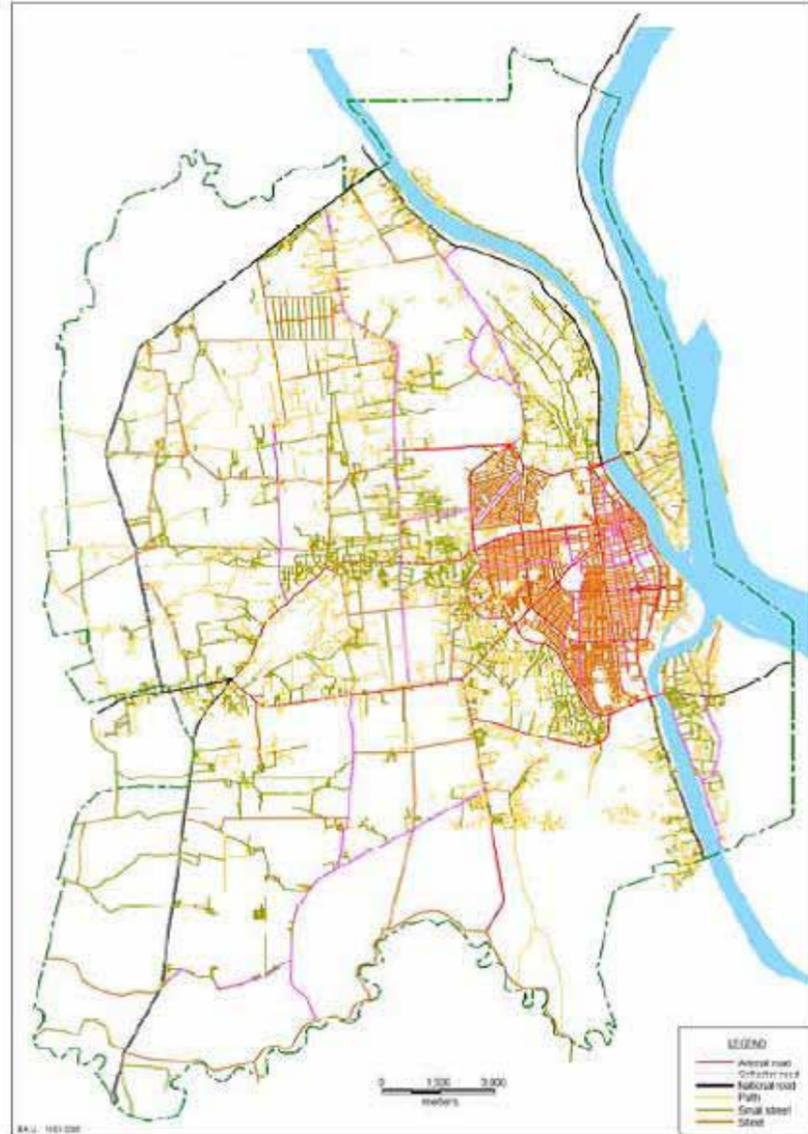


Figure 22: Phnom Penh Road Network 2005 Source: Livre Blanc Master Plan 2007 p45

5.1.3 PRIVATE TRANSPORT

Reflecting a general increase in standard of living and mobility, the numbers of private vehicles on Phnom Penh’s road network has exploded in recent decades¹³². The increase is most marked in motorbikes, which now outnumber cars an estimated four to one, although reliable vehicle registration statistics are not collected¹³³. The proliferation of large 4 x 4 vehicles is another defining characteristic of the boom. In particular, the Lexus is now so common as to almost form part of the streetscape in Phnom Penh.

As numbers of private vehicles increase so does the importance of traffic management. The detrimental social and environmental effects of congestion are becoming increasingly tangible in some areas of the city. Atmospheric and noise pollution has negative public health implications, detracts from amenity, and limits the usage of public spaces¹³⁴. A lack of separation between different road users is detrimental to safety and a trend of increasing accidents - particularly at intersections - is being observed¹³⁵. In 2012, the economic cost of traffic accidents nationwide was an estimated US\$248 million¹³⁶. Lack of enforcement of traffic regulations including speed, weight limits for heavy vehicles, and drink driving have been the subject of various domestic and ODA supported interventions¹³⁷. However, enforcement remains an issue for the city’s road network as a whole.

5.1.4 PUBLIC TRANSPORT

Phnom Penh is currently without a system of public mass transit. Repeated attempts have been made to establish a bus system, with the most recent by JICA in 2001 involving retired buses from Osaka¹³⁸. However the initiative was only piloted for several weeks before being abandoned¹³⁹. The failure was largely attributed to a lack of ancillary pedestrian facilities around stops and stations¹⁴⁰. The majority of streets are not conducive to pedestrian flows, walking on the road is dangerous, and there is a lack of shelter from the elements. A lack of cultural familiarity with the concept was also cited¹⁴¹. Dialogue on the potential for public transportation is however ongoing; a new feasibility study into mass transit, potentially using trams, was conducted in February 2012 with technical assistance from France, and discussions with the MPP continue¹⁴².

