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FACTS and FIGURES #32

MONITORING COMMUNITY ADVOCACY ACTIVITIES IN PHNOM PENH



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Sahmakum Teang Tnaut, a Cambodian Urban NGO



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June 2017

is a publication on urban issues by Sahmakum Teang Tnaut (STT)

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Overview

Phnom Penh is a rapidly growing city in Cambodia that has seen a massive surge in investment in recent years.¹ With a current estimated population of 2.2 million in Phnom Penh,² and forecast average annual increase of 2.2% between 2017 and 2025,³ infrastructural, housing, and retail development have become a focal point for Cambodia’s capital city.

Development can bring a wealth of benefits to a city and its people, including greater employment opportunities in both old and new sectors, increased productivity, innovation, improved education and healthcare, and larger incomes. However, development – such as that witnessed in Phnom Penh - often encroaches on, or completely builds on top of, current residential areas.⁴ Especially in the short to medium term, Phnom Penh’s urban poor often suffer from development where they lack the security of land titles, and the chances of receiving sufficient compensation in the face of eviction are negligible.⁵

In response to the encroachment of development on Phnom Penh’s urban poor communities, communities themselves have been advocating for the respect of their land rights. Over the course of 2013-2016, Sahmakum Teang Tnaut (STT) monitored the advocacy activities of local communities in Phnom Penh. STT monitored a total 293 community activities, 142 of which were a result of land related incidences, which, along with several key case studies, have been analysed and presented in this report.



10/10/2016 Urban and rural community activists mark World Habitat Day, and petitioners call for the government to respect housing rights.

Source: STT 2016

Introduction

The fast-paced growth witnessed in Phnom Penh has generated an ever-increasing demand for amenities, including: business and shopping centres, infrastructure upgrades, and accommodation to house the increasing population. In a densely-populated city like Phnom Penh, however, there is little available space to build without encroaching on someone's claimed land.

Land ownership was abolished during the Khmer Rouge and all land titles were destroyed. Following the fall of the regime, the claiming of land was on a 'first-come-first-serve' basis as the country struggled to slowly reintroduce a system of private land ownership. In 2001, the Cambodian Land Law was passed, creating a framework for private land ownership and land titling. However, improper systems and confusing processes in applying for, and receiving such land titles⁶ has resulted in disputes between Cambodian authorities, private companies, and residents of the communities evicted to make way for development⁷. The consequence has been ongoing community action, including petition signing, protests, demonstrations, and voicing of concerns on platforms such as local radio stations and discussion panels.

The activities and data focused on in this report look at such events, but also include community advocacy activities that have arisen to protest the imprisonment of vocal activists, who fought, and continue to fight, for adequate housing and compensation for evicted families. Most community activity is a direct result of the development in Phnom Penh, but local and national authorities continue to clamp down on those participating in such advocacy. In many cases, police forces have resorted to violence to halt protests, but Cambodia is witnessing growing national and international concerns for these continued breaches of human rights.⁸

The following report will present data collected by STT, and provide insights into several important, and persistent, community advocacy activities, including the notorious Boeung Kak Lake (BKL) development, and prominent political prisoners such as Tep Vanny.

Methodology

Primary

The data presented in this report utilises information collected during STT's monitoring activities, and the subsequent reports produced within the organisation. These reports cover the period February 2013 – December 2016, with a total 293 reports, 142 of which focus on land-related advocacy. The remaining 151 focuses on non-land related activities, such as: international celebrations, e.g. Children's Rights day, Labour day; organised voting days for new community representatives; and religious gatherings.

Information regarding the event time, place, date, and reason is often communicated to STT by phone call or instant messaging (such as Telegram or WhatsApp) from the communities arranging the activity. Partner NGOs also communicate when advocacy actions are being planned.

During protests and gatherings, monitors stand at a distance to enable them to observe the general situation, including the number of participants and authority presence. This also prevents monitors from being targeted. Monitors used to wear monitoring vest, however, since early 2016, they are irregularly worn as monitors were often targeted by authorities, and sometimes verbally threatened by government forces. Monitors are only encouraged to get closer to the protesters if detailed questioning of participants is required. Currently, cameras are utilised for both photography and video monitoring at each event.

