



*Living under threat
but with nowhere to go...*

FINAL REPORT

**A Survey on the Impact of Forced Eviction on
Women in Phnom Penh**

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threat but with
nowhere to go*

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November 2011

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FOREWORD

Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and subsequent general comments issued by the Committee of the ESCR guarantees the right to adequate housing. State parties to the ICESCR, such as Cambodia, have the obligation to respect, protect and fulfill these rights.

Women in Cambodia are one of the most vulnerable groups in the context of land and housing rights. This Report documents the problems and possible solutions coming from the women themselves in relation to the different stages of forced eviction. It also gives us a better understanding as to how Khmer women are coping with domestic violence in light of their eviction problem.

Despite a number of efforts by the Royal Government of Cambodia (RGC) and NGOs to put in place legal policy and address security of tenure, forced evictions are happening almost every day. Whether in rural or urban areas, the negative impact of forced evictions is alarmingly high among the poor and the poorest women sectors. The urban poor women, as represented in this Report continue to have little access to resources and to have limited capacity for legal and non-legal redress.

An underlying product of this research is that Cambodian women are subordinate to men in most aspects of their lives. Women generally have no significant decision-making power, and their specific concerns are subsumed by the pretext that forced evictions affect everyone in the same way.

It is hoped that the recommendations presented in this Report will spur the RGC as well as non-government organizations to be more focused in their interventions and to address seriously the expressed needs of women and children living in communities facing forced evictions and displacement.

COHRE would like to thank American Jewish World Service, Anonymous, Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung (BMZ) and McKnight Foundation for making this research and Report possible.

Rolando Modina

Asia Director

Centre on Housing Rights and Evictions (COHRE)



PREFACE

Forced evictions in Phnom Penh are emblematic of the housing and land rights issues in Cambodia as a whole, although the negative impacts have disproportionate consequences on women. This Report is a contribution by the Center on Housing Rights and Evictions (COHRE) which examines the specific impact on urban poor women at the different stages of forced eviction. The Report also examines the compounding impact of domestic violence inflicted on women respondents who either face the risk of being evicted or have already been evicted from their land.

On this premise, specific recommendations have been formulated to address the concerns identified by the women respondents and are addressed to the Royal Government of Cambodia (the RGC) and the non-governmental organizations (NGOs) lending support to women's rights and housing rights advocacy. The recommendations are in effect directed at addressing the *de jure* (in law) and *de facto* (in practice) rights of women to adequate housing as enshrined under domestic law as well as international human rights laws and covenants. The national laws of Cambodia guarantee the right to security of tenure for all, including affected women and their families, and yet the practice of forced evictions undermines all these guarantees and violates the fundamental rights of women to live in dignity.

It is hoped that through this Report, the RGC and NGOs will find our recommendations to be worthy and complimentary of their efforts and resources in ensuring the rights of women to security of tenure and in combating violence against women.

To this end, the author/researcher wishes to thank Sia Phearum and the Housing Rights Task Force (HRTF) network secretariat for facilitating the communication between the community leaders and village chief and COHRE. The researcher is also grateful to the following Khmer field interviewers, namely: Chhin Sreynin, Kun Sokheang, Leng Touch, Pho Ratha, Phang Vibol and Sey Chhenghong. These people have patiently worked with the researcher for six months to translate and interpret the information collected from the respondents and diligently enter it into the Statistical Package for Social Science (SPSS) program by Nounnisay Kosal. The SPSS program was used to generate accurate data for the analysis.



Huge thanks also go to Robert Finch as copy editor and Ninosa Alipon for the layout and graphic design of the Report.

Appreciation for their valuable contributions also goes to Rolando Modina and Benjamin Rutledge of COHRE, as well as to Mayra Gomez, former COHRE senior expert on women and housing rights.

And finally, the researcher and COHRE would like to thank all those who attended the multi-stakeholders forum held on 27 April 2010 wherein the major findings of the Report was initially shared and presented. Their comments and input were invaluable in refining the set of recommendations in this Report (see Annex G for List of Participants).

We would also like to convey our sincere appreciation for the presence and opening remarks of H.E. Dr Ou Vuddy, Secretary General of the Secretariat of the Land Policy Council under the Ministry of Land Management, Urban Planning and Construction during said forum.

And, as a final note, our heartfelt gratitude to the 742 women respondents who willingly shared their views in making this Report successful. This Report preserves their stories and voices.

Jessica Umanos Soto

Researcher and Programme Officer
Women and Housing Rights Program
Centre on Housing Rights and Evictions
Phnom Penh, Cambodia



1. Background Information

Cambodia was in a unique situation after emerging from a civil war that led to massive internal displacement and dispossession of people's land and properties. During the Khmer Rouge regime from 1975 to 1979, land and housing ownership in Cambodia was dissolved and legal documents were destroyed. After the Khmer Rouge's downfall, the country was therefore faced with a crisis of land and property ownership. Subsequent efforts by The Royal Government of Cambodia (the RGC) to reinstate land and property ownership led to the enactment of the Land Law in 1992 which was later revised in 2001 (the Land Law). Subsequently, related sub-decrees (Anukret) and circulars (Sarachor) were also passed to implement the Land Law. According to the Ministry of Land Management, Urban Planning and Construction Report¹, 70 percent of land titles were jointly owned by married couples and another 18 percent were under the wife's name. However, the systematic titling project has "focused on lands that are relatively accessible and where ownership has been reasonably easy to establish"², while some urban communities are excluded³ from the titling process, as in the case of the Boeung Kok Lake communities. Moreover, unregistered marriages among Khmers and non-transparent land transactions are limiting the capacity of the RGC, particularly the Land Administration Sub-Sector Program (LASSP), to monitor and evaluate the gender equality strategies on land administration⁴.

In this regard, the majority of the poorest women are still waiting for their land titles, with tens of thousands of these women denied security of tenure, and in a position where they might be forcibly evicted from their land before they have received land titles. But even without any legal documents to prove ownership, the right to a collective or individual claim for land or property is guaranteed under the Land Law. Residents, who can prove continuous good use of the land, such as farming or housing, before the revised Land Law was enacted in August 2001, are entitled to adequate alternatives and tenure security. In circumstances whereby eviction is proven to be legal (land is registered as state public and of public interest) and eviction is applied as a last resort solution, affected families are still entitled to adequate alternatives and tenure security.

¹ Center on Housing Rights and Evictions (COHRE), 'Titling through Possession or Title through Position': Occasional Paper No.1, November 2008, p.30. See also Ministry of Land Management, Urban Planning and Construction, 'Land Management and Administration Project (LMAP), Land Registration Data Analysis', April 2005, p.3

² John Blair, 'Cambodia National Land Titling Program, Land Mines to Land Registration', paper presented at the 7th FIG Regional Conference, Spatial Data Serving People: Land Governance and the Environment – Building the Capacity, Hanoi, Vietnam, 19-22 October 2009, p.2

³ See for example COHRE's Request for Inspection by world Bank Inspection Panel, 4 September 2009 and World Bank, The Inspection Panel Report, 'Report and Recommendation on Request for Inspection, Cambodia: Land Administration and Management Project, (Credit No. 3650-KH)', 2010

⁴ Fabian Thiel, Gender Equality and Land Law in Cambodia, TS 5H – Gender Issues in Surveying, FIG Congress 2010, Facing the Challenges – Building Capacity, Sydney Australia, 11-16 April 2010. P.1



Taking Phnom Penh as an illustrative example of the mass evictions happening in Cambodia, more than 120,000⁵ people have been forcibly evicted since 1990, and over 100,000 were further displaced since 2000⁶. Since 2001, the threat of forced eviction to residents of smaller urban settlements within the capital city will add up to yet another massive forced eviction of an estimated 70,000⁷ families due to city development projects and land grabbing. In such circumstances, women have been disproportionately affected for a number of reasons, which COHRE and other organizations have documented. This survey report sets out the unique ways in which forced evictions, combined with gender-based violence, have specific consequences for Khmer women.

1.1 Land and housing rights issues is a gender and women's rights issue

Housing, land and property rights issues affect men and women differently; hence these issues are not gender-neutral and require a gender equality analysis of the problem. While equal rights between men and women are enshrined in the 1993 Constitution of the Kingdom of Cambodia (the Constitution) and in a number of national laws, in practice women are still subordinate to men.

As enshrined in the Constitution, Cambodian men and women have equal rights to land and property ownership, and can enter into joint ownership as married couples. Furthermore, from a gender equality perspective, enacting laws and putting in place gender-equal policies are not only a first necessary step in recognizing equal gender roles, but serve as legal bases for sustaining the long-term behavioral change away from unequal gender practices in Cambodia. Despite the existence of such laws, the bigger challenge, though, lies in changing the mindset that largely dictates social behavior in terms of gender-stereotyping in Cambodia. For example gender-stereotyping such as 'Chbap Srey' for women and 'Chbap Bros' for men are codes of conduct that are taught in school, and which reinforce unequal gender norms such as the preservation of the notion of an ideal Khmer woman. In effect, this code of conduct accorded men higher status than women, and, because of this, men still make most household decisions, including decisions on property ownership.

In the 1980s, women comprised 60 to 65 percent of the total population of Cambodia, with 80 percent of these women poor and living in rural areas⁸. As of August 2010, women still made up more than half of the population⁹, and the majority of rural women are considered to be the agricultural workforce. But regardless of their income abilities, Khmer women are

⁵ Sahmakum Teang Tnaut, Facts and Figures, Displaced Families in Phnom Penh, May 2011.

⁶ Sahmakum Teang Tnaut, The 8 Khan Survey: urban shift to outer Khans, December 2009.

⁷ Amnesty International, Rights Razed: Forced Evictions in Cambodia, AI index: ASA 23/002/2008, February 2008.

⁸ GID-DB, OECD and Development Center, 'Gender Equality and Social Institutions in Cambodia' (nd)

⁹ Ministry of Women's Affairs, Key Gender Statistics in Cambodia, August 2010



contributing more than half of the average household income and spend a higher share of their earnings than men on their children¹⁰ (e.g., health and education).

The majority of poor women – and particularly of female-headed households – remains landless and lack access to various resources¹¹. The World Bank Gender Assessment and Analysis finds that “women and girls in rural areas were engaged more and in a wider range of income generating activities than men and boys, both in agriculture and forestry. However men had greater control over the benefits of the productive resources”¹². As land distribution in rural areas is based on family size, “women-headed households with lesser adult laborers often received less land (0.5 hectares) and land of inferior quality, handicapping their ability to provide for their families and generate adequate income from the land”¹³.

Similarly, almost 50 percent of war widows are poor, do not have access to land, and are twice as likely to sell their land because of a lack of access to farming resources that might allow them to produce a better harvest¹⁴. Poorer women might also be driven to sell their land because they find themselves in stressful situations, such as having to contend with illness within the family and/or a general lack of food¹⁵. Since 2001, the situation has not changed much, with the continued mass eviction of rural people from their land diminishing further the capacity of female-headed households for subsistence farming.

With their housing and land rights ignored, women remain one of the most vulnerable groups in the context of land rights in the country. Their dire situation is compounded by their lack of knowledge of land rights (e.g., land titling procedures) and access to resources. In addition, levels of public support as regards securing legal tenure for the poorest women are not sufficient to properly address their other specific needs, even though the poverty reduction program of the RGC is largely focused on rural areas.

1.2 Urban Women

Through the years, research¹⁶ and case studies on land and housing rights issues across Cambodia have been published by human rights non-governmental organizations (NGOs). Two important surveys¹⁷ were released by Sahmakum Teang Tnaut (STT) in the last few years

¹⁰ Ministry of Women’s Affairs, Royal Government of Cambodia, ‘The Progress Report on the Implementation of Beijing Platform for Action on Women Issues 1995-2005’, October 2004, p.18

¹¹ World Bank Gender Assessment and Analysis, Volume II (March 2006) p. 56

¹² Ibid. p. 57

¹³ USAID, Cambodia: Property Rights and Resource Governance Profile, 2010, p.9

¹⁴ STAR Kampuchea, Landlessness and land conflicts in Cambodia, (2007), p.2

¹⁵ Oxfam Great Britain, Land Ownership Disputes in Cambodia: A Study of the Capacity of Five Provinces to Resolve Conflicts over Land, February 2001

¹⁶ See for example, the Cambodia Human Rights Action Committee (CHRAC), *Losing Ground: Forced Evictions and Intimidation in Cambodia* (2009) and CHRAC and Housing Rights Task Force (HRTF), *Still Losing Ground: Forced Evictions and Intimidation in Cambodia* (2010)

¹⁷ See for example, Sahmakum Teang Tnaut, *Facts and Figures, “Displaced Families in Phnom Penh”*, (April 2009) and “The 8 Khan Survey: Urban shift to outer Khans (December 2010)



on the urban settlements in Phnom Penh, followed by the baseline survey report¹⁸ from the Housing Rights Task Force (HRTF) Network on the current situation of threatened communities in Phnom Penh. Building on these studies, the Center on Housing Rights and Evictions (COHRE) conducted a 2010 survey (the Survey) to better understand the gender dimension of landlessness, inadequate housing and forced evictions in urban areas. The Survey focused on Phnom Penh, where 1.5 million of the 2.1 million are women, with the majority of them living in informal settlements or within areas that the RGC claims are public land so as to justify the practice of forced evictions.

Forced eviction is prohibited under international law, particularly General Comments No. 4 and No. 7 of the United Nations Convention on Economic, Social and Cultural Rights (CESCR) (see Annex B). In fact, the Committee on CESCR had issued its Concluding Comments to the RGC in 2009 to provide recommendations to prevent forced evictions and ensure that social protection for affected households. Over a year after the Concluding Comments were accepted by the RGC, the practice of forced evictions have not ceased.

The Survey findings are presented in detail in the succeeding sections of this Report, and provide empirical evidence as to the negative impact of forced evictions; it is also the objective of this survey to outline the disproportionate effects of forced evictions on women, which constitutes a direct violation not only of women's rights to adequate housing but also of their economic, social and cultural (ESC) rights.

¹⁸ Housing Rights Task Force, Baseline Survey Report, December 2010. The report aims to established baseline data to monitor the application of the seven principles of the United Nations Right to Adequate Housing by the Royal Government of Cambodia (RCG)

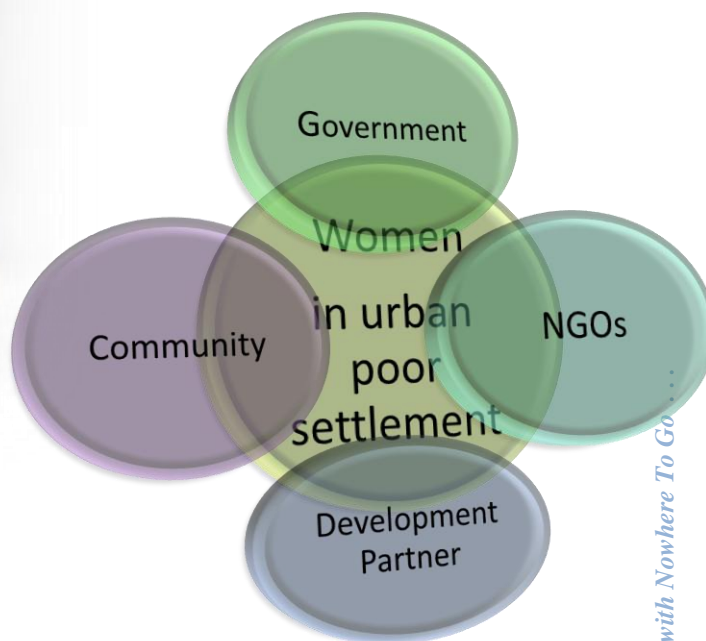


2 Introduction to the Survey

The Survey builds on COHRE's research on *Women, Slums and Urbanisation: Examining the Causes and Consequences*¹⁹ conducted in May 2008, and on COHRE's ongoing policy advocacy work on women and housing rights in Asia.

2.1 The framework for analysis

At the center of the forced evictions issue in Phnom Penh are urban poor women and their families. Different stakeholders such as government agencies, development partners, NGOs and community associations are presumed to be providing assistance within their own mandates to address housing and land issues. However, the question remains – are solutions provided by the key actors mitigating the negative impact of forced evictions on women? Are women consulted and part of the process of designing and developing programmatic interventions? This framework of analysis is used to examine whether different key stakeholders are responding appropriately in promoting the *de jure* (in law) and *de facto* (in practice) rights of women to adequate housing in Cambodia.



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¹⁹ The research featured 6 case studies in Mumbai and Colombo for Asia, Sao Paulo and Buenos Aires for Americas and Accra and Nairobi in Africa.



2.2 Purpose of the Survey

The purpose of the Survey is to examine the complex realities that urban poor women face in the context of forced evictions in Phnom Penh and recommend policy and practical steps for key stakeholders to address the issue of the right to adequate housing of affected urban poor women and their families both in Phnom Penh and in Cambodia in general.

2.3 Objectives of the Survey

The objectives of the Survey are to:

1. Identify the basic profile of women respondents and their informal settlements.
2. Gather the perceptions of women on their eviction problem and how they view their plight before, during and after an eviction.
3. Gather the views of women on how efforts on the part of themselves and their communities, and by the RGC and NGOs, have adequately addressed their situation and provided solutions to their plight.
4. Establish links between violence against women and forced evictions based on the experiences of the respondents.
5. Identify gender-equal, gender-responsive and human rights-based recommendations for the RGC and NGOs in order to secure the right to adequate housing for urban poor women and their families.

2.4 Methodology

The methodology used follows international standards on random sampling. The Survey began in October 2010. 742 women were interviewed, representing approximately 10 percent of affected families in 74 communities threatened with forced evictions in Phnom Penh.

Random selection and interviews were conducted with the assistance of some community leaders or village chiefs. Information from local NGOs, including the Housing Rights Task Force (HRTF) network members working on housing and land rights issues, was used in randomly selecting the communities. The communities selected are spread across 11 different types of location.



Subsequently, COHRE employed six Khmer field interviewers, who underwent a two-week orientation and survey preparation prior to field deployment. This orientation included activities on better understanding the Survey questions and translating the questionnaire into Khmer; it also included practical steps towards conduct the Survey effectively. The Survey questionnaire was structured but left largely open-ended for Sections 2 and 3.

The Survey questionnaire was divided into three main sections, as follows:

- **Section 1** identified the basic profile of the respondents and their settlements.
- **Section 2** looked into the awareness and understanding of the respondents as to their current situation vis-à-vis their eviction problem. It also included questions on their experiences (if any) of domestic violence that would exacerbate the problems that they already have. In addition, respondents were asked hypothetical questions as to what they think and feel, both during and after an eviction.
- **Section 3** asked respondents what solutions they felt were necessary from their own perspective. It also asked specific questions about government and NGO actions and responses to their plight, and what the respondents think that the RGC and NGOs should be doing.

Overall, 18 inter-related questions were included in Sections 2 and 3 to ensure that responses regarding forced evictions – before, during and after – and the anticipated solutions from different actors were fully elicited. Specific answers to the questions as to the different aspects of gender-based violence that they experience were also collated.