132 ibid p45
 133 ibid
 134 Levy J, Buonocore J, Stackleberg K, (2010) ‘Evaluation of the Public Health Impacts of Traffic Congestion: a Health Risk Assessment’ Environmental Health, 9: 65 2010
 135 Road Safety Cambodia (2012) ‘Road Safety Situation in Cambodia’
 136 ibid
 137 See Safer Phnom Penh City 2011, Asia Injury Prevention Foundation, National Road Safety Network at www.road-safety-cambodia.info
 138 Cambodia Travel News (2001) ‘First Public Buses Launched in Cambodia’
 139 De Launey G, (2012) Will Phnom Penh ever get a Bus System? BBC
 140 Sidet.com (2012) City Public Transport may take more than 10 years to materialize’
 141 ibid
 142 MPP (2012) ‘Preliminary Study on 1st Priority Public Transport in Phnom Penh’

Phnom Penh's current streetscape is best suited to moto dops and tuk tuks, although the authorities periodically blame congestion on the latter, and tuk tuks have been banned from Norodom Boulevard. However, as the periphery develops further reliance on various forms of motorbike taxis may become increasingly unviable. Exclusionary pressures on the central Khans are creating an increasing number of low income commuters into the city¹⁴³. At present some of the demand is met by trucks and trailers carrying standing workers in bulk into construction sites or factories in inner areas. However as more people are required to travel greater distances there is a risk that transport costs under the current system may become prohibitive.

5.1.5 PEDESTRIANS AND CYCLING

Phnom Penh's streetscape was developed by the French with reasonably sized pedestrian sidewalks but over the past decade these have been gradually eroded by street widening in favour of cars. As a result, Phnom Penh's sidewalks now resemble those of Bangkok rather than Paris, with little or no room for pedestrians to walk comfortably and safely. This is a loss for the city in terms of a reduction of access and interface between buildings and the streetscape. The widening of roads as a response to traffic congestion also has notoriously ineffective results

At the same time, cycling is dying out and the city has almost no dedicated cycling facilities. With the exception of certain sections of Norodom Boulevard with a shoulder suitable for cycling there is no provision for the separation of cyclists from other road users. Cyclists are highly vulnerable on Phnom Penh's roads, reflected in their disproportionately high representation in road fatalities¹⁴⁴. Amidst increasing transport costs and congestion, the development of cycling could be a means of alleviating some of the challenges of mobility.



Figure 23: Cyclo Taxi, Photo by Marcus Tudehope

143 BAU (2007) *Livre Blanc pour Développement et Aménagement de Phnom Penh* p163
 144 Road Safety in Cambodia (2012) *'Road Safety in Cambodia'*



Figure 24: Degraded Railway Infrastructure, Photo by Shelby Doyle

5.2 RAIL

There is an existing national rail network of approximately 650kms in Cambodia, consisting of two main lines from Phnom Penh; 265 km to Sihanoukville and 385 km to Paoy Pet at the border with Thailand¹⁴⁵. The majority of the network was constructed prior to WWII, and the majority of infrastructure as well as rolling stock of locomotives and carriages is in a state of severe disrepair¹⁴⁶.

A project to rehabilitate the national railway network has been underway since 2006 supported by the Asian Development bank (ADB) and the Australian Agency for International Development (AusAID) in partnership with private corporations from Cambodia, France, Japan and Australia¹⁴⁷. The project is expected to enhance regional linkages, as well as relieve some of the burden on the road network. In particular, the project aims to reduce the need for trucks transporting heavy materials on the nation's road network. Initially scheduled for completion in 2012, thus far the only operational section is a 118km stretch between Phnom Penh and the Touk Meas area in Kampot province¹⁴⁸. The project has been impeded by issues with cost blowouts, delays, poor working conditions for local laborers and problems surrounding the resettlement of low income residents from the railway corridor.

145 AusAID (2012) *'The Railway Rehabilitation Project of Cambodia'*

146 *ibid*

147 AusAID (2012) *'The Railway Rehabilitation Project of Cambodia'*

148 Becker S A (2012) *Phnom Penh's rail freight services begin* Phnom Penh Post



Figure 25: Phnom Penh Marine Linkages with Vietnam via the Mekong, Source: Livre Blanc Master Plan 2007

5.3 MARINE

Despite its locational advantages, Phnom Penh has relatively underdeveloped marine linkages. From the city the most important corridor is to Vietnam via the Mekong. The river is shallow in the dry season (approximately 4.0m) and thus can only accommodate ships with smaller tonnages (under 6,000 tonnes)¹⁴⁹.

The Phnom Penh River Port has four terminals located along the West Bank of the Tonle Sap. The port facilities include tugs, cranes, trucks, elevators, a passenger pier, warehouses and small container storage space. However due to the proximity to the city the availability of land is scarce and opportunities to expand the capacity of the Port (in particular regarding container storage) are limited¹⁵⁰.

There are two major ports in Cambodia: Sihanoukville and Koh Kong, with the former by far the most significant. The port of Sihanoukville has 2.5 hectares of container holding space and can accommodate vessels with holding capacity of up to 11,000 tonnes¹⁵¹. The connectivity of Phnom Penh via road or the troubled rail linkage to Sihanoukville is thus highly important.

Despite its relative underdevelopment marine freight is significant for Phnom Penh, made more so by the shortcomings of the current road network. Approximately 40% of the total foreign trade volume is transported via marine freight, with the remainder via road¹⁵². Given Phnom Penh's locational advantages, there are opportunities to further develop marine linkages, reducing transport costs and pressure on road networks.