Secondary

Secondary research information has been employed to provide more in-depth analysis of STT's monitoring reports. Such information has predominantly been sourced from local NGO's (including Cambodian Human Rights and Development Association (ADHOC), Cambodian League for the Promotion and Defense of Human Rights (LICADHO) and international treaties (Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR)).

Limitations

As STT is a local NGO with limited resources, not all community activities could be monitored. Thus, STT prioritised urban land and housing related activities – in line with STT's vision and mission. Because of this, the findings of this report are only based on the monitoring reports that have been completed and verified. Though other community activities may have occurred, they have not been included in this research.

Additionally, the ongoing nature of some events discussed in the case studies, such as the 'Black Monday' Campaign, prevents full conclusions from being drawn. In these instances, the most up to date information at the time of writing has been used to illustrate the cases.

Rights in Cambodia

There are two key frameworks in Cambodia that are routinely disregarded by authorities, often resulting in mass community advocacy activity. These are: human rights laws, and freedom of peaceful assembly and association.

The first major provisions for respect of human rights in Cambodia appeared in the Paris Peace Agreements in 1991, which recognised a legal framework for protecting Cambodians' rights to freedom of expression, association, and assembly. It is stated that "...Cambodia undertakes: [t]o ensure respect for and observance of human rights and fundamental freedoms in Cambodia...and [t]o support the rights of Cambodian citizens to undertake activities which would promote and protect human rights and fundamental freedom".⁹

In 2009, Cambodia integrated Peaceful Demonstrations into national law, explicitly outlined in Article 4 of the Law on Peaceful Demonstration as "[t]he peaceful assembly refers to a gathering or a march conducted by a group of people to publicly demand, protest or express their sentiments, opinions or will by using various forms or means peacefully".¹⁰ This law is echoed in various other national and international laws, including Article 20 of the Universal Declaration of Human Rights,¹¹ and Article 21 and 22 of the International Covenant on Civil and Political Rights,¹² among others.

Under the Freedom of Expression, and Freedom of Peaceful Assembly and Association (fundamental freedoms accepted by Cambodian authorities and integrated into Cambodian Law, as written in Article 31, 41, and 42 of the 1993 Cambodian Constitution, and by the decision of the Constitutional Council in 2007), "everyone has the right, individually and in association with others, at the national and international levels to meet or assemb[le] peacefully".¹³ Yet these gatherings are often met with violence dictated by authorities, and accused of disrupting the peace. A 2007 briefing paper released by LICADHO highlights such violence, stating that – in relation to authority response to peaceful protests – "[t]he ongoing clampdown is being conducted by arbitrarily objecting to demonstrations, violently dispersing many peaceful protests and arresting participants in legitimate assemblies".¹⁴

Additional provisions are sometimes added to the laws on peaceful assembly, and as the Cambodian Centre for Human Rights (CCHR) outlines in their fact sheet “Law on Peaceful Assembly...”, a “controversial and misunderstood” provision is the creation of “freedom parks”.¹⁵ It has been assumed that this addition to the law stipulates all demonstrations must take place in designated areas – freedom parks – but as the current law stands, such parks are simply an area where demonstrations *can* take place, not where they *must* take place.

The cause of most organised community advocacy activity in Phnom Penh – as monitored by STT – is in protest of disregard of the above-mentioned laws, where alleged greed and assumed corruption seem to outweigh the power of the law. Forced eviction, has been a focus for human rights organisations, at both the national and international level,¹⁶ and is an overly familiar practice in Phnom Penh. Cambodia has an obligation – as party to the International Covenant on Economic, Social, and Cultural Rights (ICESCR) – to not “subject their population to forced eviction under the right to adequate housing”,¹⁷ yet STT has found that between 1990 and 2016, over 29,700 Cambodian families in Phnom Penh experienced eviction or displacement because of the city’s development.¹⁸

This disregard of human rights is assumed to be a weapon used by authorities to silence human rights activists, where Amnesty International comments “[r]ich and powerful individuals and groups involved in land disputes in Cambodia are increasingly using their power to silence opponents through the criminal justice system”.¹⁹

Key Findings

The following section displays the analysis breakdown of STT’s monitoring reports. It focuses on report frequency to determine when community advocacy activity is at its highest. In understanding these trends, links to key events can be made, and allows conclusions to be drawn regarding what events encourage the highest community advocacy activity. The most prominent activities have then been further analysed in several case studies, bringing further discussion to key advocacy action in Phnom Penh.