The six field interviewers were organized into two teams to conduct interviews of 10 women for each community for a period of 2½ months. The interviews were facilitated by the village chiefs who were asked for basic information about the community or additional general information about evictions. Weekly meetings between the author and the field interviewers were scheduled to ensure that interviews were conducted as planned and that obstacles to conducting the interviews were well-addressed. The field interviewers were given two months to complete their individual report-writing (in English) and another month to consolidate their team reports.

Approximately one month was devoted to the quantitative data analysis through the Statistical Package for Social Science (SPSS) program and another to the qualitative data analysis.

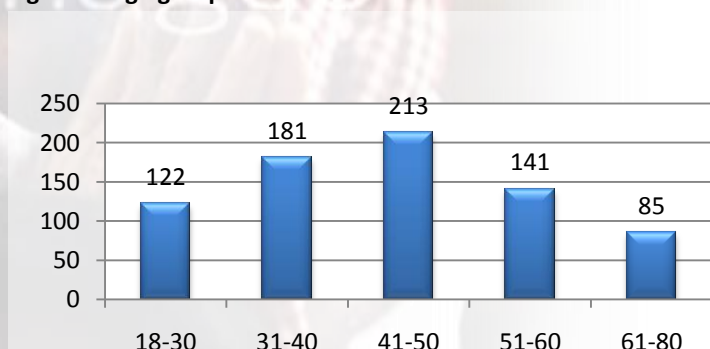
The author also conducted a public desk review of relevant national and international research, including COHRE's research on housing, land and property rights and on women's housing rights. Relevant national laws were also reviewed to better contextualize the results of the Survey.



3 The Survey results and findings

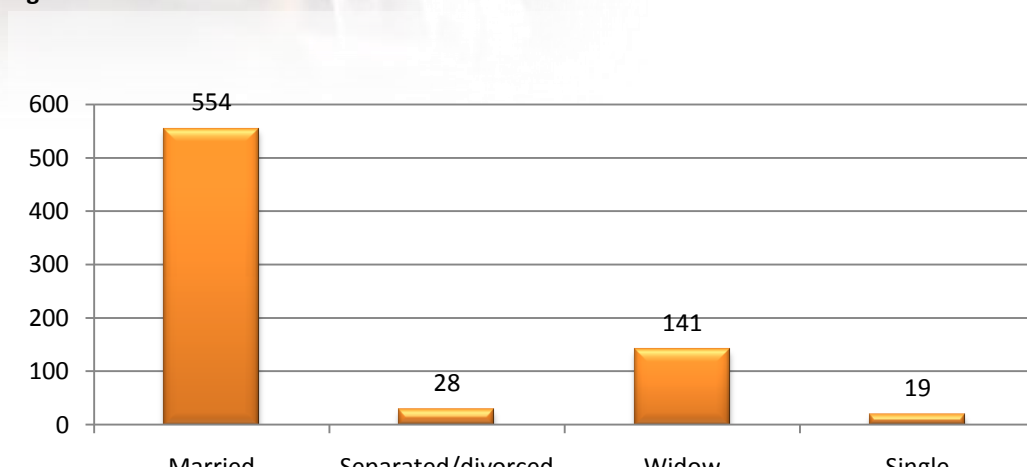
3.1 Demographic Profile of the Respondents

Figure 1: Age group



53 percent of the respondents were in the prime of their lives (31-50 years old) and 30 percent of the respondents were in old age (51-80 years old).

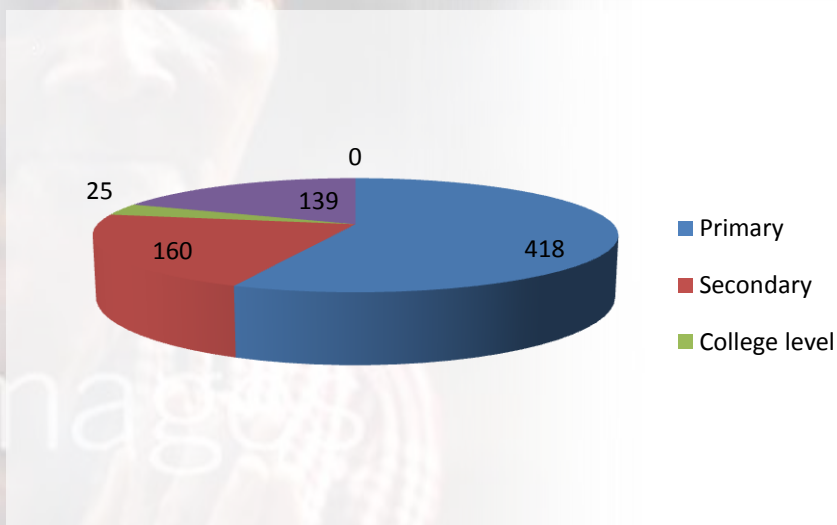
Figure 2: Marital status



74 percent of the respondents (554) were married, 19 percent widowed (141), 4 percent separated or divorced (28), and 3 percent single (19).



Figure 3: Educational attainment



Respondents with no formal education (139) and those with only primary education (418) accounted for the majority of the respondents (75%).

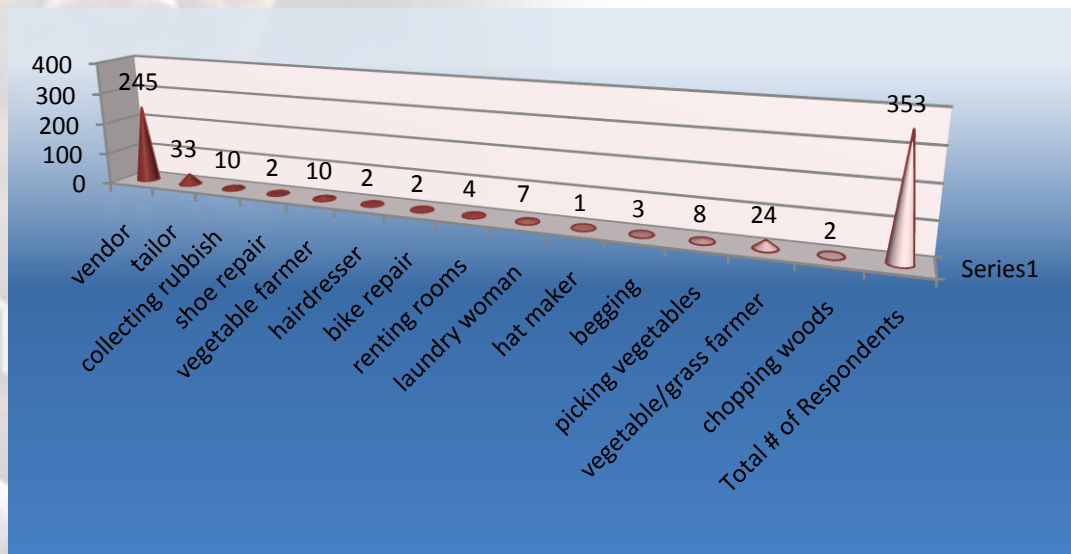
Figure 4: Employment status



48 percent of the respondents (353) considered themselves self-employed, while 42 percent (316) claimed to be unemployed, and 10 percent were wage-earners (73).

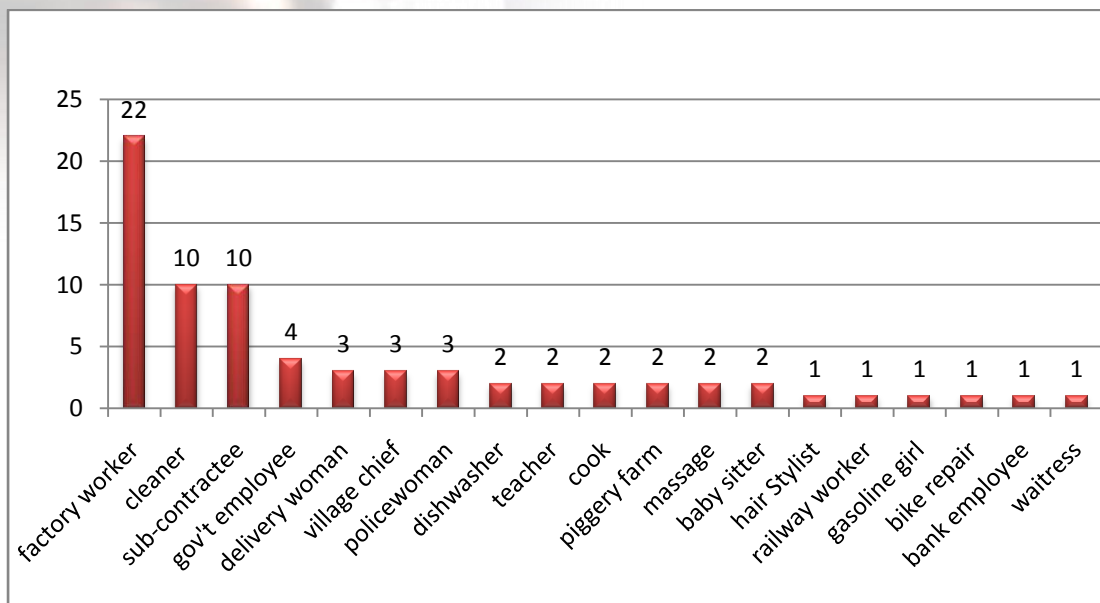


Figure 4.1 List of occupations for self-employed respondents



77 percent of the respondents were vendors (245) selling daily goods and food, while 6.8 percent was vegetable farmers selling their produce in the market or in their homes.

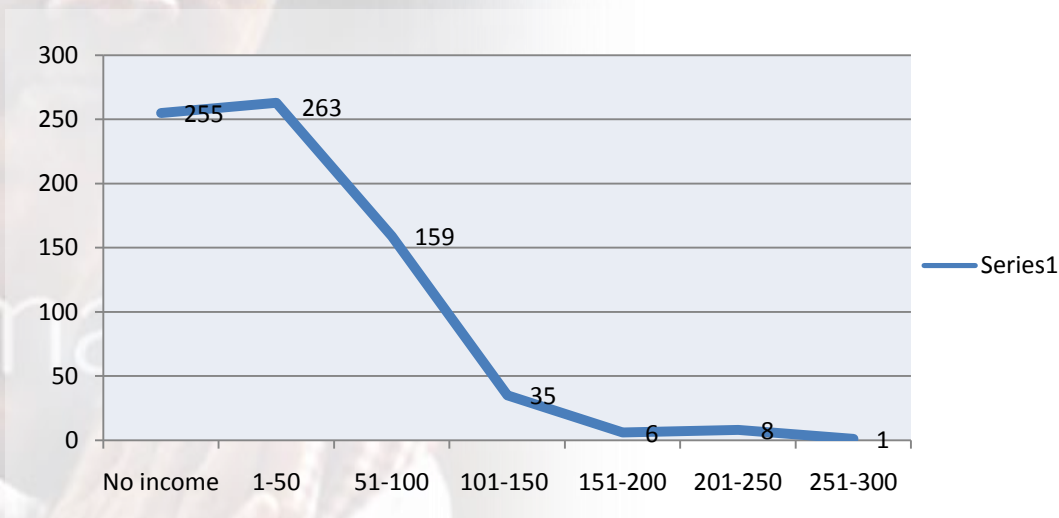
Figure 4.2 Occupation of employed respondents



The majority of the respondents (30 percent) were factory workers, while 28 percent were cleaners and sub-contractors for garment piece work, with 5 percent representing government employees.

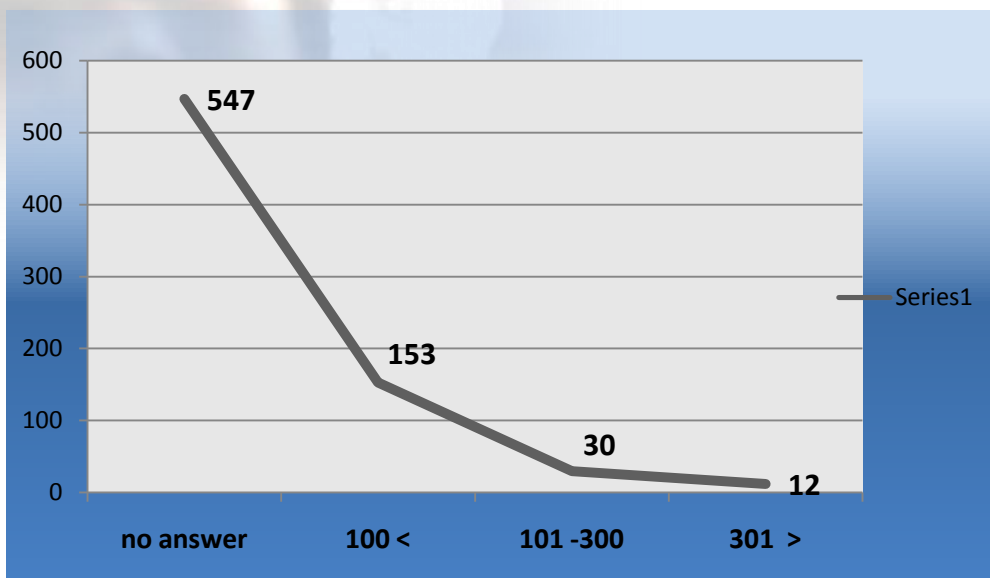


Figure 5: Gross monthly income (in US\$)



34 percent of the respondents had no income of their own (255), while 35 percent (263) were earning 2 dollars a day, which means that a total of 69 percent were living below the poverty line. 21 percent of the respondents (159) were earning around 4 dollars a day, while 9 percent (65) were earning an average monthly income of 5-10 dollars a day.

Figure 5.1: Gross combined monthly income (in US\$)

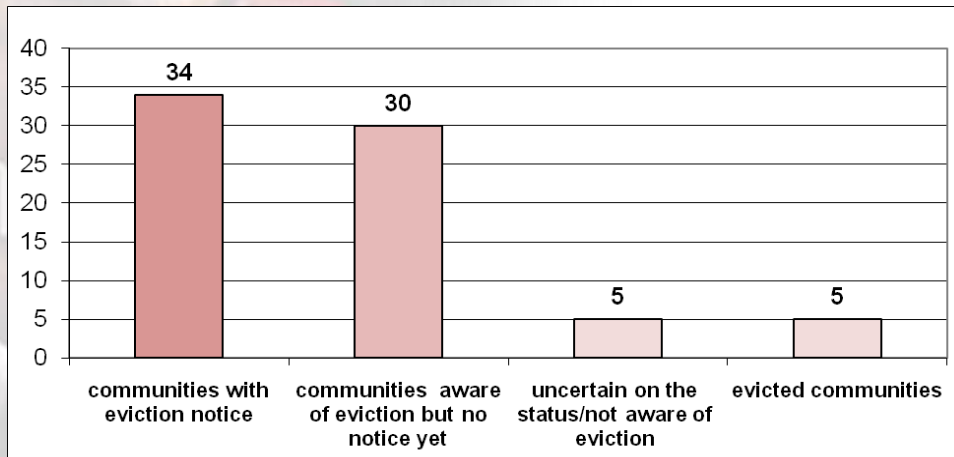


20.5 percent of the respondents had a combined gross income of less than \$100 a month, while only 2 percent had a combined gross income of \$300 and above; however, the vast majority (73.5 percent) could not provide a combined gross monthly income.



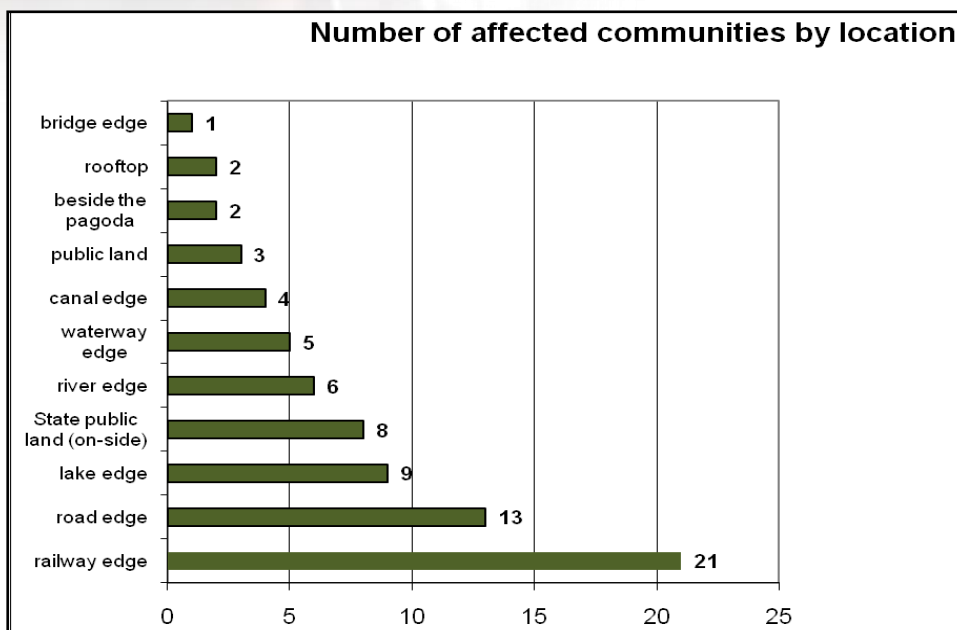
3.2 Profile of the communities and number of affected families

Figure 6: Status of the communities



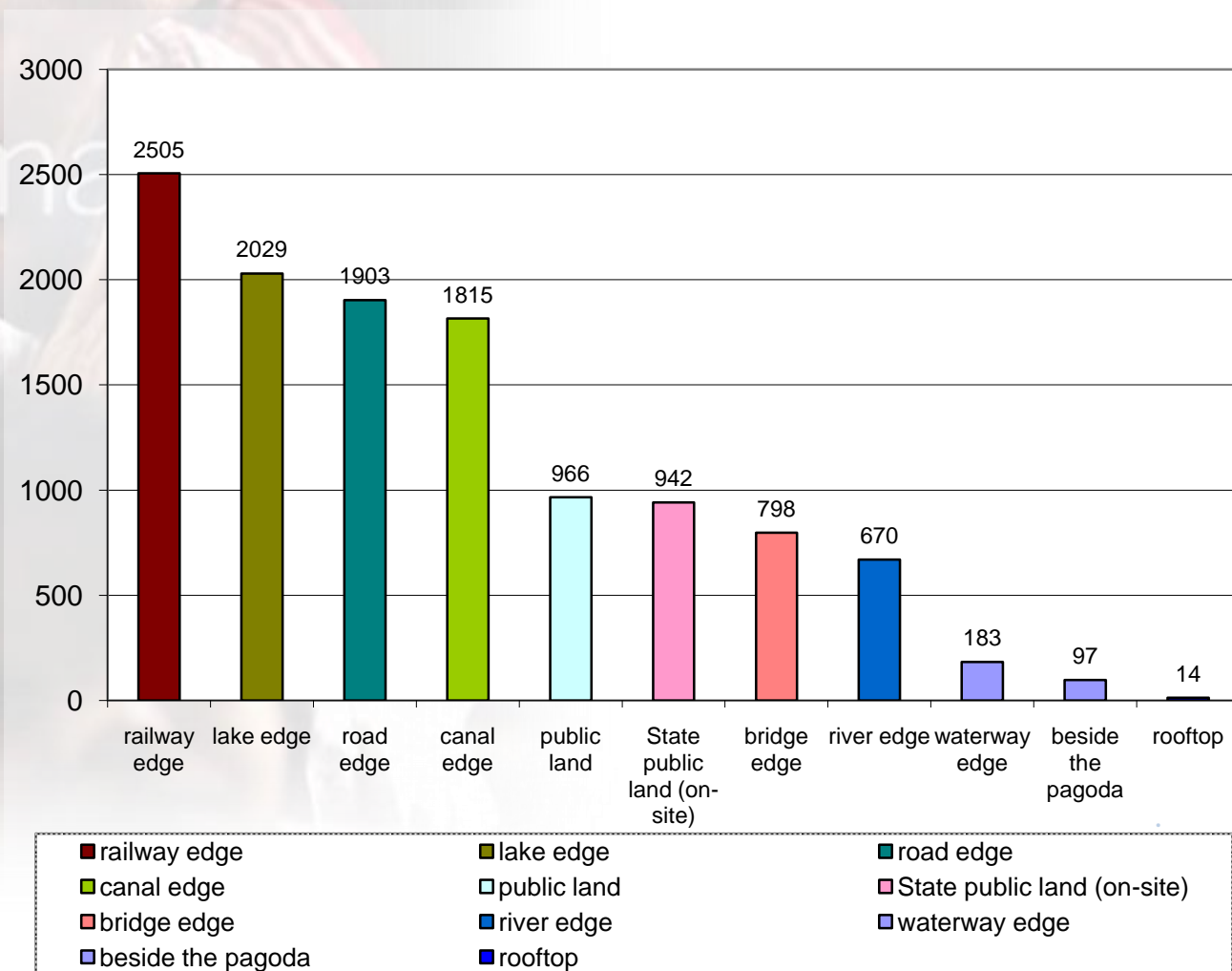
Of the 74 communities surveyed, 45 percent had received a notice of eviction (34 communities); 41 percent were aware of an impending eviction but had received no official notice yet (30 communities); 7 percent were not aware of any evictions taking place in their communities (5 communities); and another 7 percent had been evicted from their land already (5 communities). But some of the respondents who had already been evicted were still living in temporary shelter within the area of eviction and were waiting to be resettled (on-site upgrading) in housing units constructed by a private company.