149 BAU (2007) *Livre Blanc pour Developpement et Amenagement de Phnom Penh* p50
 150 ibid
 151 ibid
 152 World Bank (2011) *Transport In Cambodia*

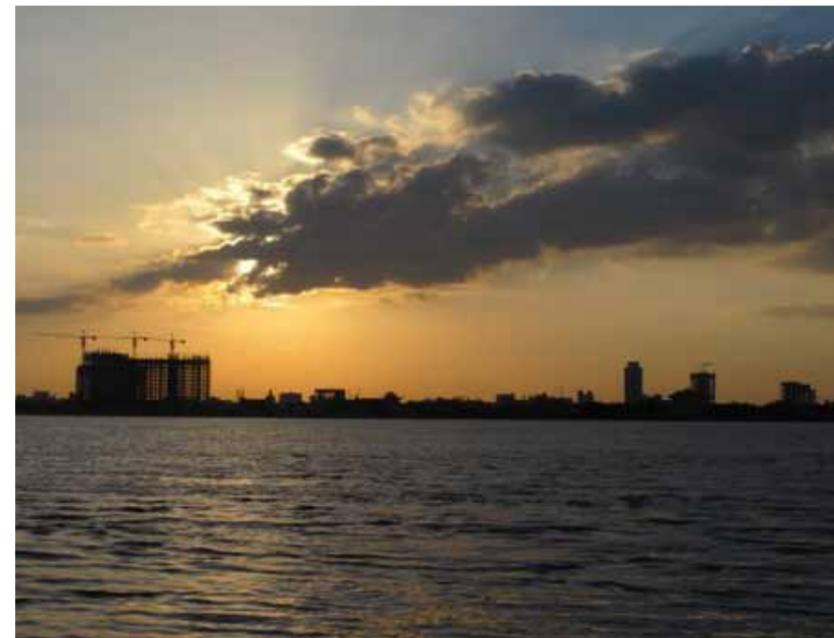


Figure 26: Phnom Penh from the Western bank of the Mekong River

5.4 AIR TRANSPORT

There are two privately operated international airports in Cambodia, Phnom Penh and Siem Reap. Both have recently been redeveloped and have seen steady growth in passenger numbers¹⁵³. Civil aviation is not well developed, despite small increases in passenger numbers driven by tourism the level of infrastructure remains low. Levels of air freight (approximately 17,000 tonnes per year) are insignificant compared to marine and road¹⁵⁴. An International Finance Corporation (IFC) project to develop the International Airport is currently in the planning phase. Scheduled for completion in 2015 the project would see a doubling in the passenger capacity of the airport¹⁵⁵. Recently, the Prime Minister also announced the building of a new airport for Phnom Penh based some 90km away in Kampong Cham¹⁵⁶.

A considerable body of legislation and policy forms the regulatory framework for development in Phnom Penh. However in practice the framework is characterized by pervasive uncertainty. Ambiguity surrounding the roles of different actors and gaps and inconsistencies in enforcement culminate in a lack of coherence and a disparity between the framework and the reality of the development process. The following gives a brief overview of significant elements of the regulatory framework, issues and their application and the implications for development.

153 State Secretariat of Civil Aviation (2011) *'Aviation Sector Performance'*
 154 ibid
 155 Woods B Heijmans P (2012) *'Expansion of International Airports to Double Capacity'* Cambodia Daily
 156 Tourism Cambodia (2012) *Cambodia to build an international airport in Kampong Chhnang* retrieved from <http://www.tourismcambodia.com/news/events/7361/cambodia-to-build-an-international-airport-in-kampong-chhnang.htm>

6

THE REGULATORY FRAMEWORK

6.1 THE CONSTITUTION

The constitution is the supreme law in Cambodia, and thus also the basis of Phnom Penh’s regulatory framework. Under the Constitution, the state is responsible for planning and territorial management. It is mandated to defend the environment and the balance of natural resource management and planning including land, water, air, wind, energy, oil, gas, stones and sands, fish and aquatic resources¹⁵⁷. The state also has the duty to safeguard and protect, ancient monuments, works of ancient art and to restore historic sites¹⁵⁸.

6.2 INTERNATIONAL LAW AND TREATIES

According to the Constitution, the RGC is bound to recognize and respect the Universal Declaration of Human Rights (UDHR)¹⁵⁹. This has implications for urban development predominantly in that it guarantees the right to adequate housing, following Article 25 of the UDHR¹⁶⁰. Other notable items of international law to which Cambodia is a signatory include; the International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, The Convention on the Elimination of All Forms of Discrimination against Women, and the Convention of the Rights of the Child. Under international law, therefore, Cambodia is obliged to the progressive improvement of the rights of its peoples, including rights relevant to the urban sector such as the right to adequate housing, sanitation, livelihood opportunities, security and social services.

6.3 LANDLAW

The 2001 Land Law is a highly significant element of the regulatory framework. Among the areas the legislation addresses are; private ownership for both residential and agricultural holdings, the creation of a land registry and systems for registering titles, mechanisms for identifying boundaries of state owned land and importantly mechanisms for the development of state owned land¹⁶¹. According to the Land Law, only land ownership that has been entered into the cadastral index map and the land register is indisputable proof of ownership.

The Ministry of Land Management, Urban Planning, and Construction (MLMUPC) is the governing body responsible for land use, urban planning, construction projects, and, together with the Ministry of Interior (MOI), is responsible for the resolution of conflicts over land that is not yet registered. Land registration and titling is also conducted by MLMUPC and MOI.