Total report frequency

Frequency breakdown table of *all* STT monitoring reports between 2013 and 2016:

	2013	2014	2015	2016	Total
Jan	0	11	8	8	27
Feb	9	7	9	9	34
Mar	10	10	10	11	41
Apr	6	7	6	6	25
May	9	3	4	11	27
Jun	9	7	3	7	26
Jul	10	6	4	8	28
Aug	1	5	5	13	24
Sep	3	1	3	4	11
Oct	6	3	1	5	15
Nov	4	1	2	10	17
Dec	3	2	2	11	18
Total	70	63	57	103	293

Total report frequency: Category breakdown

For all reports monitored by STT, 142 are directly related to land-rights issues. These are the primary focus of this report. In addition to this, court cases of land rights activists, protests/gatherings in support of imprisoned land rights activists, and reports monitoring the 'Black Monday' Campaign, are considered, where relevant, in the case studies that follow these report analyses.

Category	Report Frequency
Land Protest	142
Court Case	16
Protest Imprisonment	56
Black Monday	19
Violence	21
Other	39

Land-related report frequency

Frequency breakdown table of *land-related* STT monitoring reports between 2013 and 2016:

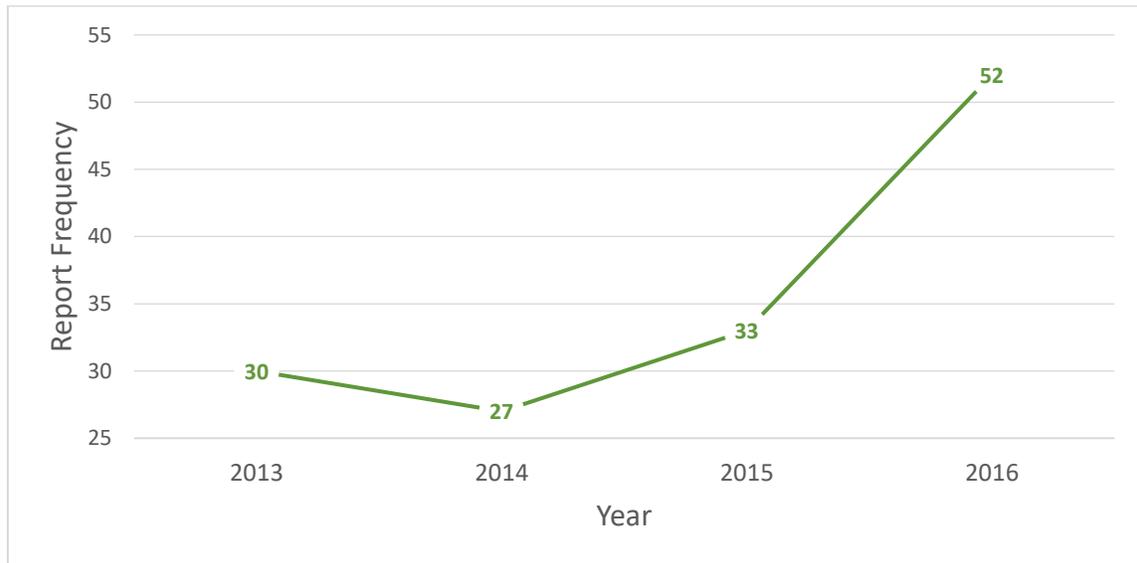
	2013	2014	2015	2016	Total
Jan	0	2	4	4	10
Feb	3	1	1	8	13
Mar	2	4	5	8	19
Apr	4	4	5	5	18
May	7	1	4	5	17
Jun	2	4	2	4	12
Jul	7	3	4	2	16
Aug	0	5	2	8	15
Sep	0	1	2	0	3
Oct	1	2	1	2	6
Nov	1	0	1	2	4
Dec	3	0	2	4	9
Total	30	27	33	52	142