Figure 7: Number of affected communities by location



The 74 communities surveyed belonged to 11 different types of location. The three communities most affected by evictions include communities living alongside railway tracks (28.4 percent), main roads (17.6 percent) and lakes (12.2 percent).

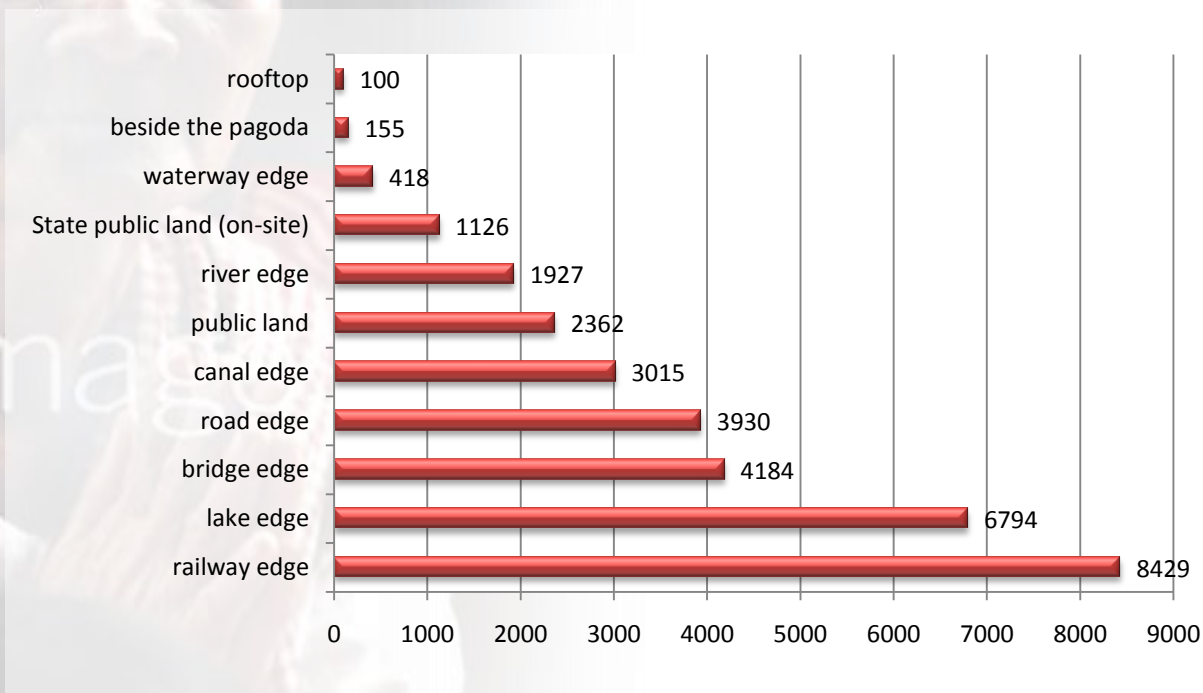
Figure 8: Number of affected households by location



Similarly, the households or families most affected by evictions are families living alongside railway tracks (21 percent), lakes (17 percent) and roads (16 percent).

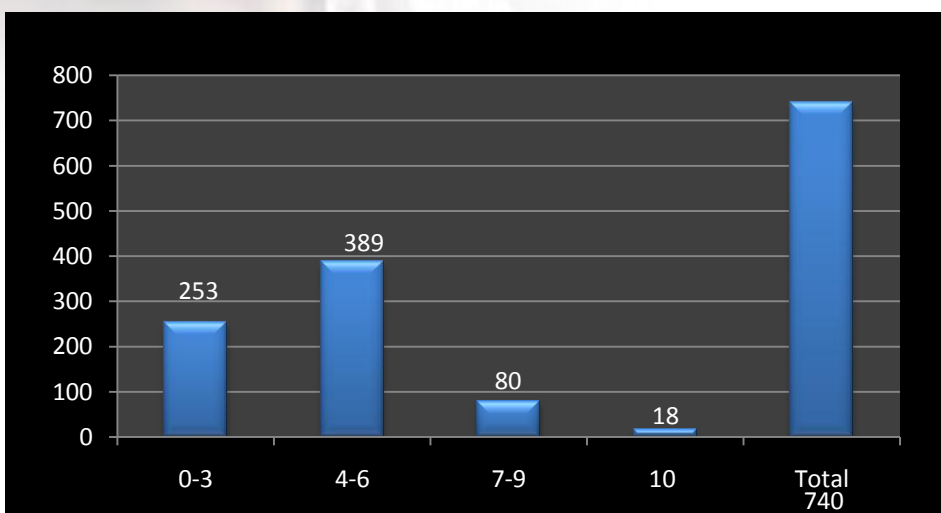


Figure 9: Number of affected people by location



Although there is only one community living along the edge of a bridge that is being impacted by evictions, it has the third highest number of people to be evicted (4,184 people).

Figure 10: Number of affected children who are 10 years old or below



The number of children (belonging to the respondents) totaled 740. These children need special attention and an assurance of safety measures as regards their particular needs, both at the time when an eviction actually happens and also after an eviction.



Table 1: Summary of number of affected households and people per location

	<i>Locations of the communities</i>	<i># of affected communities</i>	<i># of affected households or families</i>	<i># of affected people</i>
1	railway edge	21	2505	8429
2	road edge	13	1903	3930
3	lake edge	9	2029	6794
4	river edge	6	670	1927
5	waterway edge	5	183	418
6	canal edge	4	1815	3015
7	public land but on-site development	8	942	1126
8	state public land	3	966	2362
9	beside the pagoda	2	97	155
10	rooftop	2	14	100
11	bridge edge	1	798	4184
	Total	74	11922	32440

Some respondents, including village chiefs or community leaders interviewed, could not provide the exact number of households and families in the surveyed communities. However, using the average figure of 5 family members per household, the estimated number of affected families surveyed is 11,922 and the estimated number of affected people 32,440, which represents 46.4 percent of the estimated 70,000 people threatened with forced evictions in Phnom Penh.

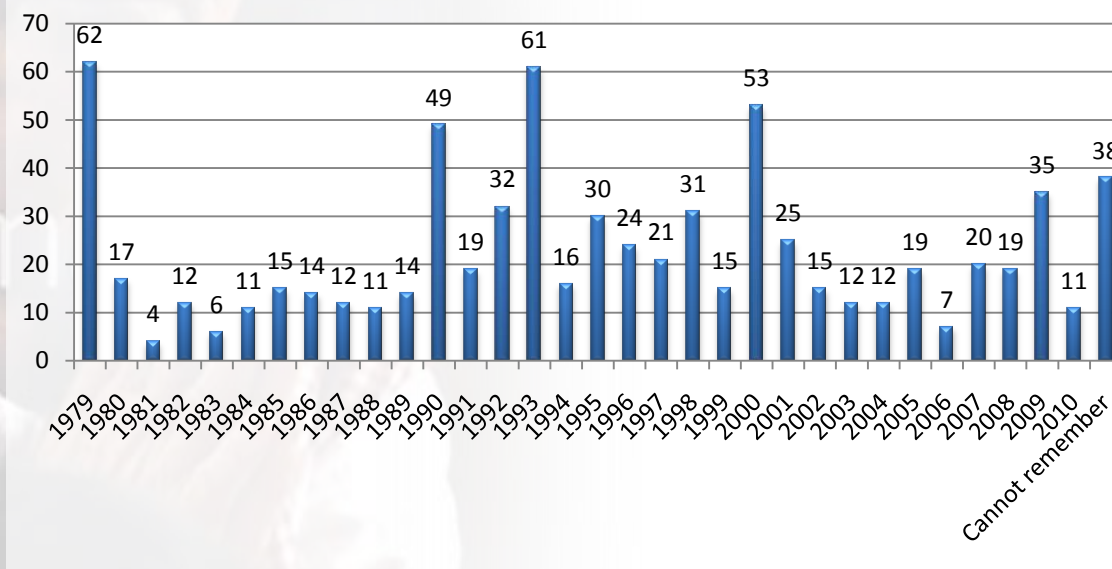
Table 2: Provincial origin of the respondents

Province	No. of Respondents
Phnom Penh	196
Prey Veng	98
Takeo	83
Kompong Cham	81
Kandal	79
Svay Reang	61
Kompong Speu	24
Kompong Thom	19
Kampuchea Krom	16
Battambang	13
Kompot	13
Kratie	10
Komp ong Chhnang	7
Banteay Meanchey	6
Pursat	6
Siem Reap	6
Thai border	6
No answer	18
Total	742



26 percent of the respondents claimed that they were originally from Phnom Penh, while 54 percent originated from 5 provinces, including Prey Veng (13.2 percent), Takeo (11.2 percent), Kompong Cham (10.9 percent), Kandal (10.6 percent) and Svay Reang (8.2 percent); however, 2 percent did not reveal which province they were from.

Figure 11: Number of years of residency (1979-2010)



24 percent of the respondents (62) had been living in their communities since 1979 (over 30 years), while 5 percent (38 respondents) could not recall the year that they started living in their communities. 44 percent (351 respondents) had been living in their communities from between 1990 and 2000, and 27 percent (213 respondents) since 2001. Overall, at least 529 (71.3 percent) of the 742 respondents had been living in their communities before the Land Law was enacted, and are therefore legally entitled to security of tenure.

Table 3: Number of settlers within the 5-year period

Start year of settlement	Number of responses	%
Before 1979	0	0
1979-1983	101	13.6
1984-1988	63	8.5
1989-1993	175	23.5
1994-1999	122	16.4
2000-2004	120	16.2
2005-2009	77	10.3
After 2009	46	6.2
Cannot recall	38	5.2
Total	742	100

Using the 5-year period as the basis for identifying the number of new settlers in the surveyed communities, the period 1989-1993 registered the highest number of settlers (175 respondents) at 23.5 percent, but the average number of new settlers in Phnom Penh has been 110 every 5 years since 1979.



3.3 Awareness and understanding of the respondents as to their general situation in relation to forced evictions and domestic violence

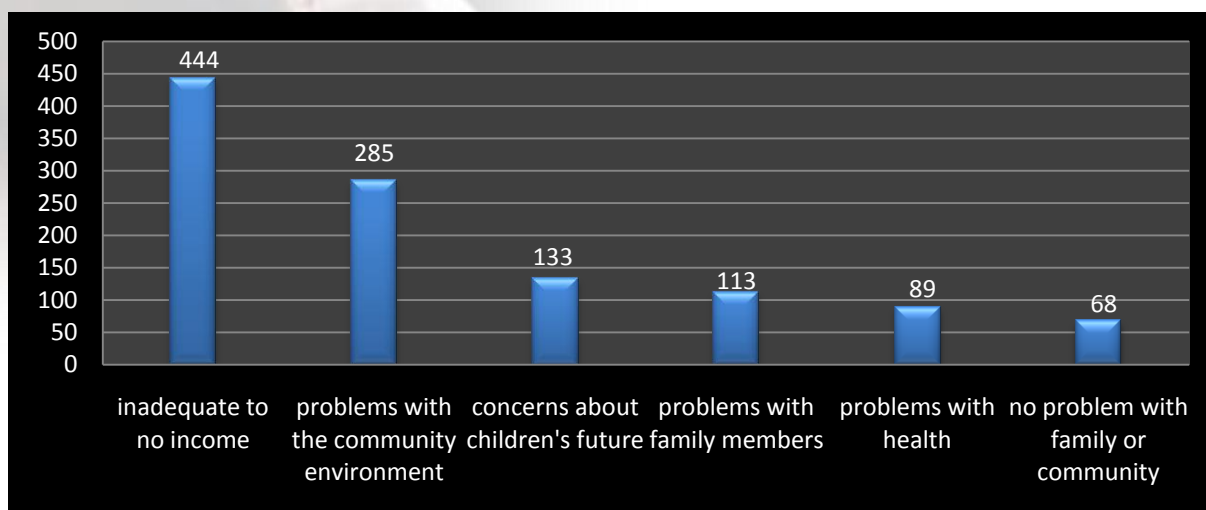
This section of the Survey identifies and examines the qualitative perception of the general problems that respondents face inside their homes, including domestic violence, and in their communities. The respondents were also asked what they thought were the reasons for their problems.

In light of their experiences of eviction, respondents were asked specific and hypothetical questions as to their awareness and views on eviction, in terms of the different stages of eviction – before, during and after the event. It is important to note that the Survey found out that 5 communities, with a total number of 50 respondents, had been evicted already but were living in the same area and waiting to be relocated on-site.

The charts and tables below summarize the respondents’ answers; their responses are tallied based on the number of times that a similar answer was given.

3.3.1 General problems of the respondents

Figure 12: General problems that women face in their homes and communities



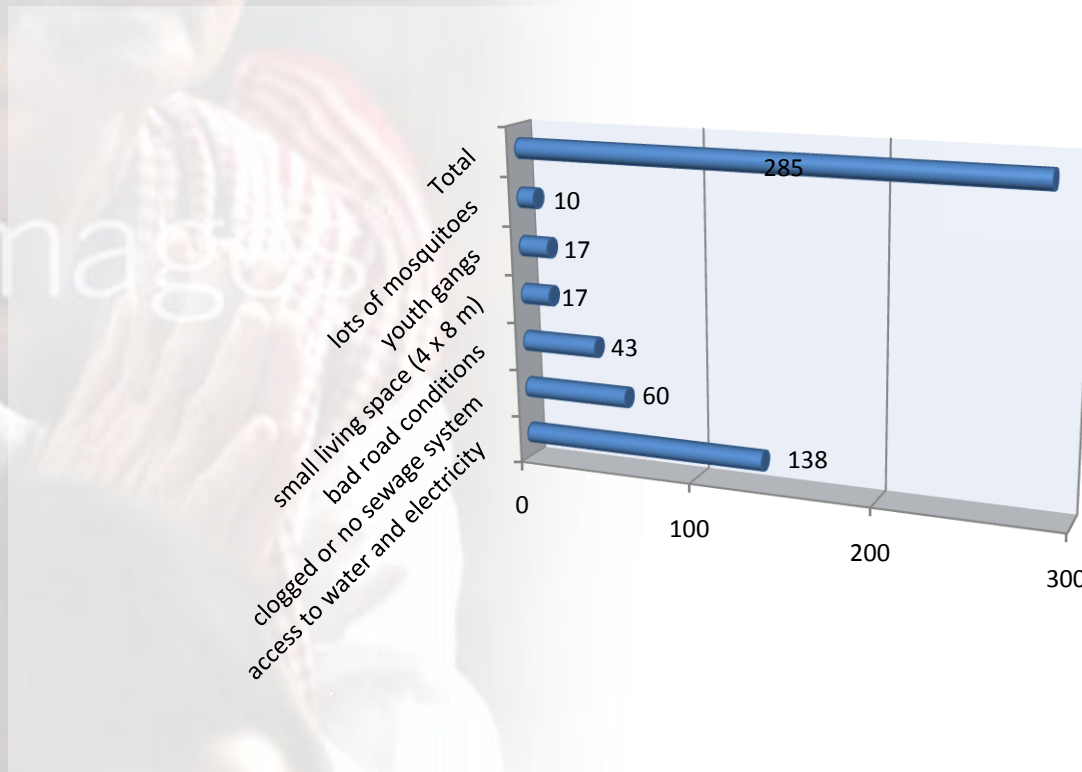
All of the respondents provided multiple answers to the question – a total of 1132 responses. The top three concerns expressed by the respondents include: i) inadequate income or sometimes no income at all (39 percent), ii) specific problems within their community (25 percent), which is partly due to a lack of access to basic public services (see figure 14), and iii) concerns about the future of their children (12 percent), particularly access to education and health services. These concerns, when combined, represent 76 percent of the responses.

10 percent had particular problems with their husbands and/or sons (see figure 15). 8 percent were worried about their health, and some respondents with HIV/AIDS were



concerned that they might encounter problems accessing medical support when moved outside of the city. 6 percent said that they did not have any problems with their family members or in their community.