157 RGC (2004) Constitution of Cambodia; Article 57

158 ibid Article 69

159 ibid; Article 61

160 Human Rights Education Associates (ND) ‘Right to Housing’

161 Peng H, Phallack K, Menzel J eds. (2012) ‘Introduction to Cambodian Law’ Konrad Adenauer Stiftung p316

SIGNIFICANT ELEMENTS OF PHNOM PENH’S REGULATORY FRAMEWORK

TITLE OF LEGISLATION/POLICY	YEAR OF ADOPTION
Constitution of the Kingdom of Cambodia	1993
Law on Organization of Municipalities and Provinces	1994
Act on the Protection of Cultural Heritage	1996
Law on Spatial Planning, Urban Planning and Construction	1994
Law on the administrative management of Khum / Sangkat NS/RKM/0301/05	2001
Law No. 196/1996 on the creation of the Department of Public Works and Transport, the Ministry of Industry, Mines and Energy, Ministry of Environment,	1996
Sub-Decree on Building Permits	1997
Act No. 699/1999 on the creation of the Department of Water Resources and Meteorology, and the Department of Spatial Planning, Urbanism and Construction,	1999
Anukret creation of the Ministry of Physical Planning, Urban Planning and Construction,	1997
Real Estate Property Act, which amends the Land Act of 1992 and its implementing regulations,	2001
Prakas No. 6 on the reservations of land for roads and railways	
Act on the Protection of the Environment and Natural Resources Management,	1996
Sub-Decree on the control of air pollution and nuisances caused by noise,	2005
Circular No. 2 the Cabinet of Ministers of the Council	1996
Land Law	2001
Sub-Decree No. 118 on State Land Management	2005
Prakas No. 42 on the Identification, Mapping and Classification of State Land	2006
The Law on the Protection of Cultural Heritage	1996
City Development Strategy	2005
Livre Blanc Du Developpement et L’Amenagement de Phnom Penh	2005
Sub-Decree on Urbanization of the Capital City, Towns and Urban Areas (draft)	2012
National Housing Policy (draft)	2003;2010
Circular No. 03 ‘Resolution on Temporary Settlement on Land which has been Illegally Occupied in the Capital, Municipal and Urban Areas’	2010

6.3.1 POSSESSION AND OWNERSHIP

Under the Land Law, legal possession must have commenced prior to the Law’s enactment in August 2001 and meet the following five conditions:

- Possession must be continuous;
- Possession must be peaceful;
- The occupier must have taken possession in good faith;
- The possession must be unambiguous;
- The possession must be known to the public¹⁶²

The Land Law also stipulates that all legal possessors of land are entitled to convert their possession into ownership, either when systematic registration is conducted in an area or when title is individually applied for¹⁶³. There are however various means to subvert this entitlement. The process of demonstrating continuous possession through the ‘Family Book’ proof of occupancy document is often problematic¹⁶⁴. Even individuals who can demonstrate five years of legal possession can be denied title in areas earmarked

162 RGC (2001) ‘Land Law’ Article 38

163 ibid

164 Phalhy (2010) ‘The Implementation of Cambodia’s Laws on Land Tenure’ p121

for development, on the dubious legal basis that legal possession creates only an entitlement to apply for title, not an entitlement to receive one¹⁶⁵.

A multi-donor supported Land Management and Administration Project (LMAP) commenced in 2002 to support the Ministry of Land Management, Urban Planning, and Construction (MLMUPC) in developing the land sector. The aims of the project included the development of land related policy, legal and regulatory instruments, capacity building, land conflict resolution mechanisms and land titling and registration¹⁶⁶. The project reported some success in terms of issuing predominantly rural titles and developing institutional capacity of the MLMUPC. However, at its conclusion in 2009 it was acknowledged that the LMAP had not been effective in increasing tenure security of vulnerable groups, particularly in urban areas¹⁶⁷. Among other issues raised by CSOs in particular, was the provision that systematic land registration under the LMAP would not be conducted in areas likely to cause a dispute. As a result, several areas in Phnom Penh were excluded and have since suffered weakened tenure security and in some cases eviction¹⁶⁸.

Under LMAP's continuation, Land Administration Sub-Sector Programme (LASSP) some development partners, notably Germany, have stressed the need to end the exclusion of "difficult" areas. However, impacts on the ground remain to be seen, particularly as the ongoing registration and titling of land proceeds in an opaque, non-transparent manner.

6.3.2 STATE LAND

All land that is not private (owned or possessed) or collective (belonging to indigenous peoples or monasteries) is state land. State land is divided into state public and state private land. The former is land with a public value or function, such as roads, railways, forests, lakes, and heritage sites, as well as public schools and hospitals. The latter consists of all land in Cambodia that is not private or collective property, and has no public interest value. Given that only state private land can be leased or sold, land must be re-classified prior to development. This can be done if state public land loses its public interest use¹⁶⁹. This argument was ostensibly put forward when Boeung Kak lake was re-classified; supposedly, the lake was so polluted it has lost its public interest value.

The MPP alone does not have the authority to re-classify land. Instead, re-classification of land from state public to state private is done by

165 *ibid*

166 World Bank (2009) *'Cambodia Land Management and Administration Project; Enhanced Review Report July 13 2009'* p2

167 *ibid*

168 *ibid*

169 RGC (2001) Land Law

sub decree by the Council of Ministers. In principle, it may follow either one of two processes but in reality most of re-classifications are by just one, as the other, following the Sub-Decree on State Land Management (SLM)¹⁷⁰ is complicated, lengthy, and involves public comment.

The commonly used process appears to be based on Land Law article 16¹⁷¹, as well as on a royal decree and on Sub-Decree #129 On Rules and Procedures on Reclassification of State Public Properties and Public Entities.¹⁷² In contrast to following the SLM, the process involves a relatively simple registration process entirely internal to Ministry of Economy and Finance.

A significant failure of the LMAP, and its successor the Land Management Sub-Sector Programme (LMSSP), has been the lack of progress on state land mapping¹⁷³. The legal framework requires all state lands to be identified, mapped, and entered into a State Land Map and Database, before being added to the Land Register. This should be done through a "coordinated and transparent process"¹⁷⁴. To date, very little information is available regarding the RGC's efforts to implement the legal framework related to state land mapping, but it is apparent that no comprehensive mapping of state properties has been conducted and no state land database is publicly accessible.