The average attendance at each event is approximately 72 people, with many (65) of these events in relation to the Boeung Kak Lake development. The largest gathering of people concerns the development taking place at BKL, where an estimated 500 people gathered on 30 March 2016 on the sand banks in the BKL area in Phnom Penh. Participants of the protest included: urban poor communities in Phnom Penh, Boeun Pram (Battambang) provincial community, Buddhist monks, Tuk-Tuk drivers, human rights activists, and many others.

The least attended land-related community advocacy activity took place on 18 September 2015, where one woman representing two families affected by road expansion in Prek Phnov village, appeared in front of the National Assembly. She submitted petitions that sought Samdach Heng Samrin's intervention after their households had been demolished without proper compensation.

Land-related report frequency – annual breakdown

A visual line graph displaying annual report frequency.



This surge in 2016 compared to previous years was a result of on-going disputes in several – very active and vocal – communities, including Boeung Kak Lake, Borei Keila, and the Airport community. As these disputes continue to go unresolved, community action continues. This is compounded with newly rising disputes in Phnom Penh and the recent court prosecutions of key activists, such as Tep Vanny (see case study Black Monday). One possible reason for the decline witnessed in 2014 is government crackdown on protests and gathering. From the data, it could be assumed that this may have also fuelled the surge in the two following years, where communities responded to the crackdown by increasing their advocacy action.



05/10/2015 Housing right activists mark World Habitat Day, marching from Former Deykrahorn to National Assembly in Phnom Penh (0.5km) to submit a petition calling for solutions to housing issues in the city.

Source: STT 2015

Case Study: Boeung Kak Lake

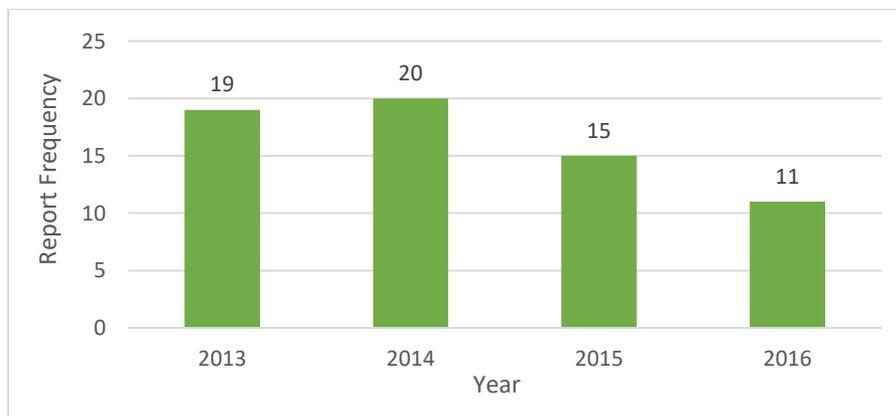
Post Khmer Rouge and prior to development, Boeung Kak Lake – located in Khan Toul Kork, Phnom Penh – was home to an estimated 4,000 families (20,000 people).²⁰ The lake was critical for providing valuable employment opportunities, where fishing and harvesting aquatic plants to be sold at local markets, or used for personal sustenance, was a source of income. Additionally, the lake’s popularity with tourists generated income for local food and drink vendors, and increased demand for guesthouses, restaurants, and stores in the area.²¹

The BKL land dispute is notorious in Cambodia, where a known 2,688 families were forcibly evicted from their homes and land over the period 2008-2011.²² The clash began in 2007, and has just passed its 10th anniversary since the development was jointly announced by Phnom Penh City Hall and development firm Shukaku.²³ A 99-year lease of the 133 hectares of land and surrounding area was signed by Shukaku,²⁴ with intentions to turn the site into a satellite city. After being transferred from ‘state public’ to ‘state private’ land in 2008 allowing it to be sold, Shukaku began to pump sand into the lake, which was filled by 2012.²⁵ However, more than 10 years on the site has only been partially developed, fuelling the frustration and devastation felt by the families forcibly evicted, and the lack of promised benefit to the city has not gone unnoticed by the families of BKL.²⁶ This, and the fight for fair compensation for the evicted families, has been a key driver in community advocacy action.