Figure 12.1: Specific problems that women face in their communities

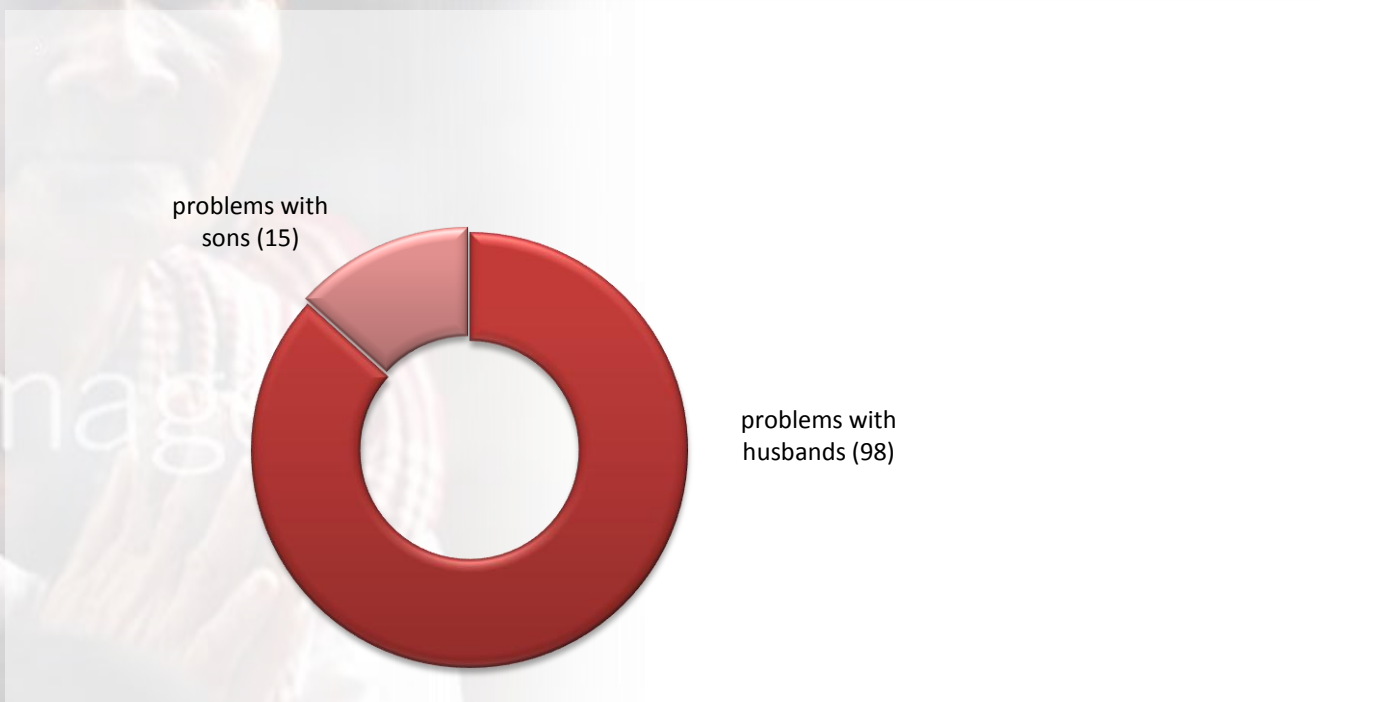


The unsafe living conditions in informal settlements are definitely a big concern, as they make the lives of the respondents and their families unbearable. Unhygienic environments are making their children ill, and medical expenses cut through their already depleted incomes. Such living conditions are obvious sources of diseases that affect urban poor settlements.

The lack of access to and high cost of, basic public utilities such as water and electricity is one of the problems that persistently affect the respondents. In some instances, local authorities are deliberately cutting off their water and electricity supply rather than providing for residents. Such actions, according to the respondents, are being justified by the local authorities on the grounds that the residents are going to be evicted anyway. Such occurrences are common, according to the women respondents. In some instances, the private land developer gives orders to their security personnel to make the residents' lives miserable in order to force them to leave. But the women said that they will have to endure such intimidation and harassment because they have nowhere else to go.

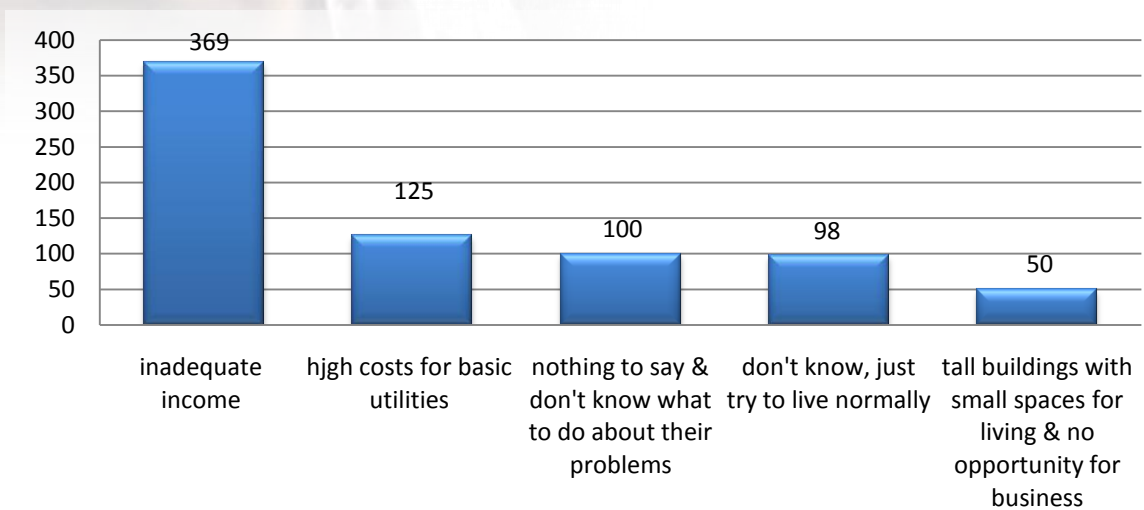


Figure 12.2: Specific problems that women face in their homes



113 out of the 742 respondents mentioned that they have either marital problems (98 respondents) or problems with their sons (15 respondents). The common problems as regards husbands include constant arguments, excessive drinking and extra-marital affairs. Problems with sons include drug use and alleged stealing of motorbikes.

Figure 13: What do you think are the reasons for your problems?



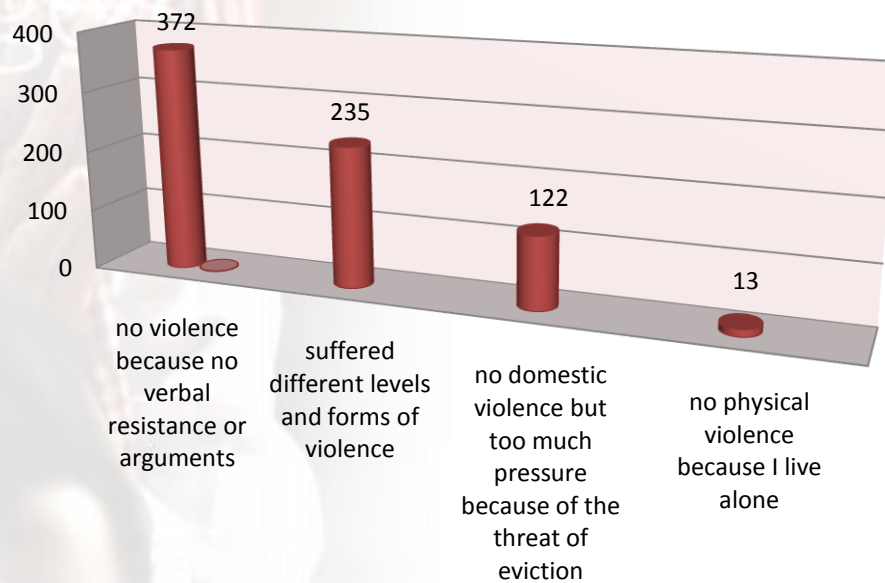
When respondents were asked what they thought were the reasons for their problems, 49 percent said that they suffered from impoverishment because they were not earning enough to meet their basic needs. For those who were earning (17 percent), a large part of their



income was spent on the high cost of utilities, making it difficult for them to make ends meet. 13 percent said that they had nothing to say and that they did not know what to do with their problems, while another 13 percent said that they tried to live as normally as possible despite their situation. 7 percent blamed their loss of opportunity to earn an income on the fact that they had been moved to buildings that were not large enough for them to continue their businesses or even live comfortably.

3.3.2 Domestic violence

Figure 14: Do you have any experiences of domestic violence?



50 percent of the respondents (372 respondents) said that they had no experience of domestic violence because they did not argue with their husbands; instead they just followed what their husbands said to avoid any confrontations or arguments. Not to put the blame entirely on *Chap Srey*, but this code of conduct for women is formally taught at primary school: it instructs wives to obey their husbands and to follow their husbands' decisions. The interpretation and practice of this code of conduct is reinforced by the highly patriarchal Cambodian tradition, established for generations.

While 32 percent of the respondents said that they are suffering from different forms of domestic violence (235 respondents), only 178 respondents (75.6 %) provided details of their experiences of domestic violence experiences (refer to figure 15). 16 percent of the respondents (122) said that although they considered themselves free from physical violence, the pressure of keeping their families together in the face of the threat of forced eviction was causing them emotional and psychological stress. 2 percent (15 respondents) however said that they did not suffer from physical violence because they lived alone or were widowed.



Figure 15: Specific domestic violence experience

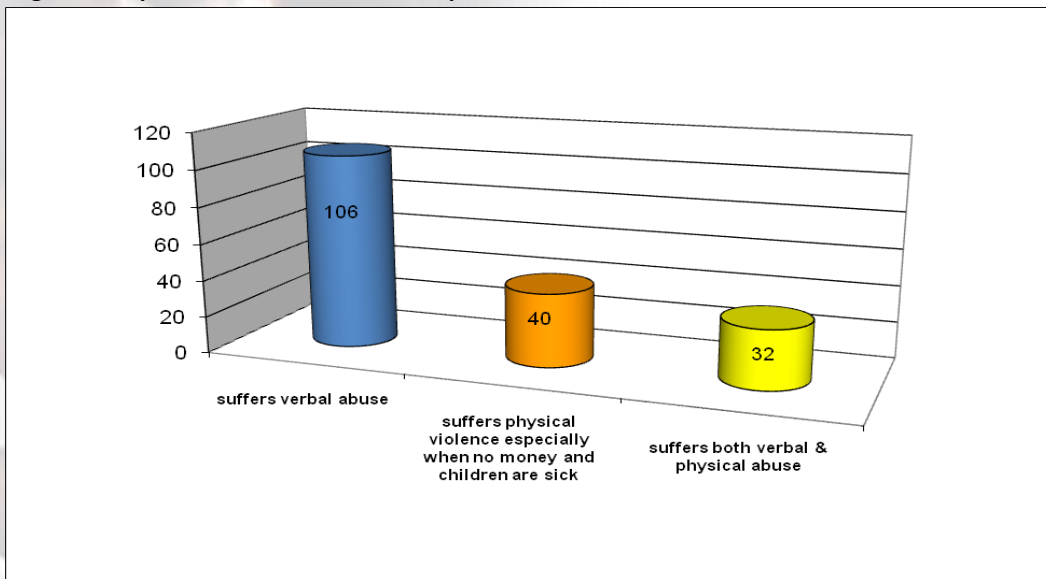
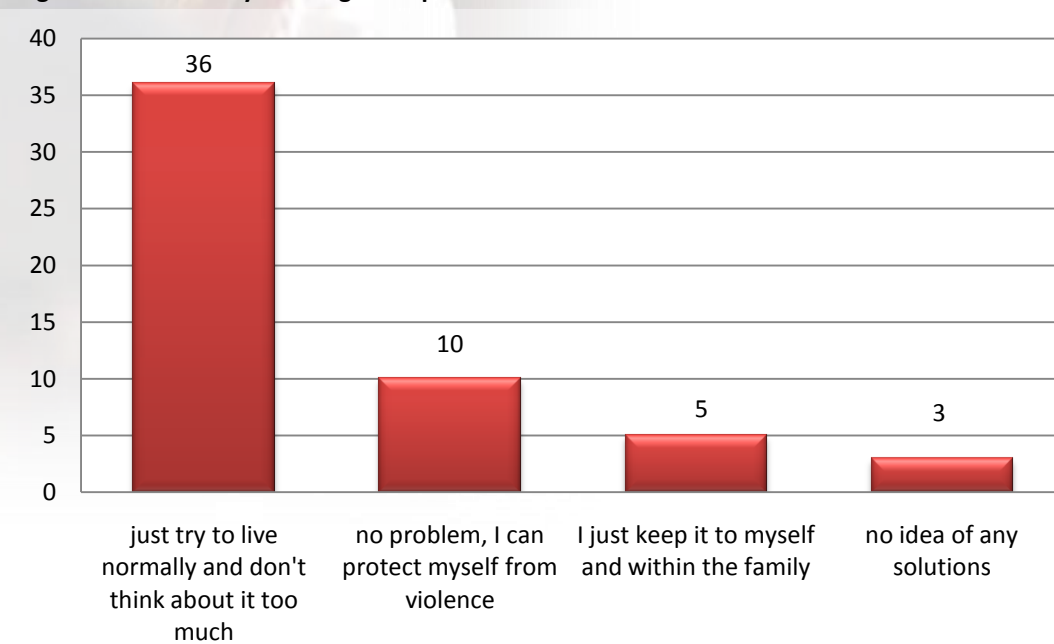


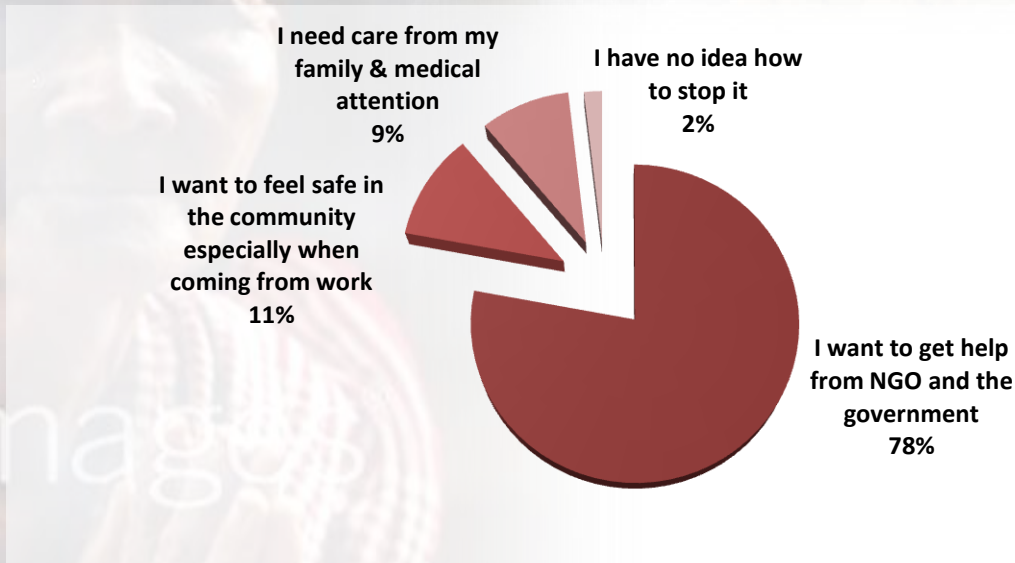
Figure 16: What are you doing to stop domestic violence?



Of the 23 percent of respondents (54 out of 235 respondents) who said that they were suffering from domestic violence, 12 percent said that they just tried to live as normally as possible and ignore the problem. 4 percent (10 respondents) said that they could protect themselves, while 2 percent (5 respondents) said that they just kept domestic violence to themselves and within the family, while 1 percent had no idea as to how to stop domestic violence. However, over 50 percent remained silent in response to that question.



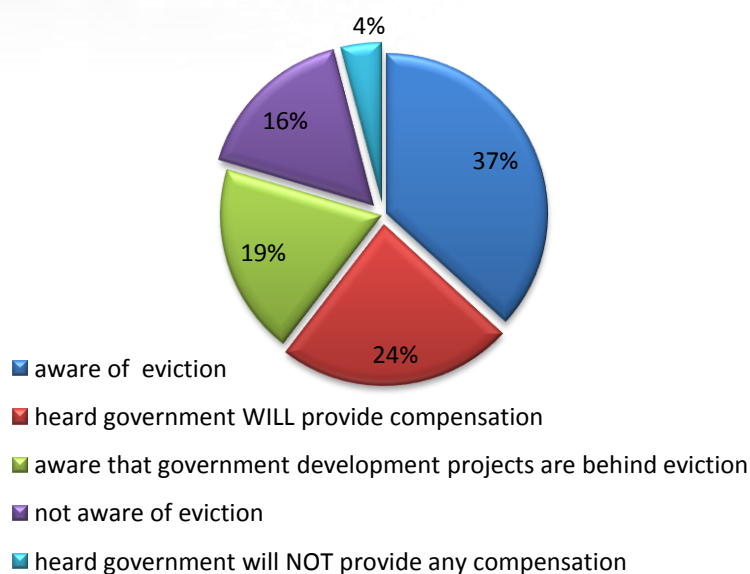
Figure 17: What do you think should be done to stop domestic violence?



Out of 742 respondents, only 17 percent (163 respondents) provided specific answers to the question, which represents 69 percent of the 235 respondents who said that they were suffering from domestic violence. Of those who responded, 78 percent (127 respondents) wanted to receive help from the RGC and NGOs. 11 percent (18 respondents) wanted to be safer within their communities, particularly those who were working and coming home at night. 9 percent (15 respondents) said that they needed care and medical attention when domestic violence took place, while 2 percent (3 respondents) had no idea as to what should be done to stop domestic violence.

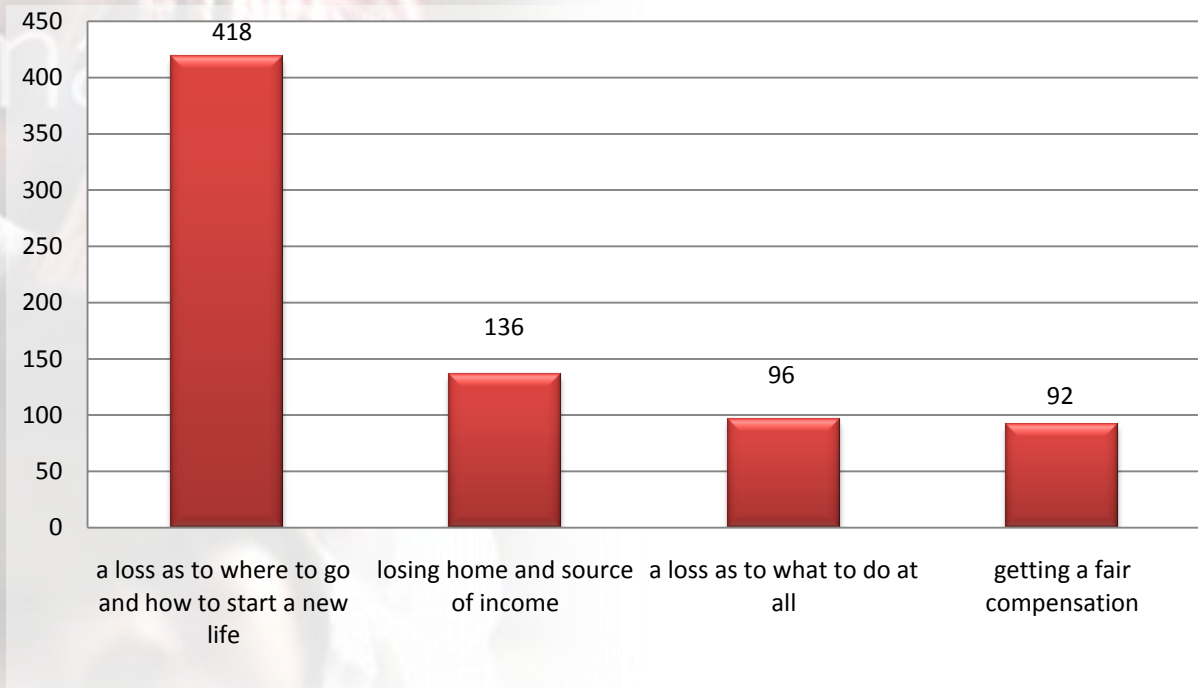
3.3.4 Respondents’ general awareness of the eviction problem and their specific problems relating to forced evictions – before, during and after the event.