It is hence not possible to authoritatively state whether a particular parcel in Phnom Penh is state public or private land, or neither (e.g. privately owned land). This has been of significant concern in relation to systematic land titling, as the lack of maps delineating state land allow for the relevant authorities to "exclude from titling any portion of land surveyed and proposed for adjudication by the cadastre team and therefore titling it, implicitly, in the name of the State"¹⁷⁵; subsequently residents are accused of squatting on state land, and sometimes evicted.

6.4 ENVIRONMENTAL MANAGEMENT

The regulatory framework regarding environmental management is comprised of various legislation, Sub-Decrees (SD) and policies, which in principle have implications for urban development. However the extent to which regulations are implemented is in many cases questionable. The 1996 Law on Environmental Protection and Natural Resource Management stipulates that the Ministry of Environment shall prepare National and Regional plans, identifying areas of environmental significance and implementing measures to ensure their conservation¹⁷⁶. However, to date no such document has been prepared by the Ministry, and there exists no prescriptive plan for the management and conservation of open spaces and natural resources in Phnom Penh¹⁷⁷.

The same piece of legislation also stipulates the requirement for an Environmental Impact Assessment (EIA) on all public and private projects¹⁷⁸ however compliance with this requirement is often dubious¹⁷⁹. A draft EIA law is currently under consideration by the RGC¹⁸⁰.

170 RGC (2005) *Sub-Decree # 118 in State Land Management*

171 Article 16 of the Land Law calls for a "law on transferring of state public property to state private property". Such a law has not yet been passed, meaning that any process to re-classify land is flawed.

172 RGC (2006) *Sub-Decree # 129 On Rules and Procedures on Reclassification of State Public Properties and Public Entities*

173 Grimsditch M Henderson N (2009) *Untitled: Tenure Insecurity and Inequality in the Cambodian Land Sector* p57

174 RGC (2005) *Sub-Decree # 118 in State Land Management*

175 World Bank (2009) *'Cambodia Land Management and Administration Project; Enhanced Review Report July 13 2009'* p6

176 RGC (1996) *Law on Environmental Protection and Natural Resource Management* Article 2

177 World Bank (2011) *'Cambodia Environment; Environmental Policy and Institutional Capacity'*

Although there are a number of relevant sub decrees including; 1999 sub-decree on water pollution, 1999 sub-decree on Solid Waste Management, 2000 sub decree on air pollution, 2001 sub-decree on industrial standardization, 2005 sub-decree on ozone depleting substances.

178 RGC (1996) *Law on Environmental Protection and Natural Resource Management* Article 6

179 See the case of Boeung Kak Lake

180 Plokhii O Phorn B (2012) *'Law Drafted to enforce Environmental Reports'* Cambodia Daily

6.5 HERITAGE

The Law on the Protection of Cultural Heritage 1996 mandates the Ministry of Culture and Fine Arts (MCFA) with the formulation of policy to protect and enhance national cultural property¹⁸¹. As such the MCFA is required to maintain a registry of public and private properties whose protection is in the public interest from a scientific, historical, artistic or religious point of view¹⁸². According to the law, placement on the registry imposes an obligation on the property owner or holder to inform the Ministry or relevant authority one month prior to taking any action to alienate, move destroy, modify, alter, repair or restore the property¹⁸³. Thus far however no formal registry of heritage listed properties has been created. Concerns for Phnom Penh's built heritage persist amongst the ongoing practice of selling off government offices and other public built assets to developers, as has been the case with the beautiful Royal University of Fine Arts campus by the Old Stadium, as well as the Departments of Education, Environment and Health¹⁸⁴.

6.6 MASTERPLAN

A prescriptive, comprehensive Master Plan guiding development has in recent decades been absent from the regulatory framework of Phnom Penh. During the Sangkum Reastr Niyum Period from independence to civil war, a nation-wide strategic planning document served as the main tool for guiding development¹⁸⁵. However regarding Phnom Penh the plan only dealt with the four central Khans and the area was well exceeded by the city's development in the 1960's. A draft master plan was also in existence in the 1970's, however amidst conflict and institutional instability it was never adopted¹⁸⁶.

Development in the absence of a master plan can create problems of institutional volatility. A lack of coordination at a city-wide level complicates orderly and proper planning, while the management of population growth, efficient delivery of services and economic activity are impeded¹⁸⁷. The potential detrimental effects of politics on development are increased. For examples, during changes of influential positions such as the Municipal Governor, successors may be compelled to distance themselves from projects or initiatives involving their predecessors. Significantly commenced projects in Phnom Penh have been abandoned or destroyed under these circumstances¹⁸⁸. More generally, the lack of a legally binding Master Plan has allowed for development in Phnom Penh to largely follow private over public interests.

The most recent Master Plan produced is the 2005 Livre Blanc Du Developpement et L'Amenagement de Phnom Penh (White Paper for the Development and Management of Phnom Penh). Completed with financial and technical assistance from France, the Livre Blanc includes detailed analysis of demographic and economic trends, heritage and environmental issues, public utilities, governance issues and opportunities and constraints for the city's development.

The document contains recommendations in areas as diverse as; spatial planning, traffic management, housing policy, environmental management, public health and recreation. Although a consistent theme throughout the Livre Blanc is the need for domestic institutions to create and implement their own binding policies, the Master Plan itself is not binding and has not been adopted. Since its inception the Livre Blanc's effect on the development process in Phnom Penh appears to have been negligible¹⁸⁹.