Since development of the area was announced, affected communities have been exercising their rights to protest, and demand fair compensation for their losses. Most community advocacy activity monitored by STT is in some way related to the development of Boeung Kak Lake. Of the 142 land-related monitoring reports, 65 are related to this land dispute.

International financial aid and development organisation, the World Bank, has had their own issues with the BKL development and subsequent mistreatment of residents. They began funding a land titling project and supervised the Land Management and Administration Project (LMAP),²⁷ that aimed to make the living status of BKL residents official, but with its slow paced-progress and, later, cancellation by the Cambodian government in 2009, affected residents were left to defend their rights alone. In response, the World Bank discontinued loans to Cambodia, until such time as “an agreement is reached with the residents of Boeung Kak lake”.²⁸ They have themselves admitted to their failings in helping the affected BKL families, issuing a report on the matter.

BKL monitoring report frequency



In April this year, Phnom Penh City Hall announced they had “washed their hands of the...Boeung Kak lake issue”,²⁹ officially closing the dispute without reaching agreement on a solution for the seven families yet to accept compensation. Deputy Phnom Penh governor Khoung Sreng has warned that further protesting and “affecting public order” would result in legal action.³⁰

Case Study: Yorm Bopha

Yorm Bopha is a prominent Boeung Kak Lake activist, targeted by authorities after stepping up to continue the community’s advocacy activities when 13 BKL women were violently arrested during a peaceful protest.³¹ The Cambodian League for the Promotion and Defense of Human Rights (LICADHO) reports that after taking on this role, Bopha was told by police she was “on the blacklist,” and that she would be “in trouble soon”.³²

During a campaign to free the 13 BKL activists, Bopha was singled out by authorities because of her vocal presence in BKL demonstrations, and arrested on 4 September 2012 for “intentional violence with aggravating circumstances” against two motorbike drivers. No evidence was submitted in support of this conviction,³³ but because of the long-standing dispute in BKL, it is widely believed, by local NGOs and people, that the real reason behind Bopha’s arrest was her human rights activism, where alleged corruption of the judicial system attempted to silence her – LICADHO state that “Cambodian authorities have a long history of silencing critics and perceived troublemakers on trumped up charges, eased on by the dysfunctional, partisan court system”.³⁴

Despite a lack of evidence, Bopha was sentenced to three years in prison on 27 December 2012, and ordered to pay a portion of the \$15,000 compensation granted to victims of the assault she allegedly arranged.³⁵ But following an international campaign led by Amnesty International – in which close to 253,000 letters were submitted to authorities in support of her release³⁶ –the Supreme Court ordered a retrial and Bopha was released on bail on 22 November 2013.³⁷ The re-trial, held on 20 June 2016, again found her guilty of organising the attack on two people in 2012, and was sentenced on 28 June 2016. Although she was found guilty, the remainder of her sentence was suspended, but she was ordered to pay a further \$2,500 to the victims.³⁸