Figure 18: Respondents’ awareness of the eviction



37 percent of the respondents (404 respondents) were aware of their impending eviction and the risks involved, but only 19 percent (210 respondents) were aware of the RGC's development plans and policies; 16 percent (180 respondents) were not aware of evictions in their communities; 24 percent (260 respondents) had heard that the RGC would provide compensation, while 4 percent (40 respondents) had heard that the RGC would not provide any form of compensation if they were evicted. The 742 respondents provided multiple answers, a total of 1,098 responses.

Figure 19: What specific problems are you facing now due to the threat of eviction?



56 percent of the respondents said they would not know where to go, and 18 percent said that they were afraid of losing their homes and sources of income. 13 percent did not know what to do at all, while a further 13 percent were worried as to whether they would receive fair compensation.



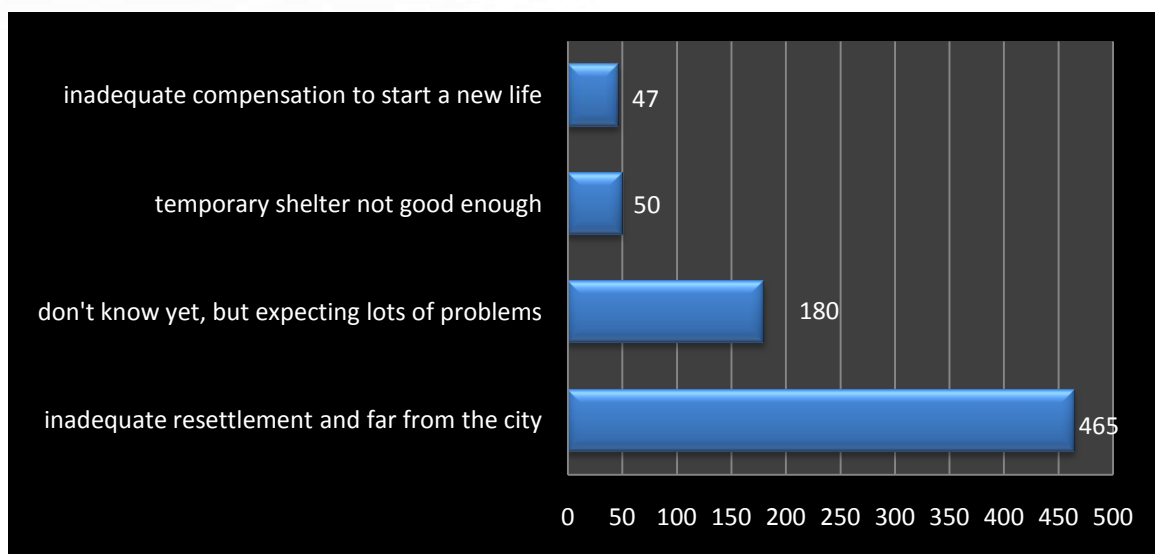
Figure 20: What specific problems would you face during eviction?



55 percent of the respondents said that they would not know where to go if evictions took place, and 13 percent said that once actual evictions take place, there would be no chance of receiving any compensation. 17 percent were concerned about the cost of dismantling their homes to gather materials to use to set up a temporary shelter, while 15 percent said that they would not know what to do at all.

Those who had already been evicted recalled how they felt and what happened during the forced evictions. They said that they had been evicted with no compensation and that their houses were destroyed without the opportunity of properly salvaging their belongings. Some of them became very emotional when they described how the armed demolition team hit them with batons despite their pleas to stop destroying their houses and to allow them to retrieve their belongings.

Figure 21: What specific problems would you face an after eviction?



Living Under Threat but with Nowhere To Go . . .



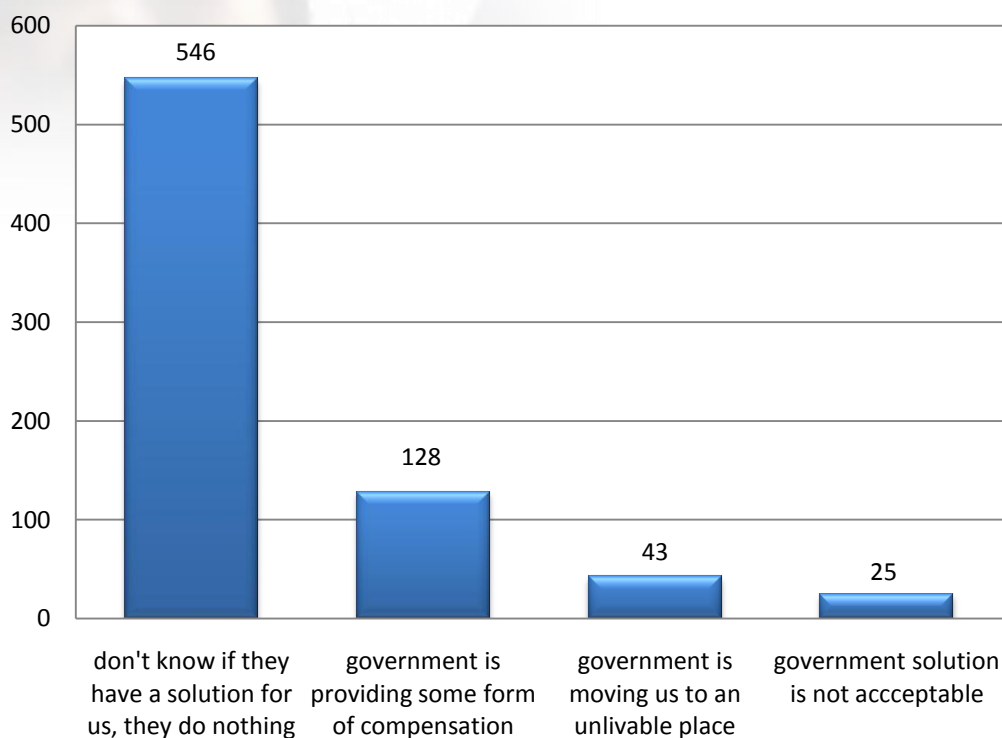
63 percent of the respondents (465) were concerned about the inadequate resettlement sites – if it would be provided at all and, if so, its distance to the city center. Of those 465 respondents, 287 said that the cost of their utilities would significantly increase, and another 178 said that they would have difficulty plying their trade and that they would lose their source of income. 7 percent of the respondents (50) said that the resettlement sites were not good enough. This answer came from those who had already been evicted, and some who were still waiting to be relocated within the development being constructed by the company which had bought and was developing their land.

24 percent of the respondents (180) said that although they did not yet know what their specific problems were, they expected that they would be huge, and some of them intimated that it may be too much for them to take. This sentiment was particularly strong among the elderly and the ill who are continually having to rely on the generosity of their neighbors to see to their everyday needs. 6 percent of the respondents (47) said that the compensation would be inadequate for them to start a new life.

3.4 Actions and specific recommendations from the respondents

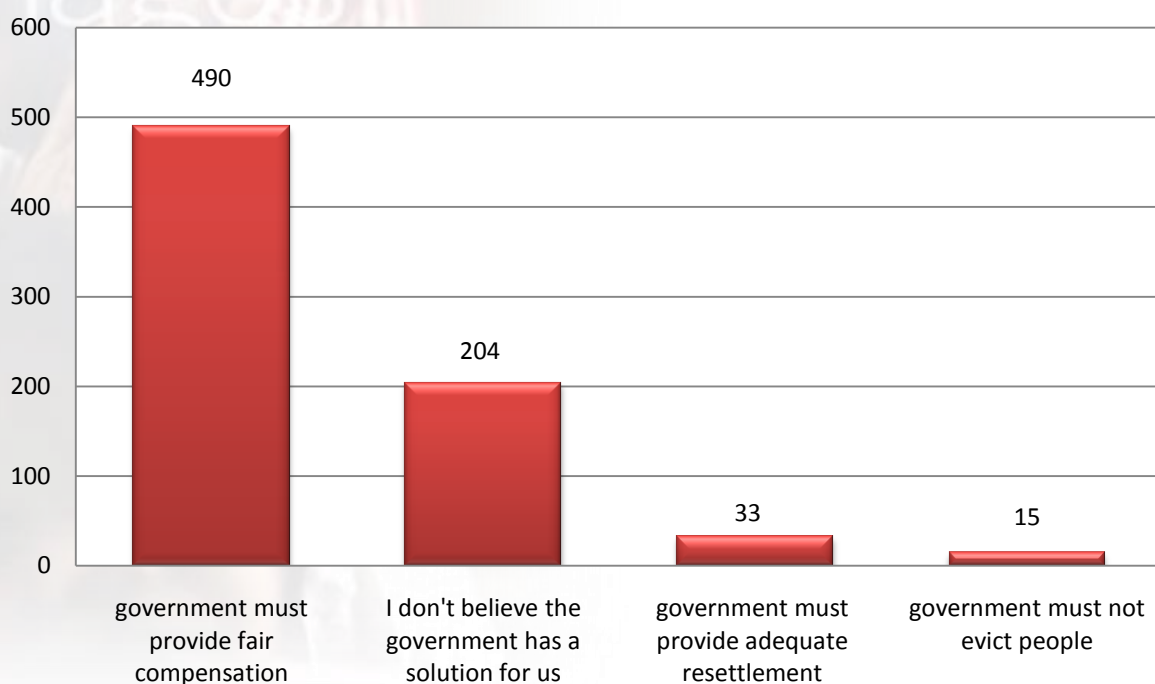
Section 3 sets out the responses relating to the question as to what the RGC, NGOs and community organizations are doing, including the respondents’ own responses in terms of resolving or providing a solution to their problems, and in terms of what the respondents, communities, the RGC and NGOs should be doing in relation to forced evictions.

Figure 22: What is the RGC doing?



74 percent of the respondents said that they did not know if the RGC had a solution to their eviction problems, while 17 percent said that the RGC was providing some compensation but that they thought that it was inadequate; 5.7 percent said that the RGC was moving them to an unlivable place, a 4 x 8 meter square area which would not even have a room for their family and which would provide no opportunity for re-establishing their small-scale businesses. 3.3 percent argued that the solution which the RGC was providing was not acceptable.

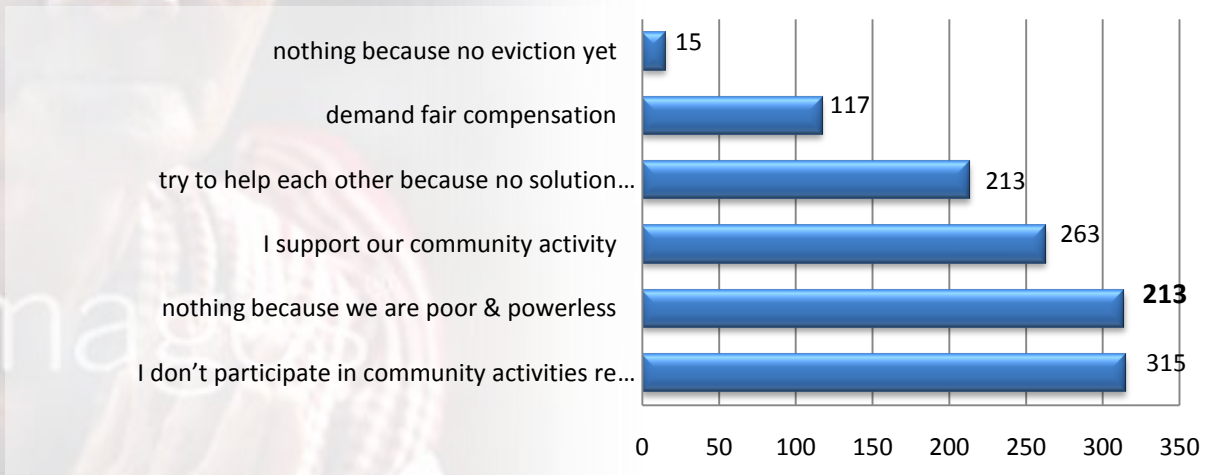
Figure 23: What should the RGC be doing?



66 percent of the respondents were expecting the RGC to provide fair compensation; 27.5 percent did not believe that the RGC had a solution for poor people like them; 4.5 percent said that the RGC must provide adequate resettlement; and only 2 percent articulated that the RGC must not evict people. There is a general sentiment that evictees should be adequately compensated so that they can rebuild their lives.



Figure 24: What are you and your community doing?



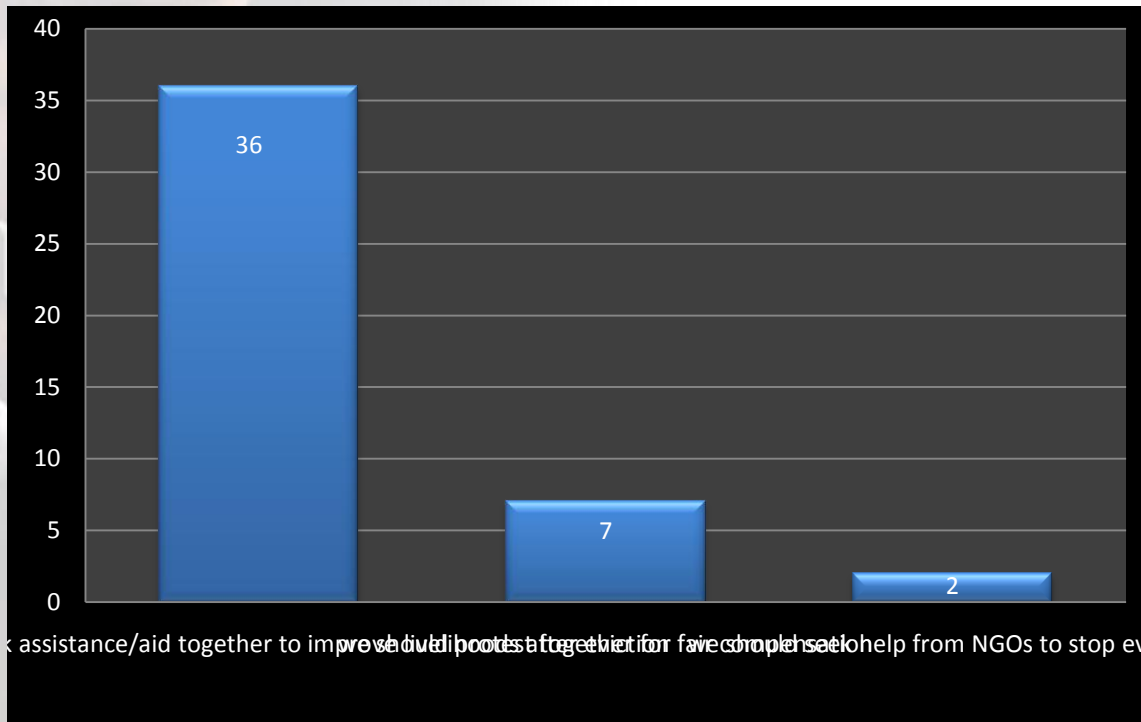
A total of 1,237 responses were provided by the respondents as to their involvement in community activities and actions, and whether they were doing anything specific in relation to their eviction problems.

56 percent of the responses (593) came from those initiating or participating in some level of community action by, for example, sending petitions to the RGC for fair compensation. The appeals or petitions sent to the RGC did not so much advocate for residents' rights not to be forcibly evicted but discussed how they can be adequately compensated if evictions do happen, particularly for communities which have received eviction notices already.

By contrast, 44 percent of responses (543) came from those not participating in any community actions against the threat of forced evictions. The reasons provided by respondents include: a) they were not aware that community actions existed; b) they were not doing anything because evictions were not yet happening, c) they were busy earning a living for their family, and d) they felt powerless and that nothing could be done anyway to resist forced evictions because of their status and poverty.



Figure 25: What should the community be doing to stop forced evictions?

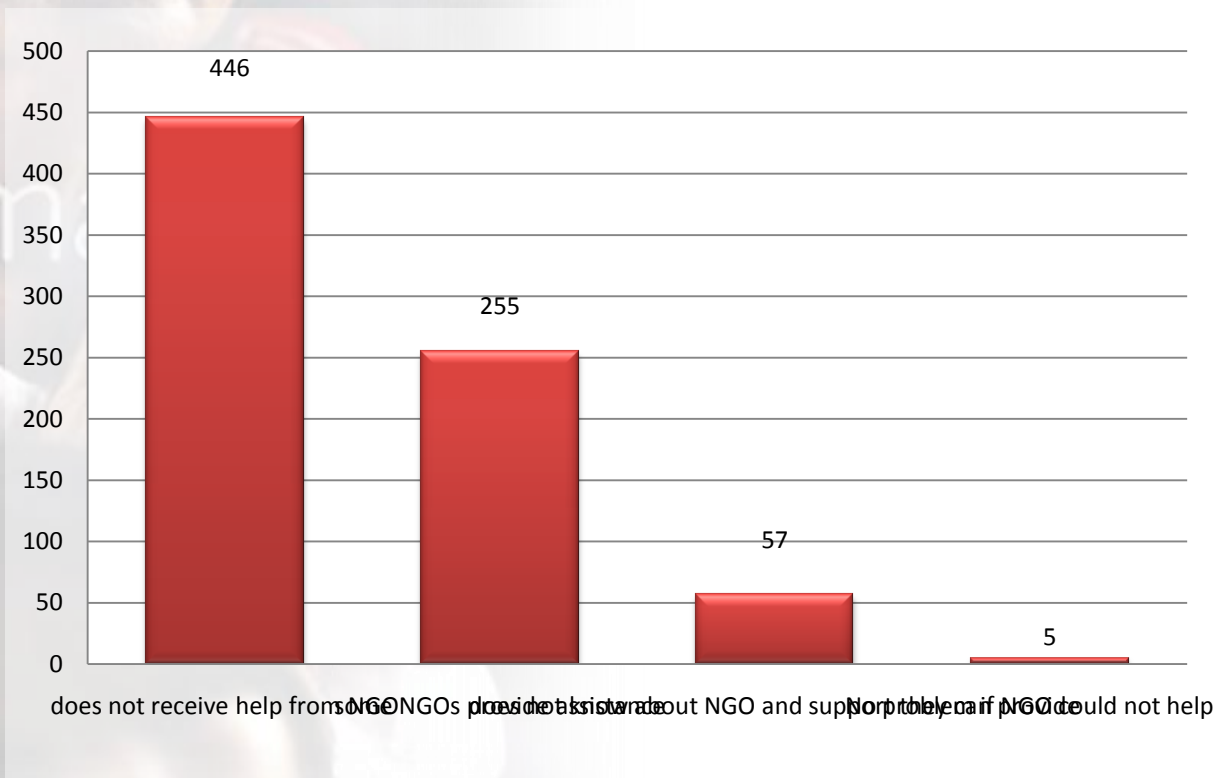


On the specific question as to what community people should be doing to stop forced evictions, the response rate was only 6 percent (45 respondents). A huge majority of the respondents did not know what they should be doing to prevent forced evictions in their communities. This is consistent with the 44 percent of respondents not doing anything and feeling powerless in light of their eviction problems.