181 RGC (1996) *Law on the Protection of Cultural Heritage* Article 5

182 *ibid.* Article 7

183 *ibid.* Article 9

184 Naren K (2012) 'Dozens of City Offices Privatized' Cambodia Daily

185 BAU (2007) *Livre Blanc pour Developpement et Amenagement de Phnom Penh* p32

186 *ibid.*

187 Amita J (2009) 'Urban Growth Centres on the Periphery: Ad Hoc Policy Vision and Research Neglect' Australian Journal of Regional Studies 15:1 2009

188 UNDP/UNHCS (1999) 'Strategy to Build the Capacity of the Municipality of Phnom Penh for Urban Poverty Reduction' Support Services for Program Development p12

189 Sometharith D cited in AsialIFE Guide Phnom Penh (2011) 'Phnom Penh Unplanned'

6.7 SUB-DECREE ON URBANIZATION OF THE CAPITAL CITY, TOWNS AND URBAN AREAS

A Sub-Decree (SD) on Urbanization of the Capital City, Towns and Urban Areas was drafted by the MLMUPC in late 2011, and represents an indigenous attempt to develop the regulatory framework of Phnom Penh. The objectives of the SD include; ensuring the sustainability and equity of urbanization, contributing to the reduction of climate change and ensuring the protection of human rights¹⁹⁰. The ambitious aims of the SD however are not articulated into guidelines or any tangible steps toward their realization. Issues of institutional capacity are also not addressed; some articles stipulate detailed requirements on development yet do not propose a means to monitor and enforce compliance. The SD has also been criticized for failing to take account of Phnom Penh's history and its legacy on urban development¹⁹¹. Developed without wider consultation and support from Development Partners, it is at present unclear at what stage development of the sub-decree is, and whether or not it will simply be added to the pile of draft policies and legislation never to be adopted.

6.8 NATIONAL HOUSING POLICY

A draft National Housing Policy re-developed by the MLMUPC with support from GIZ in 2010. This latest draft policy is a welcome addition to the regulatory framework and addresses some vital housing issues. It also contains various positive recommendations; notably a moratorium on evictions, various options for medium and long term tenure security and strategies of improving housing conditions for the urban poor. Since drafting and some civil society consultations, it however appears the draft policy has been shelved¹⁹².

6.9 CIRCULAR NO. 03

Circular No. 03 "Resolution on Temporary Settlement on Land which has been Illegally Occupied in the Capital, Municipal and Urban Areas" is a policy directive issued to local authorities regarding the management of so-called "temporary settlements" on state owned land. The objectives of the Circular are to identify and "resolve" temporary buildings on state land, as well as prevent any further such settlement. The administrative tool includes directives to collect

190 RGC (2011) 'Sub-Decree on Urbanisation of the Capital City, Towns and Urban Areas'

191 Sahmakum Teang Tnaut (2012) *Comments on the Draft Sub-Decree on Urbanization of the Capital City, Towns and Urban Areas*

192 Land and Housing Working Group Cambodia (2009) 'Land and Housing Rights in Cambodia Parallel Report 2009' United Nations Committee on Economic, Social and Cultural Rights p19

accurate statistics and producing maps of temporary buildings, numbers of occupants and to ‘seek resolutions’.¹⁹³

Since being adopted in May 2010, details about its implementation in Phnom Penh remain scant. According to the MPP, identification of “temporary buildings or illegally-occupied state land” (sic) has already been completed.¹⁹⁴ However, it appears this has been conducted without participation of communities and civil society, in violation of the Circular’s commitment to an inclusive process.

Some CSOs have expressed reservations regarding the Circular given the lack of state land mapping in the capital, which could lead to households with legal possession rights being processed under the Circular and hence denied their due rights. In addition, the language of illegality contained in the Circular, promotes the notion that all poor settlements are illegal. On the other hand, provisions for on-site upgrading, multi-stakeholder consultation, and relocation sites with basic services specified in the document could, if properly implemented, lead to better outcomes for households legally determined to occupy state land.

How the Circular continues to be implemented in Phnom Penh remains to be seen, although lack of transparency in measures already taken is of concern.

6.10 MUNICIPAL POLICY

The MPP and various other ministries - including Ministry of Education Youth and Sport (MEYS), Ministry of Agriculture Forestry and Fisheries (MAFF), Ministry of Health (MOH) and Ministry of Public Works and Transport (MPWT) - are mandated to create and implement policies to contribute to the urban regulatory framework. However with exception of the MPP this has rarely been the case¹⁹⁵. The outputs of the MPP are predominantly broad non-prescriptive strategies, or ODA supported policies. For example the City Development Strategy 2005 – 2015 (CDS), contains visions for Phnom Penh such as;

“Vision 1: Land Use and Housing: Phnom Penh is a city with accurate land use law, master plan, well managed and splendid beauty. The people understand and respect the law leading to decrease in land conflict and every citizen has access to comfortable housing”¹⁹⁶

193 RGC (2010) Circular No. 03 “Resolution on Temporary Settlement on Land which has been Illegally Occupied in the Capital, Municipal and Urban Areas”

