

Comments on the draft Sub-Decree on Urbanisation of the Capital City, Towns, and Urban Areas

For immediate release

The technical and political process of urban planning focuses on the use of land and the design of the urban environment. As such, urban planning is an important tool in urban development, and planning mechanisms and practices can have a direct impact on the livability and sustainability of an urban environment. Over half of the world's population currently live in cities, and the rate of urbanization is increasing in Cambodia as well. The Royal Government of Cambodia's (RGC) draft Sub-Decree on Urbanisation of the Capital City, Towns, and Urban Areas (SD) is therefore timely.

The draft SD was released to civil society actors in late November 2011. An first consultative workshop was held on Dec. 1, 2011 and the MLMUPC initially gave civil society one week to provide comments on the draft SD. Following requests from civil society actors the deadline for comments was extended to Jan. 15, 2012.

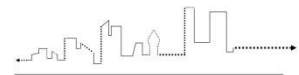
As with other recent policymaking in the land and urban planning sector, The Urban Initiative welcomes the Government's initial engagement with civil society actors on this matter and hopes this can be the beginning of a meaningful consultation process that allows all relevant actors to be involved.

To enable this process to continue, The UI strongly urges the RGC to consider engaging a respected consultancy firm with experience in urban planning to help it revise the current draft SD. This revision should be conducted over an extended period of time and in consultation with the Ministry of Land, Urban Planning, and Construction (MLMUPC), relevant government bodies and most significantly, a wider range of civil society actors.

The seven points below highlight some of the most fundamental concerns The Urban Initiative has identified in the draft SD, which we hope further revision and consultation will address. The list is not meant to be comprehensive and hence does not include commentary on individual articles.

Main concerns :

- **What is the Vision?**
 - The SD does not define a clear vision for future cities and as such the SD does not provide a solid base for urban development. There are references to 'human rights' and 'sustainability' (Art. 2) but the document offers the nation's urban residents no dreams of a 'Pearl of Asia' or a city to lead SE Asia in terms of adapting to the changes of the 21st century
 - While articles 2 and 6 set out some impressive objectives and principles, the subsequent articles fail to operationalize these, while the provisions of some articles seem to be a complete contradiction to them



- **Actionability/Enforceability**
 - At times articles contain very detailed requirements but it is unclear how these would be enforced without creating a large and very costly department of inspectors. E.g. Art. 22 sets out ratios for buildable area compared to land area in addition to defining the amount of trees required in 150 sqm land plots, while Art. 28 requires extensive calculations regarding space
 - Some articles seem unrelated to a sub decree on urban planning. E.g. Article 31 regarding space between buildings and legal land borders belongs in a document regarding construction guidelines
 - Finally some articles appear incomprehensible and/or need to allow more flexibility. E.g. Art. 43 regarding schools is very exact and does not allow for diverse urban environments

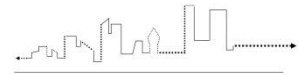
- **Current capacity:**
 - There seems to be no mention that there is a fundamental lack of human capacity not only at local level but at the MLMUPC. A core part of the sub decree should address education and scholarships for a new generation of Cambodian planners and in the meantime develop a way of helping local officers understand maps and technical documents.

- **A new approach to Urban Planning?**
 - The draft SD appears to take no account of where Cambodia's urban centres are now - imposing detailed planning regulations on a system that is still rebuilding itself seems doomed to fail. At a global level, traditional urban planning approaches have been failing cities for several years - particularly those cities with large numbers of urban poor settlements. Zoning and planning and height restrictions are often pointless in the context of today's rapid urbanization. In Phnom Penh, such tools may be appropriate for the limited amount of more established areas where the original French designed layout of the city still exists, but they are completely inappropriate for handling the growth of the city more generally. A more nuanced and flexible approach should be considered.

- **Overlapping Laws & Mechanisms:**
 - The provisions set forth in this sub-decree seem to overlap with existing laws, sub-decrees and policies related to land development, construction and land use. See e.g. Art. 7
 - The mechanisms and processes at the national and sub-national level also overlap with existing mechanisms and processes. See e.g. Art. 14

- **Coordination of Ministries**
 - Urban planning affect all kinds of ministries, not only MLMUPC. This fact should be reflected in the draft SD, even if the document does not fully articulate how coordination will be conducted
 - When the draft SD came out it seems that many other ministries, and indeed staff at MLMUPC, were unaware of its existence. This raises major questions about consultation at the government level

- **Top-down nature/Limited consultation**
 - Despite claims of de-concentration and decentralization (Art. 6), the draft SD remains a top down centralized planning mechanism
 - Although community and civil society participation and consultation is mentioned in the document, no details are provided on how to ensure such consultation is meaningful and takes place not only when any plans are complete, but during their preparation as well.
 - Timelines for commentary of various plans are insufficient



- There is no recognition of bottom-up planning models, such as community planning
 - **Misinterpretation**
 - Some articles appear open to willful misinterpretation . E.g. articles 18, 22, 32, 49, 69 could be used to evict people and/or expropriate land
 - Others appear to leave unnecessary loopholes which could be exploited for corrupt practices. E.g. Art. 29 regarding requests to exceed maximum level of land use index
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