Of the responses, though, 80 percent said that the community should seek assistance as a group to improve their livelihood, and 16 percent said that the community should demand fair compensation together; only 4 percent said that they should seek the help of the NGOs to stop forced evictions.



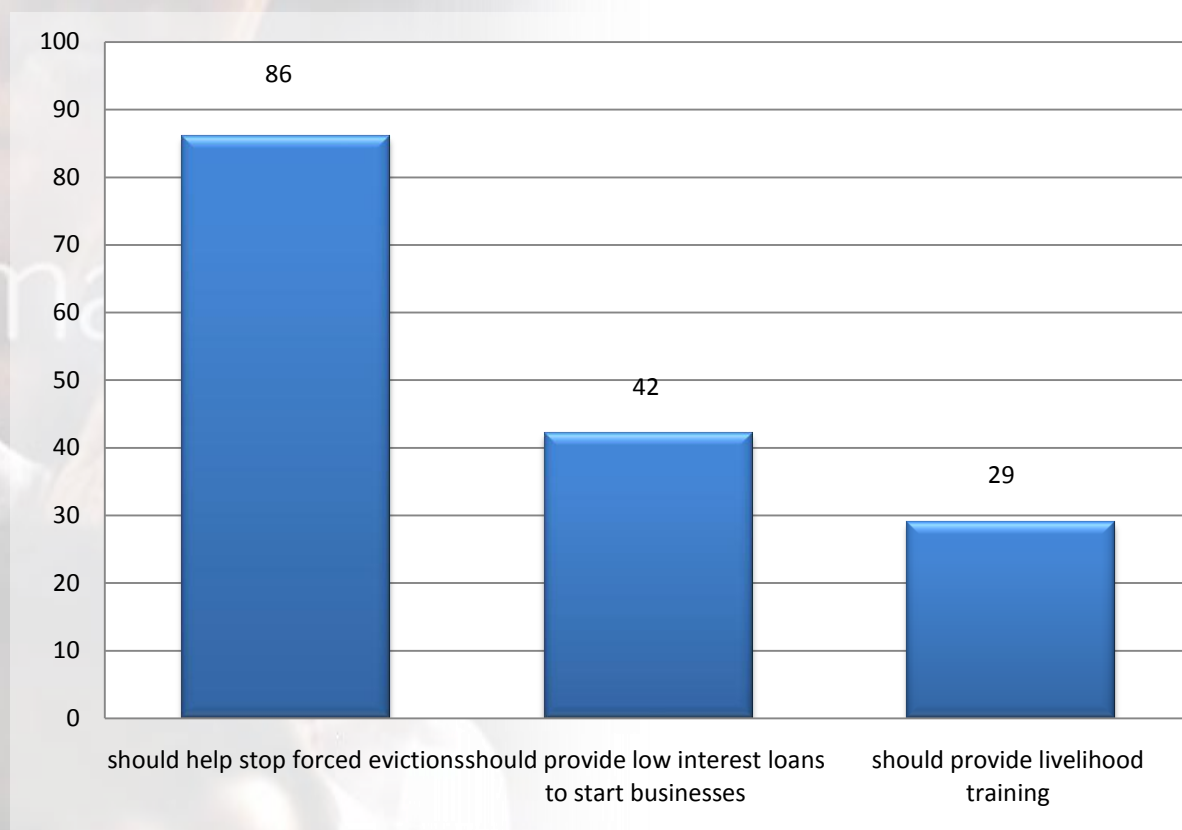
Figure 26: What are NGOs doing in your community?



60 percent of the respondents said that they did not receive any assistance from NGOs, while 32 percent claimed to be receiving or have received some assistance already. 8 percent, though, did not know what an NGO was and what support they could provide. Only 1 percent said that it was not a problem if NGOs could not help.



Figure 27: What do you think that NGOs should be doing?



With a 21 percent response rate (157 respondents), 55 percent of those respondents (86 respondents) wanted NGOs to help them stop forced evictions; 27 percent (42 respondents) wanted to receive a low interest rate loan to support their livelihood, particularly after the actual eviction, and 18 percent (29 respondents) wanted to receive livelihood training with a view to improving their situation (29 respondents).



4 Conclusion

Although the Survey covers only the capital city, Phnom Penh, the number of respondents is sufficiently representative to illustrate the real impact of forced evictions on urban poor women in relation to their specific, immediate and long-term needs. Mindful that gender inequality is about structural and social power relations between men and women, as such, Cambodian women are subordinate to men in most aspects of their lives. Hence, women generally have no significant decision-making power, and their concerns are not considered due to the misapprehension that forced evictions affect everyone in the same way. With this view, this Survey has documented the problems and possible solutions coming from the respondents in relation to the different stages of forced evictions. It also attempts to provide a better understanding as to how Khmer women are coping with domestic violence in light of their eviction problems. However, the examination in the Survey on gender-based violence reveals that domestic violence is secondary to the main issue, namely the direct impact of forced evictions on women. The preliminary information collected on domestic violence in the Survey may however be considered to provide further in-depth study on the nexus of violence against women and their right to adequate housing.

To begin with, the lack of transparency on the part of the RGC to publicly disclose information on all public lands (whether state public or state private land) that would result in evictions of residents is a clear violation of existing national laws relevant to urban poor (see Annex A) and international legal standards on the right to adequate housing and the prohibitions of forced evictions (see Annex B). The RGC's non-disclosure on state development projects affecting urban poor is on the one hand reinforcing the local authorities' lack of accountability and non-application of due diligence; on the other, private companies are becoming more privileged in terms of pursuing their development projects at the expense of the poor.

The legal framework of the RGC to address the problem of the urban poor sector is far from satisfactory. The Constitution and the Land Law provide fair and just compensation for people whose land and property were taken for public interest; yet no transparent supporting mechanism or regulations have been put in place to reflect that provision. The Inter-Ministerial Resettlement Committee²⁰ (IRC), which was created to deal with affected communities, covers communities affected only by foreign development-assisted projects. However, even with regards to the communities covered by the IRC, the "affected families have no right to appeal and are obliged to sell their assets at values set by the IRC"²¹, which are far below market price value. The Expropriation Law, which was passed in early 2010, has yet to take full effect, while the passage of the Draft Valuation Law is still pending before the National Assembly. These two pieces of legislation could have addressed land expropriation and standardized valuation of land and property in Cambodia. As a result of this status quo,

²⁰ The IRC is created by the Government to spearhead the preparation and implementation of Resettlement Plan for projects assisted by foreign development partner agencies with resettlement policies such as Asian Development Bank, World Bank, Japan International Cooperation Agency, and the Japan Bank for International Cooperation Agency. See Also ADB Resettlement Capacity Building for Resettlement Risk Management, Cambodia Country Report, November 2007, Chapter III, Resettlement Policy Gaps, p 9.

²¹ Ibid, p4, available at: <http://www.adb.org/Documents/Reports/Capacity-Building-Cambodia>



arbitrary offers of inadequate compensation have been the prevailing practice, and, in some instances, the local authorities are not offering or providing any compensation package to affected communities.

The local authorities are using the Ministry of Economic and Finance (MEF) Prakas No. 961 (1999) to enforce Sechkdey Prakas No. 6, which instructs local authorities and other relevant government agencies to disallow any payment entitlements coming from the national budget. Thus, affected families, living within: (1) the state public land with actual land use for public interest, (2) land being allocated for project development for public interest, and (3) land considered to be harmful, including land within the right-of way (ROW) zones, are being arbitrarily excluded from entitlement for compensation. This specific government directive contravenes the major provisions of the Constitution and the Land Law, which prescribes fair and just compensation whereby payments, must be made before any eviction can take place. Even if a community is to be resettled, in lieu of a monetary compensation, some form of financial assistance is necessary to cover the costs of moving out.

That 57 percent of respondents should not know of any resettlement plan on the part of the RGC is an indication that people are not consulted, leaving affected families speculating about what will happen after hearing rumors of eviction. Nor have residents who have received notification of an impending eviction been properly consulted or granted compensation, as only 35.5 percent of the respondents with eviction notices were offered any form of compensation.

To date, there is no public information as to the actual location of communities considered to be illegal settlements. The only mechanism that would supposedly address the problem of informal settlements is Circular No. 3²², whose implementation is being tested in selected provinces and communities in Phnom Penh. Circular No. 3 also serves as a guideline to identify, classify, map and register 'illegal settlements'. In the meantime, the RGC must allow time for proper and meaningful consultation with the affected people with the clear objective of including affected women in the consultation process so that genuine resolutions, options and agreements – as stipulated in Circular 3 – can result from such community-government dialogues.

In terms of government and NGO support, the urban poor women are not receiving enough support in relation to ensuring their security of tenure and halting forced evictions. Existing efforts by a few human rights NGOs and housing rights networks are not sufficient to stop evictions properly and encourage the RGC and affected communities to enter discussions. This is not to say, though, that the problem is the lack of coherent action from NGOs, but rather that there are not enough opportunities for NGO support groups, affected communities and the RGC to prevent forced evictions from happening. The RGC is not providing enough public spaces as platforms for proper dialogue, and views some housing and land rights NGOs as its nemesis rather than partners in addressing one aspect of poverty alleviation. Thus, it is important that multi-stakeholder dialogue takes place in addressing the longstanding problem of the urban poor and the specific needs of women faced with forced evictions.

²² Circular 3 is a resolution adopted on 31 May 2010 and issued to all national and sub-national government authorities to address temporary settlements on illegally occupied land in the capital, municipal and urban areas, see also Annex A(j)



At the community level, there is a general lack of solidarity within communities to resist forced evictions and demand their rights. As it is, the urban poor have no voice as a constituency worthy of the RGC's attention. The lack of confidence on the part of the majority of women is partly due to their lack of knowledge as to the context of the threat of eviction as well as the lack of transparency on the part of the RGC to publicly declare its urban development policy, which would directly affect them. This approach is effectively weakening the urban poor's already disadvantageous position when it comes to asserting their rights to live in the city. Furthermore, this situation is leaving women more marginalized in terms of accessing legal and non-legal remedies against forced evictions.

The general lack of substantive information and awareness about evictions is immobilizing women, and even whole communities, from acting together. An absence of a meaningful consultation mechanism is also a deterrent for women and other community members from being proactive in terms of understanding their legal rights not to be forcibly evicted. They are left at the mercy of private companies and patronizing local authorities who decide whether they have the right to live in the city or not. Half of the respondents do not realize their capacity for collective negotiation for adequate compensation or that an adequate alternative is possible at all. The general sense of the majority of the respondents as to their powerlessness is staggering.

In this regard, women respondents, and especially female-headed households, are compelled to deal with the multi-faceted impact of forced evictions with no support. Women respondents have to endure the psychological and emotional burden not only of earning a living to contribute to the family income in order to make ends meet, but also ensuring the welfare of the whole family while physical violence is inflicted on them at the same time. In the face of this entire situation, the continuum of violence against women must be recognized in the context of forced evictions, so as to enable relevant government agencies and NGOs to act judiciously with regards to the issue of forced evictions and women's equal right to an adequate standard of living.

It must be noted that half of the women interviewed were not open to discussing domestic violence. Although some respondents said that they were not suffering from any form of domestic violence, other respondents contradict this, but, in a closely confined structure such as a slum area, information provided by other respondents can be considered reliable. Such reticence is not unexpected because generally women still view domestic violence as a private matter best kept within the confines of their homes.

With 32 percent of women saying that they experienced different forms of violence inflicted by their partners, the actual statistic may be even higher, which is not a good sign, given the efforts of the RGC in legislating²³ domestic violence as a crime and institutionalizing programs that prohibit domestic violence in the country. Domestic violence is a serious problem which escalates over time and is largely perpetrated by men whom they trust to protect and care for them. While domestic violence can probably not be totally eradicated, the RGC must not allow people to continue perpetrating it with impunity: it should send a clear message that it is illegal and will not be tolerated.

²³ See for example the Law on the Prevention of Domestic Violence and the Protection of Victim (PDVPV) which was adopted in 2005 and the National Action Plan to Prevent Violence on Women (2009-2012)



While 16.5 percent of the respondents considered themselves free from physical violence, they were nevertheless suffering from the mental and emotional stress of managing and keeping their family together, and therefore fall into the other category of violence against women, namely that which negatively affects their psychosocial development.

And finally, despite a number of efforts by the RGC and NGOs to put in place targeted legal policies to address security of tenure, forced evictions continue unabated. Whether in the rural or urban context, the negative impact of forced evictions is highest among the poorest women sector. They have little access to resources, and have limited capacity for legal and non-legal redress. This status quo must be changed and corrected if the RGC and NGOs, including development partners, are to make a real positive impact on the lives of poor women.



5 Recommendations

Based on the results of the Survey, the following policy and practical recommendations are set out below for the RGC and NGOs to consider:

5.1 For the RGC:

- 1 Disclose in advance the areas that will be affected by development projects and provide clear options for all urban poor women, especially the poorest of the poor and their families, who are most frequently affected by forced evictions.**

The RGC's urban development plan must be made public and accessible to affected communities in order for a meaningful consultation to take place between local authorities and communities. Women-headed households and the poorest of the poor must be assured of protection because of their vulnerable position within their community and society as a whole.

- 2 Publicly declare and provide information about forced evictions and relocations to local organizations working on land and housing rights as good practice and in the spirit of transparency and collaboration.**

The RGC has also recognized in its poverty reduction strategies that resolving the problem of the urban poor is not just the responsibility of the RGC but of different actors, including the affected families, to ensure appropriate solutions, including resettlement when absolutely necessary. Development partners and civil society organizations can offer complimentary resources and expertise if information on forced evictions and relocations is made public.

- 3 Set up consultation mechanisms to allow affected communities, the RGC and other related agencies to strive for solutions that would address the different concerns of women who are going to be evicted.**

Related to recommendations 1 and 2 above, consultation mechanisms should be established to enable a continuous dialogue for all concerned parties and to prevent forced evictions from happening. In establishing such mechanisms, problems and solutions need to be identified as to the specific concerns of women, in order to enable women to benefit equally from the consultation process.

- 4 Ensure adequate relocation sites where basic public and social services are guaranteed and income opportunities are available, particularly for women-headed households.**

When resettlement is absolutely necessary, part of the dialogue is to ensure the provision of basic public and social services in the resettlement sites. Hence, when relocation areas are



being selected, the income activities of the affected communities should not be totally disrupted, while the situation of female-headed households must also be considered, as such women not only need to work but, at the same time, must ensure that their children have access to education and health services. Any arrangements must take such considerations into account and enable women to perform their dual roles as income-earners and care-givers.

5 Address the problem of high unemployment among urban poor women by increasing opportunities for employment and entrepreneurship.

Again, the poverty reduction documents of the RGC have recognized the perennial problem of income generation for women, and strategies for several years now have been largely focused on the manufacturing and tourism industry for young women aged fifteen and over, both of which employ younger women. However, an additional concern for the manufacturing industry is to ensure better working conditions, housing facilities and equal pay in line with international labor standards. Furthermore, the manufacturing industry may not necessarily address the specific needs of female-headed household with small children but, if these women can have access to micro-credit and training, they will be better-placed to take advantage of business opportunities which suit them. On the whole, increased opportunities mean increased access to resources so that poor women can have a better chance to compete in the labor market and to establish their own enterprises.

6 Ensure appropriate basic provisions and resources whereby relocated families can cope more easily with the impact of dislocation including taking advantage of the availability of infrastructure support and appropriate social services based on their immediate needs.

Ensuring adequate relocation alternatives may take time and would need the support of private sector and development partners, hence the impact of resettlement must be mitigated by allowing for appropriate social services in relation to victims' immediate needs. The respondents who had already been relocated or placed in temporary shelters revealed that they did not even have rice to cook or water to drink since their daily income activity had been abruptly disrupted. This situation must be avoided so that the women and their families can cope more easily with the immediate impact of dislocation. If recommendation 3 above were in place, such concerns could be addressed at the outset.

7 Recognize the fact that women's concerns are different from men's; the RGC must make an extra effort to satisfactorily meet the specific needs of women, for example, providing health and maternity care facilities and regular access to HIV/AIDS drugs.

Some of the women need regular medical support and health services; pregnant women and women with HIV/AIDS and illnesses that only afflict women must be provided for satisfactorily. While it is true that they are not currently receiving the regular medical attention that they should be receiving, moving them out of the city center can only aggravate their situation. One of the international standards of adequate resettlement is to improve the living conditions of affected families and not to make life even more problematic for them. A good resettlement plan could lessen the neglect that women



specifically are experiencing when they are resettled, by ensuring consistent access to medical and health care. This recommendation is again related to recommendation 3 above, in that a satisfactory mechanism could lead to addressing all the different concerns of women and their families at the different stages of forced eviction.

8 Increase awareness of domestic violence so as to reduce the burden on women in the urban poor settlements that may be affected by forced evictions.

Some of the communities surveyed had participated in public awareness activities conducted by NGOs on domestic violence, but the reach of these kinds of activities does not extend to the most vulnerable groups in urban poor areas. The RGC must be proactive in its public awareness activities, which must be appropriate for the majority of women who have very low educational backgrounds and may not be able to read the materials. The lack of awareness of both women and men as regards domestic violence is in a way perpetuating domestic violence indirectly. Strategic targeting must be considered in relation to public awareness activities for communities that are facing impending forced evictions, so that the initial groundwork required to prevent domestic violence can be initiated before communities are moved to another place.

9 Integrate policy developments on women's right to adequate housing as part of the RGC's international commitment to international human rights treaties, and develop non-formal educational activities on women's right to adequate housing as part of the RGC's strategies on women's human rights programs.