194 MPP (2011) Phnom Penh Speeds Up the Process of Circular No. 03

195 BAU (2007) Livre Blanc pour Développement et Aménagement de Phnom Penh p203

196 Municipality of Phnom Penh (2005) ‘City Development Strategy 2005-2015’ p21

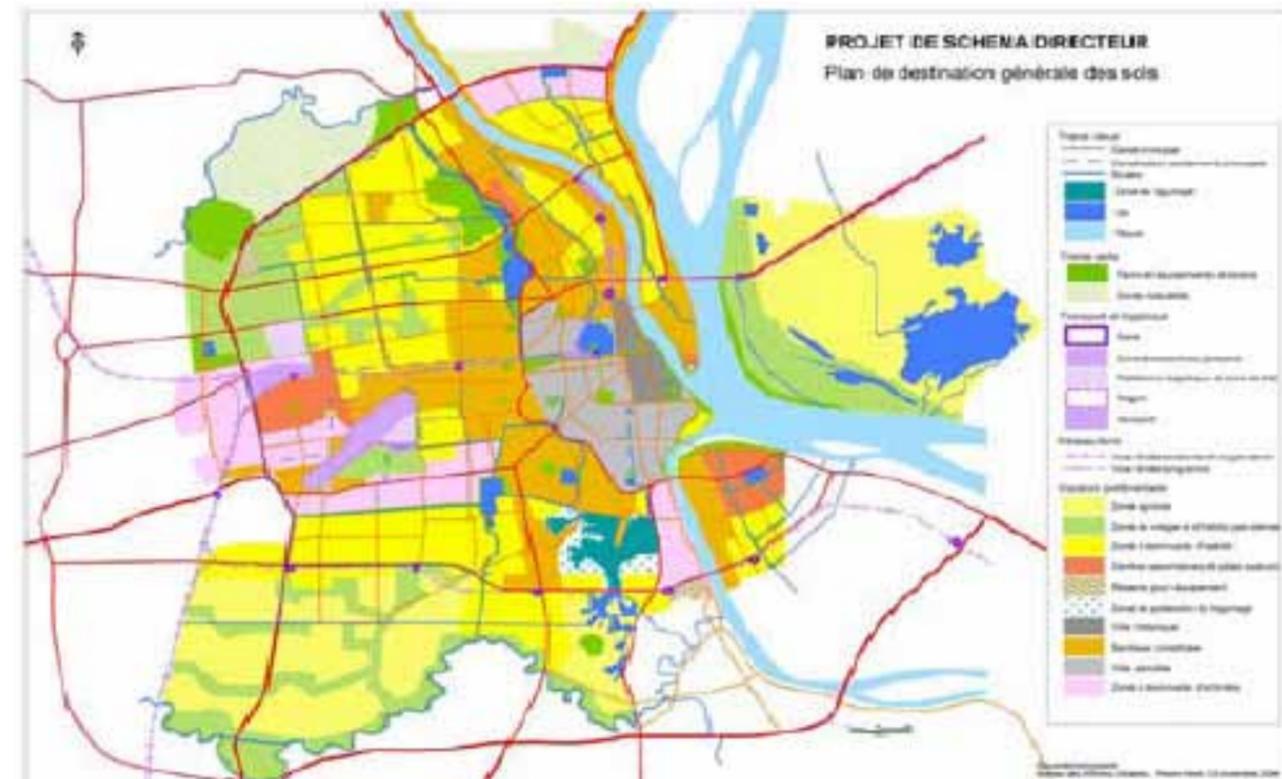


Figure 27: Strategic Spatial Planning for Phnom Penh in the Livre Blanc Master plan, Source p286

The CDS also contains further visions regarding participation in decision making, natural resource management, education, health, law and order, transport, and tourism. Visions have subsequent goals and strategies to support their realization, however they are not binding and there is no formal mechanism to encourage compliance with the strategy.

A number of ODA interventions have contributed to the body of Municipal policy in recent years¹⁹⁷. One intention of the Livre Blanc Master Plan was the consolidation of policies into an overarching framework¹⁹⁸. However, as with the CDS, the non-binding nature of most municipal policy undermines its potential contribution to regulating development.

While much of the framework contains sound principles to regulate development, there are formidable barriers to its effective application. Whilst making some significant contributions, ODA supported interventions typically concentrate on the development of individual or sectoral elements of the framework. A lack of coordination between different international actors can be detrimental to overall coherence of the framework. At the same time a lack of will on behalf of the political and business elite to reduce the opacity of the framework is a further impediment to its effectiveness. The lack of binding policy and adherence to legislation is a concerning accompaniment to the rapidity of growth in Phnom Penh’s development paradigm.

197 See Phnom Penh Urban Poverty Reduction Project 2000, Integrated Urban Environmental Management Tonle Sap Basin 2012, Safer Phnom Penh City 2011, Scaling Up Community Driven Process in Phnom Penh 2001

198 BAU (2007) Livre Blanc pour Développement et Aménagement de Phnom Penh p15

7 CONCLUSION



Figure 28: The Borei Keila land sharing deal ended in violent evictions and the company claiming bankruptcy

KEY ISSUES IN PHNOM PENH'S DEVELOPMENT

If the most telling measure of Phnom Penh's current development paradigm is its outputs and the resulting cityscape, there is well founded cause for concern in Phnom Penh. Amidst the optimism surrounding the boom a sobering addendum is the continuing inequitable distribution of the benefits and a worrying trend of accumulation by dispossession. Following Phnom Penh's laissez faire approach to urban development, the wider long term interest of the city as a whole appear subservient to the interests and needs of the private sector.

A review of the development paradigm is illuminative of a number of key challenges for Phnom Penh. If the opportunities of the boom are to be capitalized upon for the benefit of the city in the long term, the following issues will need to be addressed;

7.1 RAPIDITY OF DEVELOPMENT

In some ways mirroring the booms of Bangkok and Jakarta in the 1970's and 1980's; growth is outstripping the capacity of the city to provide basic services. Unlike its regional neighbors however, the situation in Phnom Penh is further compounded by the city's turbulent history and current reliance on ODA. The pace of development and weak regulatory framework are not conducive to well planned developments, or the safeguarding of the livability of the city as a whole. In the ongoing developer-driven change, environmental and social impacts are given inadequate consideration amidst the eagerness to develop. As a result, the socio-economic and environmental impacts of poorly planned or shortsighted developments are already apparent. The continuation of this trend could be of a serious detriment to the livability of Phnom Penh in the long term.

7.2 WEAK REGULATORY FRAMEWORK

The lack of an effective regulatory framework is tangible throughout the entire development paradigm. The poorly articulated responsibilities of different authorities, a lack of harmonization of legislation and policy, a lack of transparency and inconsistencies in application culminate in a pervasive uncertainty around the framework. Whilst making some significant contributions, ODA supported interventions typically concentrate on the development of individual or sectoral elements of legislation and policy. A lack of coordination between different international actors is of further detriment to the overall coherence of the framework.

Coupled with the rapidity of development in Phnom Penh the ineffectiveness of the framework raises significant issues. Regulations to safeguard the public interest in areas as diverse as environmental management, heritage conservation, traffic management, contributions to public services, land and property rights among others are frequently subverted. Amidst a lack of political will and capacity to create binding regulations and enforce compliance, the public interest and long term livability of the city often appear subservient to the interests of the private sector.

7.3 INEQUALITY

The extent of economic inequality is a highly visible facet of the boom. In recent years spatial inequality has also become increasingly tangible. As more low income earners and urban poor are displaced from the inner Khans to the urban periphery, Phnom Penh is becoming increasingly segregated. Touted by the MPP as a means of beautifying Phnom Penh, large scale segregation has detrimental consequences for the city as a whole. Displacement often leads to a retrogression in the enjoyment of basic human rights, and as such represents a failure of the state to provide for its citizens, while higher rates of petty crime and violence have been observed in highly segregated cities globally¹⁹⁹. In an economy as reliant on the tourism sector as Cambodia, the negative perceptions of safety this generates have the potential to be significantly damaging. Although less tangible, the negative international publicity generated by human rights and other violations associated with displacement also bear consideration.

199 Stephens C (1996) 'Healthy Cities or Unhealthy Islands? The Health and Social Implications of Urban Inequality' Environment and Urbanization 1996 8: 9 p18

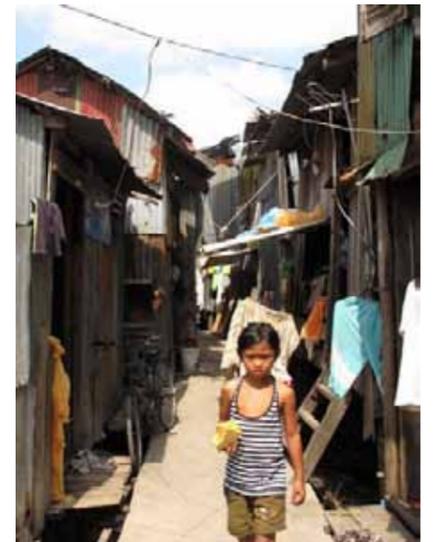


Figure 29: Many urban residents live in inadequate housing

“Amidst the optimism surrounding the boom a sobering addendum is the continuing inequitable distribution of the benefits and a worrying trend of accumulation by dispossession.”

Spatial inequality is further counterproductive in that it marginalizes a portion of the population on which the city's growth is reliant. The trend of rapid expansion in the construction and garment industry appears set to continue, as does the demand for low skilled workers²⁰⁰. Thus logic would suggest any actions or policies that undermine the ability of these workers to locate in or near the metropolis will be detrimental to continued growth.

7.4 LACK OF AFFORDABLE FORMAL HOUSING

In the absence of meaningful government input, the private sector is perpetuating a disparity between housing supply and the needs of the population. The majority of new residential developments are orientated at high income clientele, beyond the reach of the vast majority of the urban population. The capacity of the informal sector to occupy some of the gap between housing supply and demand has been largely negated in central areas through demolitions and relocations, while existing rental accommodation for the poor is of inadequate standard. The undersupply of other forms of housing is putting increasing pressure on low income earners, reinforcing the spatial inequality mentioned above.

7.5 UNDERDEVELOPMENT OF THE PERIPHERY

The inability of Phnom Penh to keep pace with its own growth is perhaps most observable on the urban periphery. The predominant focus of the private sector elsewhere and shortcomings in government capacity culminate in something of a vacuum for stewardship outside of central Phnom Penh. In some locations the abruptness with which signs of development diminish as one leaves the inner Khans is striking.

Peripheral areas are poorly serviced by transport infrastructure and rely on inadequate, often unsealed roads. Gaps in the provision of services such as electricity, water and sewerage are common, as are the above mentioned housing supply issues. In the absence of land use planning, ad hoc development is causing issues in some areas, particularly with regard to traffic management in the city's South and East as well as in terms of regular flooding at many relocation sites. At the same time rapid growth and exclusionary policies in the urban center are putting increasing population pressure on these areas. What looks set to ensue is a decreasingly livable situation for an increasing proportion of the residents of Phnom Penh. The situation is inherently unsustainable and must be addressed if the city's growth is to be viable into the future.

200 World Bank (2008) 'Cambodia Country Economic Memorandum: Sustaining Growth in a Challenging Environment'



Figure 30: Building awaiting demolition at Boeung Kak

7.6 LACK OF SECURE TENURE FOR THE URBAN POOR

The ongoing evictions in Phnom Penh highlight the lack of secure tenure among the city's poor and reveals the authorities' often negative attitude towards them. In too many cases, households that have occupied their land for over two decades are accused being "squatters" and served eviction notices with little or no compensation offered. Yet the challenges posed by relocation point to on-site upgrading as the most efficient "solution" for urban poor communities.

While Circular 03 may offer some solutions for households legally determined to live on state land, the wholesale provision of tenure security for the urban poor, combined with transparent state land mapping and an end to exclusions in systematic land titling, should be prioritized to combat growing spatial inequality and develop a vibrant city for all.

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