The RGC has ratified international laws including the Convention on the Elimination on Discrimination against Women (CEDAW) and the Convention on Economic, Social and Cultural Rights (CESCR) and enacted national laws to promote, protect and fulfill the rights of Khmer women. Considerable headway has been made in addressing domestic violence, sexual trafficking and gender mainstreaming in the health and education sectors, among others, but the gap remains in promoting and protecting women's right to adequate housing in the context of realizing their economic, social and cultural rights and principles of non-discrimination. As such considerations are lacking in the gender-equality strategy of the RGC, there is a serious need, given the prevalence of forced evictions in Cambodia, to integrate women's right to adequate housing into the policy development of the RGC and related ministries such as the Ministry on Women Affairs and the Ministry on Land and Urban Planning and Management. If this gap is not addressed, women will not be able to enjoy their human rights to the full.

10 Hold private developers to account as regards their activities that are deliberately making the living situation of the urban poor more difficult; for example, private companies must be held accountable for disconnecting the water and electricity supplies of communities under threat of eviction.

While the role of the private sector in the country's development is important, the private sector must also be held to account when it is deliberately making the lives of affected communities as difficult as they are now. The RGC has a duty to protect its people at all times, and should actively intervene in situations when the most vulnerable groups, such as the urban poor and women, are made to suffer by companies which actively try to drive



them away from their homes. The failure of the RGC to ensure the protection of ordinary people's rights is a breach of its national and international commitments. This point again relates to recommendation 3 above, whereby it is envisaged that all immediate and long-term concerns of all parties concerned be discussed in an open manner and that private companies be prevented from conducting activities which undermine national and international law at the expense of the poor.

11 Develop and implement gender-sensitive approaches and alternatives to forced evictions as a first step to ensuring respect for women's rights to adequate housing in Cambodia.

When resettlement is absolutely necessary, and free and prior consultations are in place, the RGC can develop gender-sensitive approaches and alternatives to forced evictions. COHRE has developed one which is being promoted within the government and civil society communities, and Cambodia is encouraged to use this document and facilitate its implementation, as necessary, to ensure respect for women's rights to adequate housing across the country. Gender-equal policies in the context of urban development create an enabling environment to implement solutions satisfactory to all parties concerned. In consideration of all of the above, the RGC must stop all forced evictions as a first necessary step to protect women's rights to adequate housing.

5.2 For NGOs

12 Provide training to women threatened by forced evictions to enhance their skills and confidence and provide information as to their basic women's human rights including their right to adequate housing.

Women and housing rights NGOs should integrate women's rights to adequate housing into their programmatic work, and not just as a one-off activity, because NGOs should recognize that forced evictions are not a gender-neutral issue; furthermore, women in Cambodia are on the front line in defending their housing and land rights. Affected women and their families should be able to claim their human rights and be better equipped to enter dialogue with the RGC to settle upon a durable solution.

13 Lobby for equitable and just compensation in cases of forced eviction and relocation: NGOs must support efforts to establish an independent mechanism to secure adequate compensation and reach a consensus for determining the value of properties liable to be destroyed during evictions.

Development and women's rights NGOs should be able to support efforts to lobby for government policies that ensure equitable and just compensation for women (and their families) threatened with forced evictions. They should also be able to support the establishment of a consultation mechanism for securing such compensation. International law recognizes that not all evictions are illegal but that there are international standards to be observed and implemented if forced evictions are absolutely necessary. Similarly, NGOs



should be able to promote and encourage the RGC to institutionalize a restitution policy as a form of compensation to all properties destroyed due to forced evictions. The Pinheiro Principles²⁴ can be promoted by NGOs with a view to supporting and developing a similar legal document for Cambodia. In this way, all concerned parties and support groups can come together and ensure that adequate compensation is provided, while also protecting the hard-earned properties of the poor and enabling resources to be put to better use in meeting the different demands of resettling communities.

14 Access and provide adequate funds that would help evicted families to minimize the impact of dislocation and ensure that funds are available to women.

As the Survey shows, communities threatened with eviction have different needs at the different stages of evictions – before, during and after. Hence, NGOs who are coming in to support at each respective stage should be able to assess and access funds for those communities that they are supporting, and possibly even for communities that they are not currently supporting. NGOs should also be able to pay particular attention to the specific needs of women and the intersection of identities that women represent. For NGOs focused on women’s rights, such an approach should come naturally, as they are aware that women’s rights are indivisible, interrelated and interdependent. Battered women, women caught in trafficking, and women with particular medical needs, for example, require safe and secure shelter and access to resources in order to lessen the burden that they will face once relocated. By providing the necessary support for relocated women, NGOs will help minimize the negative impact of their relocation.

15 Conduct organizational work among women to enhance their co-operation and co-ordination so that they can work together to resolve their issues in an organized manner, including negotiating with the RGC.

A large percentage of the women interviewed were not participating in community activities, as they argued that they were busy earning a living. This response is understandable, but it also has some consequences in relation to overall welfare if affected communities are not working together: they may not be able to engage the RGC in proper dialogue with a view to seeking redress. Although the impetus for consulting with the community must come from the RGC, the women themselves are often unaware of the possibilities as to what the RGC can do and offer for their benefit in the event of a forced eviction. This is a classic example of reacting too late when meaningful dialogue could have taken place. NGOs should be able to support government and community initiatives for dialogue. In some instances, NGOs should actually be able to defend women and their rights, as the majority of them are not aware of their rights. Women’s rights NGOs can build their capacity to better understand women’s eviction problems and defend their legal and constitutional rights in a non-violent way and in

²⁴ The Pinheiro Principles is the UN Principles on Housing and Property Restitution for Refugees and Displaced Persons; it was formally endorsed by the Sub-Commission on the Promotion and Protection of Human Rights to the UN General Assembly on 11 August 2005 and was adopted by the UNGA on 2007. The Pinheiro Principles provides for practical guidance to States, UN agencies and the broader international community on addressing the complex legal and technical issues surrounding housing, land and property compensation (restitution). See also The Pinheiro Principles at <http://www.cohre.org/sites/default/files/pinheiroprinciples.pdf>



accordance with the law. The power of dialogue can only be fulfilled when women and whole communities are organized.

16 Mainstream the link between women’s right and the right to adequate housing in NGO policies and programs.

NGOs focused on women’s rights in Cambodia have come a long way by working together. Agreeing on a common thematic agenda to promote and protect women’s rights has brought them together and better impacted on their target beneficiaries. However, a disconnect exists in integrating women’s housing, land and property rights into mainstream women’s rights advocacy. Interestingly, there is also a disconnect between the RGC’s policies and strategies in relation to the urban poor women sector versus the rural poor, in that the focus of the RGC and NGOs is predominantly on rural areas. Thus there is a need to mainstream women’s right to adequate housing within the policies and programs of women’s rights NGOs as well as in the existing housing and land rights network. By doing so, NGOs would be addressing the full realization of women’s human rights in Cambodia. Mainstreaming strategies on women’s right to adequate housing should be integrated into training and other capacity-building activities within the wider women’s human rights movement/NGOs.

17 Provide non-formal education and training on domestic violence and other forms of violence against women within the context of housing, land and property rights advocacy, namely that violence against women (VAW), and particularly domestic violence is not a normal family problem and should not be tolerated.

Related to recommendation 5 above: relevant NGOs must develop non-formal curricula and training for communities threatened with forced evictions; non-formal education and appropriate awareness-raising activities for men and young boys is also necessary to put a stop to domestic violence and other forms of violence against women; VAW is illegal and should not be tolerated, and if men are part of the problem, they should be part of the solution too. Communities threatened with forced eviction must be targeted to help prevent a cycle of violence committed against one of the most vulnerable sectors of the society – urban poor women. Unfortunately, women generally see domestic violence as a family matter and try to live with it by seeing it as a normal occurrence. What NGOs should remember is that domestic violence is more prevalent in a family set-up that is constrained in meeting basic needs, and is exacerbated by imminent and forced eviction. It may be a common problem, but it should be exposed and highlighted as not normal; rather, it is illegal under international and Cambodian law. More often, women do not want to see their intimate partners going to jail and being convicted, especially if they are relying on their husband’s income. By educating both women and men that domestic violence is not acceptable and will not be tolerated under the Cambodian law, it can be prevented. In addition, families should be made aware that their current situation will only become more difficult when women and other family members suffer various forms of violence. In contrast, if women and their family members are aware of their right to be free from any violence, such awareness will most likely lead to mutual respect and better co-operation: they would be in a better position to defend their housing and land rights and not be bothered by domestic-induced violence and its negative effects, not only on women but on whole families.



ANNEXES

FINAL REPORT

Living under threat but nowhere to go. . .

*A survey on the impact of forced
eviction on women in Phnom Penh*

Annex A: National legal framework on housing, land and property rights relevant to urban poor settlements

- a) **The Constitution.** Everyone shall have the right to land ownership individually or collectively. Legal land ownership shall be protected by law and the state can only exercise confiscation of land if it is for public interest as prescribed by law. In the event that confiscation is necessary, the state shall provide for fair and just compensation in advance (Article 44).
- b) **Sechkdey Prakas No. 06 BRK/27 September 1999 – Declaration on the Measure of Eliminating Anarchical Land Encroachment (the Declaration).** The Declaration aims to stop land speculators and investment companies from encroaching on land and property and from acquiring a number of properties and in large dimension. The Declaration also covers restriction on encroachment of state lands such as water reservoirs, natural protected areas, national parks, wildlife sanctuaries, reserved areas for right-of-way (ROW) for national roads and railway, and corridor land for investment. The ROW for national roads was identified as 50 meters (national roads no. 2, 3, 6, 7, 8, and 9) but excluding national roads no. 1, 4 and 5, which would require 60 meters for the ROW. Implementation of the Declaration is the responsibility of provincial/municipal authorities and they can call upon any of the following security forces to stop land encroachment: the General Commander-in-Chief of the Royal Cambodian Armed Forces, the General Commander-in-Chief of the National Police, the Commander-in-Chief of the National Armed Forces, the Commander-in-Chief of all Military Regions (Articles 4 and 5). The Provincial/Municipal Land Dispute Settlement Commission is directed to investigate provincial/municipal compliance in dismantling illegal structures or construction along national road and railway corridors and report to the RGC; in the absence of progress, the RGC can take appropriate measures (Article 11).
- c) **MEF Prakas No. 961/6 April 2000 – Ministry of Economy and Finance Order** issued to enforce the Declaration. It forbids payment of any compensation or social support to affected families, regardless of their status as being part of the vulnerable groups, considered to be occupying locations within right-of-way (ROW) areas.
- d) **Anukret No. 88 ANK/BK/1 December 2000 – Sub-decree on the Establishment of the Council for Land Policy.** The Council for Land Policy (CLP) is created primarily to assist the Supreme Council for State Reforms in relation to land management and distribution. It is directed to initiate and propose land policies, draft laws, regulations and measures. It is also entrusted with implementing instructions in enforcing land management programs within its jurisdiction.



- c) **Anukret No. 96/ANK/BK/13 December 2000 – Sub-decree on the Organization and Functioning of the Secretariat General of the Council for Land Policy.** This circular defines the mission, role, duty and organization of the CLP. The CLP is an executive national body which develops comprehensive land policy and enforces land management programs to enhance development and social order. One of the working groups under the Secretary General is the Policy and Law Working Group, which is entrusted with preparing strategic plans to prevent and reduce land disputes, while the Technical Working Group proposes land management, urban planning and land distribution implementation and co-ordination, including evaluation of strategies and programs based on the principle of equity policy for land use, among others, by the RGC.
- d) **Anukret No. 96/ANK/BK/13 December 2000** – the Land Law was promulgated on August 2001. The Land Law determines the regime of ownership – public, private and collective – for immovable properties and other rights related to immovable property in accordance with the provisions of the Constitution (Article 1). In so doing, no person may be deprived of ownership unless it is in the public interest: if ownership is deprived advance payment of fair and just compensation is provided according to the regulation and procedures of the law (Article 5). However, any regime of ownership of immovable property prior to 1979 shall not be recognized (Article 7), and assures that legal possession which existed before the Land Law shall continue (Article 40). Ownership also varies depending on the requirements of Cambodian society, such as agricultural land, forests, waterways, lakes, reservoirs or other expanses of water, seashores, riverbanks, urban immovable property and land for construction of industrial development zones. Specific laws shall supplement the provision of this law or shall derogate this law in order to meet socio-economic, land management and urban planning exigencies (Article 11). These types of immovable properties are declared to be state public land (Article 15), hence their purpose and usage is considered to be of public interest and could not be legally possessed (Article 32). The RGC can legally evict people, but people living on state public property, somebody else’s private land or collective land still have a right to adequate housing (Article 38).
- e) **Anukret No. 46 ANK/BK/31 May 2002 – Sub-decree on Procedures for Establishing Cadastral Index Maps and Land Registry.** This sub-decree replaces Sub-decree No. 11 (2000). This sub-decree provides for the step-by-step procedures on establishing a cadastral index map and land register through systematic adjudication. It also identifies the competent government offices, authorities and community representation involved in the process, including their respective duties (Article 3). It also legally allows for every person to participate in the demarcation process of the adjudicated areas, and oral testimonies and submission of documents are allowed for the proper adjudication of properties (Article 4). Adjudication records shall be publicly displayed for 30 days in a prominent and relevant place for public investigation (Article 11). Any person has the right to contest an adjudicated parcel of land and a complaint can be lodged with the Administrative Commission to resolve the problem, otherwise the disputed land or property will be elevated to the National Cadastral Commission or to the courts for resolution or decision (Article 14).



f) Anukret No. 48 ANK/BK/31 May 2002 – Sub-decree on Sporadic Land Registration.

This sub-decree determines the procedures related to periodic registration of all immovable properties that have not yet been adjudicated. The registration procedure is outlined in this sub-decree for concerned possessors who wish to register their land and property. They can do so through their Chief of Commune/Sangkat and must satisfy the following conditions for ownership: (i) the land was occupied before 30 August 2001, and (ii) the land has been occupied continuously, peacefully and without contestation. The District/Khan Cadastral Commission will go through validation and registration processes, which include verification of demarcation, measurement and adjudication dates; such information shall be entered into the land registry (Article 8). Non-conformity with the legal requirements may lead to disputes, which can be also be settled by the Cadastral Commission. Any resolutions or decisions relating to the disputed property shall be made public (Article 14).

g) Anukret No. 19 ANK/BK/19 March 2003 – Sub-Decree on Social Land Concessions.

Social land concessions are a legal policy that allow for state private land to be converted for social purposes such as the provision of residential land and/or family farming land in order to prioritize poor and homeless families (Article 2). This sub-decree also provides land for the resettlement of families that would otherwise be displaced due to public infrastructure development. Social land concessions can also be provided for repatriated families, for demobilized soldiers and families of disabled soldiers or soldiers who died in the line of duty. Social land concessions can also facilitate the provision of residential land for plantation (chamkar) workers or for the purposes of family farming (Article 3). Social land concessions can also be applied at the national level to resettle large groups of families such as urban squatters or displaced persons (Article 7). Priority will be granted to large families (of six or more), female-headed households, disabled people and demobilized soldiers (Article 11). Applicants who may not have been selected can make an appeal through a written letter of request within the prescribed period of 20 days from when the applicants list is made public. The permitted size of land for residential purposes is 1,200 square meters to 3,600 square meters, depending on the availability of the land. The target recipients of social land concessions may not sell, rent or donate the land in the first five years of occupancy in order to qualify for the right to ownership (Article 18). The Development Technical Support Unit under the provincial and municipal authorities must ensure that infrastructures and facilities are included in the social land concession plan and will be put in place in a timely manner (Article 25). In terms of resources, the budget for the operation of the social land concession mechanism shall come from the Ministry of Land Management and Urban Planning and Construction MLMUPC (Article 29) or from a unified budget system which can come from the RGC, local or overseas financiers, or international donor agencies (Article 30).

h) Anukret No. 118 ANK/BK/ 7 October 2005 – Sub-decree on State Land

Management. This sub-decree outlines the classification of state land as state public or state private land; it also defines uses of both land classifications. State land can be granted for social land concessions, economic land concessions, or other



concessions if the land has been registered in the Land Registry as state public or state private land and in accordance with the prescribed legal procedure (Article 3). However, this sub-decree also defines public state land as properties with public interest uses, and includes immovable properties with natural origins such as forests, natural lakes, seashores and river banks. Other properties for development which would benefit the general public, such as quays, ports, railways, airports, roads, tracks, oxcart ways, pathways, gardens and public parks, and reserved lands are also considered to be state land. The RGC can also claim property for public schools or educational buildings, administrative buildings, public hospitals, and natural and protected areas. Similarly, the RGC can determine and claim properties with public interest such as properties with archaeological, cultural and historical heritage, and other properties not considered to be property of the Royal Family, (Article 4). Land and properties mentioned above are to be mapped, classified and registered (Article 6), and made public for 30 days, with copies able to be procured at a reasonable price (Article 7). The Ministry of Land Management, Urban Planning and Construction shall issue a public decree to set out in detail state land identification, classification and re-classification, mapping and the registration process. A report of such activities shall be presented to the general public for comment. The different ministries may be designated as trustee for managing particular state land at the different levels of government, as appropriate (Article 18).

- i) **Declaration of the RGC on Land Policy (July 2009).** This declaration outlines the RGC's commitment to "administer, manage, use and distribute land in an equitable, transparent, efficient and sustainable manner". This vision is aimed at "achieving the national goals of poverty alleviation, ensuring food security, natural resources and environment protection, national defense and socio-economic development in the context of market economy". This declaration also outlines the roles and functions of the three land sub-sectors of the RGC, namely the Land Administration, Land Management and Land Distribution sub-sectors. The Land Administration sub-sector shall conduct official transfers of land rights, prevent and resolve land disputes with a view to strengthening land tenure security and ensuring the reliability and efficiency of land markets. This sub-sector is also entrusted with developing and implementing simple, clear, quick, accessible and cost-effective registration systems along with accurate information on immovable properties, including land. The Land Management sub-sector, on the other hand, must ensure the proper management, protection and use of land and natural resources, both in rural and urban areas, in a manner that prevents land disputes that might emanate from land developments, conversions, readjustments, construction and resettlements. The Land Distribution Sub-sector in particular is entrusted with providing clear directions for land allocation and the use of state land that is responsive to poor people, disabled soldiers and the families of deceased soldiers by way of the social land concessions program.
- j) **Circular 3 (31 May 2010): Resolution of temporary settlements on illegally occupied land in the capital, municipal and urban areas.** This circular is intended to resolve the problem of illegal settlements, defined as the residences of settlers who illegally occupied land and properties before 1998, people displaced by natural



disasters, and rural migrants seeking employment, among others. This circular entrusts the Provincial and Municipal State Land Committee to collect data as to the number of temporary settlements, identify, map and classify those sites according to existing land use, plan for their use, and identify harmful sites. Based on the information collected, district/khan and municipal land working groups shall conduct community censuses, with the results of those censuses to be posted in public for a period of 30 days. All concerned parties, including civil society groups and community people, can meet and discuss possible resolutions, including relocation, on-site upgrading or other options, depending on the outcome of the meetings between the RGC and community people. Any possible resolutions that may be agreed upon would require action plans with specific time frame and that give due consideration to the provision of basic public services.



Annex B: International human rights framework on the prohibition of forced eviction²⁵

1. International and regional instruments affirming the prohibition on forced eviction under the following international instruments:

- Universal Declaration of Human Rights (1948)
- International Covenant on Civil and Political Rights
- International Convention on the Elimination of Racial Discrimination
- Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment
- Convention on the Elimination of Discrimination Against Women
- African Charter on Human and Peoples' Rights
- American Convention on Human Rights
- European Convention on Human Rights and Fundamental Freedoms
- European Social Charter (1961)
- Revised European Social Charter (1996)

2. Legal Framework under the International Covenant on Economic, Social and Cultural Rights (ICESCR)

2.1 The Principles of Respect, Protect, Fulfill

The right to adequate housing is enshrined in Article 11 of the ICESCR. The Committee on Economic, Social and Cultural Rights (the Committee) is mandated to monitor compliance with the ICESCR. The Committee has issued relevant General Comments which provide authoritative definitions of the right to adequate housing, specifically General Comment No. 4 on the right to adequate housing and General Comment No. 7 on the prohibition of forced eviction. The legal framework on the prohibition of forced eviction is derived from *both* of these General Comments and not just General Comment No. 7. Related General Comments include: General Comment 3 (on state obligations), General Comment 9 (on domestic application of the ICESCR), and General Comment 15 (on the right to water as a component of the right to adequate housing).

²⁵ Excerpts from Bret Thiele, COHRE's Litigation and Legal Advocacy Senior Expert Memorandum on "international human rights framework on the prohibition of forced eviction", 17 February 2010.



Under the ICESCR, there are essentially three legal obligations that correspond to the rights in the ICESCR: the obligation to respect the right; the obligation to protect the right; and the obligation to fulfill the right.

The obligation to **respect** requires that states do not interfere directly or indirectly with the enjoyment of economic or social rights. This obligation is essentially negative in nature, meaning that the state must not take any action that diminishes the enjoyment of any given economic or social right, unless there are justifications for doing so. The obligation to respect is of immediate effect (e.g., upon ratification of the ICESCR) and not subject to progressive realization.

The obligation to **protect** requires states to prevent third parties or non-state actors or other states, including inter-governmental organizations, from violating the enjoyment of economic and social rights. Third parties or non-state actors include individuals, groups, landlords, corporations, other states or other entities, as well as agents acting under their authority. The obligation includes, *inter alia*, adopting the necessary and effective legislative, regulatory and other measures to restrain such third parties and non-state actors from interfering or otherwise violating economic and social rights; investigating, prosecuting or otherwise holding accountable those entities that violated economic and social rights; and providing remedies to victims of such violations. The obligation to respect is of immediate effect (e.g., upon ratification of the ICESCR) and not subject to progressive realization.

Under the obligation to **fulfill**, states are obliged to take steps to the maximum of their available resources to progressively realize the rights contained in the ICESCR. This obligation can be disaggregated into the obligations to facilitate, promote and provide. The obligation to facilitate requires states to take positive measures to assist individuals and communities to enjoy the right in question. The obligation to promote obliges the state to take steps to ensure that there is appropriate education concerning the right in question. States are also obliged to fulfil (provide) the right in question when individuals or a group are unable, for reasons beyond their control, to realize that right themselves by the means at their disposal.

2.2 ICESCR General Comments No. 4 and 7

For evictions to be justified under the ICESCR, they must only be carried out (1) in *exceptional circumstances*; (2) after *all feasible alternatives* to eviction that address the exceptional circumstances are explored *in consultation with the affected community*; and (3) after due process protections are afforded to the individual, group or community. There are two exceptions to this general rule: first, evictions should never be carried out in a discriminatory manner; and, second, evictions should never render someone homeless or vulnerable to other human rights violations.

General Comment No. 7 defines forced eviction as “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or lands which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.”

General Comment No. 4 requires that “notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take



immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups.”

General Comment No. 4 states that “instances of forced eviction are *prima facie* incompatible with the requirements of the [International] Covenant [on Economic, Social and Cultural Rights] and can only be justified in the *most exceptional circumstances*, and in accordance with the relevant principles of international law.”

General Comment No. 7 outlines that for an eviction to be carried out lawfully, “States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, *that all feasible alternatives are explored in consultation with the affected persons*, with a view to avoiding, or at least minimizing, the need to use force.” Alternatives to eviction include onsite upgrading of informal settlements.

Even if exceptional circumstances exist and there are no feasible alternatives to meet those exceptional circumstances other than eviction, General Comment No. 7 requires due process protections. These due process protections are that: (a) an opportunity for genuine consultation with those affected should be provided; (b) adequate and reasonable notice should be provided to all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions and, where applicable, on the alternative purpose for which the land or housing is to be used should be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives should be present during an eviction; (e) all persons carrying out the eviction should be properly identified; (f) evictions should not take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) legal remedies should be provided; and (h) where possible, legal aid should be provided to persons who need it in order to seek redress from the courts.

Finally, General Comment No. 7 states that, in any event, evictions should not be undertaken in a discriminatory manner, nor should they render persons homeless or vulnerable to other human rights violations, and that “where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.”

2.3 The Non-discrimination and Equality Principle²⁶

The right to non-discrimination ordinarily requires states to not only abstain from discriminatory practices and legislation, but to eliminate practices and policies which have a discriminatory effect or impact. It thus includes the duty to prevent indirect discrimination and to take affirmative action or steps toward equality to ensure that vulnerable and marginalized groups can enjoy the right to adequate housing.

²⁶Excerpts from “A Brief Guide to International Housing and Land Rights”, COHRE, 2011. P. 14-15



The various treaties above oblige states to ensure that all groups enjoy access to and enjoyment of their rights regardless of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (Article 2, ICESCR). The term “other status” has been interpreted broadly. Indeed, the Committee has determined that the ICESCR forbids any discrimination as stated in Article 2 of ICESCR, including physical or mental disability, health status (including HIV/AIDS), sexual orientation, and civil, political, social or other status, which has the intention or effect of nullifying or impairing the equal enjoyment or exercise of the right enshrined in the ICESCR, including the right to adequate housing.



Annex C: Cambodian legal framework that guarantees women equal land and property rights

Equal Rights under the Constitution

The Constitution recognizes and respects human rights, including women's and children's rights (Article 31[1]) and that all Khmer citizens are equal before the law and enjoy the same rights and freedoms, regardless of their race, color, sex, language, beliefs, religions, political tendencies, birth origin, social status, resources or position (Article 32). Furthermore, all citizens of either sex shall receive equal pay for equal work (Article 36[2]). The state recognizes that the "work by housewives in the home shall have the same value as what they can receive when working outside the home" (Article 36[3]). The Constitution further states that all forms of discrimination against women shall be abolished (Article 45[1]) and that "men and women are equal in all fields, especially in marriage and matters of the family" (Article 45[2]). It guarantees opportunities for women, especially to those living in rural areas without adequate social support so "they can have decent living conditions" (Article 46[3]). The Constitution also stipulates that all persons, individually or collectively, are entitled to the right to ownership, including rights to land ownership (Article 44[1]).

Property Rights in Marriage and Family Law, 1989

Under the Marriage and Family Law, women and men are equal in all aspects of the family (Article 29), and the wife and husband have equal rights to use, obtain benefits and manage joint property (Article 32); each spouse is allowed to use the joint property in accordance with their needs (Article 36); the joint property may be sold or given as donation, but only with the consent of both spouses (Article 37). In circumstances that a couple have to separate, a woman is entitled to equal rights as her husband in divorce, and wives and husbands have equal rights to common property after marriage; similarly, sons and daughters have equal rights to family property (Article 39).

Rights under the Inheritance Law, 1972

Cambodia also has an existing inheritance mechanism that is guaranteed under the 1972 Inheritance Law. This law stipulates that one half of the whole estate can be inherited by a deceased's descendants. If the surviving heirs are the deceased's parents or grandparents, the reserved portion can only be one-third of the whole estate. By executing a will, parents can dispose of the other half of their property to persons other than their surviving descendants if such persons are not included in the will of the deceased. In case a will is not executed, the property goes first to the direct descendants, including adopted children; however, if there are no descendants, the property goes to any ancestors or siblings. If the deceased has no living spouse or relatives, the property goes to the state. The non-reserved residue of the estate can be distributed by the owner without restriction, with the exception of people who are legally excluded from inheritance, or people considered "unworthy". A will can be established through either a certified or private deed. The property of a minor must be administered by a curator or living parent. A guardian can be also be nominated in a



will or by a civil court. Gifts of real property must be legally recorded at all levels of the land offices. Any gifts of property, which include the reserved portion, can be legally challenged by the heirs who are entitled to receive the reserved portion. All property transfers, including transfers through inheritance, are recorded in the land registration system.

Property and land ownership rights in the Land Law:

The Land Law, as stated in Article 1, aims to overhaul the distribution and management of land, as well as to protect property rights. It has the objective of determining the regime of ownership for immovable properties *“for the purpose of guaranteeing the rights of ownership and other rights related to immovable property, according to the provisions of the 1993 Constitution”*. It reiterates that *“all persons shall respect the property of the State and legally acquired private property”* (Article 3). Hence, any regime of ownership of immovable property prior to 1979 shall not be recognized (Article 7), and temporary possession is removed as a means of acquiring ownership of land. Only those people who were already in legal possession of a plot of unoccupied land at the time of passage of the Land Law 1992 were allowed to complete the five-year period of occupation required to become legal owner (Article 31). Only legal possession leads to ownership in that *“[a]ll transfers or changes of the rights of ownership shall be carried out in accordance with the required general rules for sales, succession, exchange, gift or by court decision”* (Article 6). Any ownership by a person, whether natural or legal, is considered to be individual ownership. Ownership by a group of persons exercising their prerogatives through a legal way is deemed collective ownership. Ownership by several identifiable individuals collectively exercising their rights over the entire property is undivided ownership (Article 10). Possession of immovable property may constitute a right *in rem*, and may lead to the acquisition of ownership by the holder of the property (Article 29). However, *“any person who enjoyed possession for no less than five years prior to the promulgation of this law has the right to request a definitive title of ownership”*.

The Land Law also recognizes the communal rights to immovable property for pagodas and indigenous communities, and states that indigenous communities shall continue to manage their community and immovable property according to their traditional customs (Article 23). Likewise, lands of indigenous communities are lands *“where the communities have established their residences and where they carry out traditional agriculture”*. The measurement and demarcation of boundaries of immovable properties of indigenous communities shall be determined according to the factual situation as asserted by the communities, in agreement with their neighbors, and as prescribed by the procedures of the law and its relevant sub-decrees (Article 25). Therefore, *“[n]o authority external to the community may require any rights related to any immovable properties belonging to an Indigenous community”* (Article 28).

In terms of property disposal, any person with Khmer nationality and with capacity to enter into a contract may sell or purchase immovable property. Exceptions apply to: i) a person who is not owner of the property offered for sale; ii) a joint-owner of an undivided property without the consent of the other joint owners; and iii) a person whose immovable property is the subject of seizure (Article 66).



The government agency that supervises the guarantee of ownership of immovable property is the Cadastral Administration under the supervision of the Ministry of Land Management, Urban Planning and Construction. These government offices have the competence to identify properties, establish cadastral index maps, issue ownership titles, register lands and inform all persons as to the status of a parcel of land in relation to its nature, size, owner and any relevant encumbrances over such parcel (Article 226).

Rights in Law on Contracts and other Liabilities, Decree No. 38 of 1988

Under the Law on Contracts and other Liabilities, women and men have equal rights to enter into contracts of loan, mortgage and financial credit (Article 14); it also guarantees that women have equal rights to men in bank loan agreements, as well as equal rights to collateral, rental and sale of their private property provided there is consent by co-owners or both spouses as in the case of married couples (Article 34).



ANNEX D: Guide Questions²⁷ for field interviewers

SECTION 1: Basic Profile of the Respondents

Name of the community: _____

Date: _____

- 1.1 Name
- 1.2 Address
- 1.3 Age
- 1.4 Marital Status
 - 1.4.1 Married
 - 1.4.2 Separated
 - 1.4.3 Widowed
 - 1.4.4 Single
- 1.5 Employment
 - 1.5.1 Self-employed
 - 1.5.2 Employment
 - 1.5.3 Unemployed
- 1.6 Educational Attainment
 - 1.6.1 Primary
 - 1.6.2 Secondary
 - 1.6.3 College level
 - 1.6.4 Degree
 - 1.6.5 Others
- 1.7 Members of the family
 - 1.7.1 No. of Children (including gender and ages, status, if relevant)
 - 1.7.2 Name of Spouse (including employment status what occupation)
 - 1.7.3 Other members of the household
- 1.8 Income
 - 1.8.1 gross monthly income
 - 1.8.2 gross combined monthly income (of spouse and other members of the household)
 - 1.8.3 monthly net income
- 1.9 Number of years of stay (residency) in the community
- 1.10 Provincial Origin

Section 2: What are the perceived general problems/issues women are facing in their homes and communities (and in the context of eviction-threatened communities)?

- 2.1 What are the general problems you face inside your homes or within your community?
 - 2.1.1 What do you consider as the biggest problem that you are facing today? (This is to gauge the level of perception of women's personal problems vis-à-vis other social problems that they face in their communities). [Note: field Interviewers should be

²⁷ This Guide Questionnaire is translated into Khmer language by the field interviewers and copy of the Khmer questionnaire is attached as Annex E..



able to ask specific questions whether the respondents are having problems in her intra-personal relationships with her husband, children, other members of the family, with neighbours or other members of the community].

- 2.1.2** What do you think are the reasons that contribute to the general problems that you face now?
- 2.2** In the context of forced evictions, respondents should be asked questions about their specific problems before, during and after evictions.
- 2.2.1** What do you think are the reasons why your community is under threat of eviction?
- 2.2.2** What specific problems/issues do you think you would face now that your house is going to be evicted?
- 2.2.3** What specific problems/issues do you think you would encounter if the eviction is happening? (on-going)
- 2.2.4** What specific problems/issues do you think you would encounter after the eviction has taken place?
- 2.3 On violence against women**
- 2.3.1** Do you think women like you have different problems as men when the different eviction scenarios (before, during and after) happen? Why do you say so? [note: Whether the answer is a NO or a YES, you should be able to ask WHY]
- 2.3.2** Do you also suffer specific violence inside your home or within your community? (i.e. domestic violence?)
- 2.3.3** Can you specify what kind of violence have you suffered or suffering from?
- 2.3.4** What are you doing to stop the violence? And what do you think should be done to stop it?

Section 3: What are the perceived solutions to the different problems that women face in relation to section 2?

- 3.1** How do you understand your eviction problem in terms of government policies on eviction? [note: measuring the awareness of the respondents on any government policies relating to forced evictions]
- 3.2** What kind of solution or assistance/support do you receive from the government to resolve your eviction problem?
- 3.3** What do you think the government should be doing?
- 3.4** What are you doing to address your eviction problems and what do you think you should be doing?
- 3.5** Do you have a community organisation and what is your role in the community organisation?
- 3.6** What is the community organisation doing in relation to your eviction problem and what do you think community organisation should be doing to stop forced evictions?
- 3.7** What kind of support do you receive from NGOs in your community?
- 3.8** What do you think NGOs should be doing in relation to your eviction problem?



Annex F: Sample copies of eviction notices

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**Annex G: List of participants to
the multi-stakeholders' forum
on ensuring the right to
adequate housing for
Cambodian women and all, 27
April 2010**



No.	Name	Organization	Position
Government			
1	H.E. Dr. Ou Vuddy	Ministry of Land Management and Urban Planning and Construction(MLMUPC)	Permanent Deputy Director General of General Secretariat of Council of Land Policy
2	Lun Putheary	MLMUPC	Officer
International Organisations			
3	Taryn Lesser	Office of the United Nations High Commissioner for Human Rights	Human Rights Officer, Land and Housing Rights Unit
4	Nov Piseth	Office of the United Nations High Commissioner for Human Rights	Land and Housing Rights Unit
5	Depika Secherchan	Office of the United Nations High Commissioner for Human Rights	Human Rights Officer Civil Society and Fundamental Freedoms Unit
6	Figa Lasa	UN Women	Program Officer
7	Niamh O'Grady	UN Women	Program Officer
Development Partners			
8	Tim Coulas	CLASP Canada	Project Field Manager
9	Uch Sophas	GIZ Land Rights Program	Technical Advisor
10	Daniela Harris	GIZ Land Rights Program	Advisor
11	George Cooper	GIZ Land Rights Program	Advisor
12	Sok Neva	Norwegian People's Aid	Development Program Coordinator
13	Kry Malen	OXFAM GB	AKA Officer/ Executive Assistant
NGOs			
14	Sok Panha	Banteay Srei	Director
15	Sor Nyphanna	Bridges Across Borders Cambodia	Community Organizing Officer
16	Pa Nguon Teang	Cambodian Center for Independent Media	Executive Director
17	Ouch Leng	The Cambodia Human Rights and Development Association(ADHOC)	Land Programme Officer
18	Hun Phanna	Cambodia Women's Development Agency (CWDA)	Acting Executive Director



No.	Name	Organization	Position
19	Lara Snowdon	Cambodia Women's Development Agency	Technical Consultant
20	Abdul Rashid Khatri	Community Managed Development Partners	Advisor
21	Soy Kalab	Community Peace Network	Board Member
22	Hoy Sochivany	Girl Guides Association of Cambodia	Executive Director
23	Iv Bonnakar	Habitat for Humanity Cambodia	Southeast Program Coordinator
24	Ourn Srey Leap	Housing Rights Task Force	Legal officer/ Communication Officer
25	Long KimHeang	HRTF	Communication Officer
26	Natalie bugalski	Human Rights Consultant	
27	Sum Satum	Khmer's Women Cooperation for Development	Executive Director
28	Cheang Sovannrath	LICADHO	Women's Rights Supervisor
29	Sun Soknin	Project Against Domestic Violence	Project Staff
30	Soun Samoun	Urban Poor Women Development (UPWD)	Director
31	Soreach Soreithida	Women Development Association	Executive Director
32	Moun Vuthy	CDCam	Project Assistant
33	Thy Vichith	UPWD	Officer
34	Dul Chantha	Dei Krahom community	People
35	Ung Vanna	Article 4	Researcher
36	Ngin Bunrith	CHRDO	Director
37	Heng Sreyda	ICSO	CEPO
38	Benjamin Rutledge	Centre on Housing Rights and Evictions (COHRE)	Legal Officer – Asia Program
39	Phan Sithan	COHRE	Legal Officer - Cambodia
40	Jessica U. Soto	COHRE	Program Officer – Women and Housing Rights Asia Program
41	Johanna Somerville	COHRE	Human Rights Analysis and Training Intern (Australian Youth Ambassador for Development)
42	Samuel Gamboa	COHRE	Program Officer
43	Yi Sothea	COHRE	Admin Officer
44	Heang Phalyana	COHRE	Bookkeeper
45	Pho Ratha	COHRE	Intern
46	Chhin Sreynin	COHRE	Intern



*Living under threat
but with nowhere to go...*

FINAL REPORT

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Women in Phnom Penh