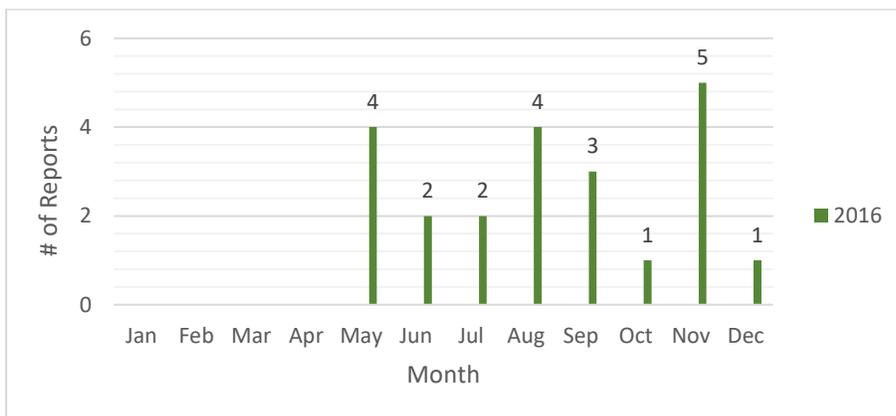
Yorm Bopha was the first individual case frequently monitored by STT. Many of the reports that involve Bopha are communities gathering at her court appearances, or protesting for her release from prison. Of the 28 reports relating to Bopha, an average of 82 people – predominantly from Boeung Kak Lake, Borei Keila, and Thmor Kol communities – gathered to support the activist. The largest gathering called for the release of Bopha, and was attended by 400 people on 5 June 2013 outside the Appeals Court in Phnom Penh.

Case Study: Black Monday

The ‘Black Monday’ Campaign began in response to the arrest of four Cambodian Human Rights and Development Associations (ADHOC) staff members and one election official. They were charged in early May 2016 with politically motivated charges of allegedly bribing a witness in relation to a sex scandal case involving prominent opposition leader, Kem Sokha.³⁹ The accused maintain they were simply “extending legal aid to the woman as part of its advocacy work”,⁴⁰ but continue to be held in pre-trial detention.

The ‘Black Monday’ campaign was put on hold for two weeks in September 2016, after it was assumed the Government was planning to release the imprisoned activists. After failing to do so, however, protesters continued with the Campaign.⁴¹ It continues to take place throughout Phnom Penh, and is expected (by STT) to continue until all wrongfully imprisoned activists have been released.

Black Monday monitoring report frequency



‘Black Monday’ Individual Case: Tep Vanny

Tep Vanny was a resident of Boeung Kak Lake, and became a prominent land rights activist amidst the ongoing BKL dispute. Vanny has played a significant role in mobilising the BKL community against the development of the lake, and subsequent forced evictions.

Regarding monitoring reports that focus on specific individuals, the case of Tep Vanny is the most recent and prominent case, with nine collected reports between September and December of 2016 alone. Her release is called for during the ‘Black Monday’ Campaign, with BKL and Borei Keila the two most prominent communities behind her. Vanny continues to seek release from wrongful imprisonment.

Tep Vanny was arrested along with Bov Sophea whilst peacefully participating in the 15th ‘Black Monday’ Campaign on 15 August 2016. Both were charged with “incitement”, as outlined in Cambodia’s Criminal Code (Article 495), but after lack of evidence was submitted in support of this, the charge was changed to “insulting a public official” and they were sentenced to six days in prison. Bov Sophea was released after the given six days, but additional charges against Tep Vanny, originating from a three-year old gathering outside Prime Minister Hun Sen’s house in Phnom Penh on March 2013, calling for the release of then-imprisoned Yorm Bopha, were re-activated.⁴² Tep Vanny was charged on 19 August 2016 for “intentional violence with aggravating circumstances”⁴³ and sentenced to two years and 6 months in prison on 23 February 2017. At the time of writing (May 2017), Tep Vanny has been detained for over 287 days, since 15 August 2016.

Fellow activists and members of the national and international community have condemned Tep Vanny’s sentencing. Alleged corrupt authority actions have fuelled the belief that her imprisonment is an attempt to prevent her from further advocacy, where Global Freedom of Expressions writes “The repeated targeting of Tep Vanny by the authorities, and the failure to conduct an effective hearing into the charges against her, implies that the authorities used the law as a means of silencing her”⁴⁴.



03/03/2014 Tep Vanny attends a peaceful protest calling for the release of fellow activist Yorm Bopha

Source: STT 2014



31/03/2016 Tep Vanny and fellow protestors rally in front of the National Assembly during the campaign against filling in Boeung Kak Lake.

Source: STT 2016

Conclusions

Development of Phnom Penh will continue regardless of advocacy activities held by local communities throughout the city, but the way those affected by development are compensated for their losses is a battle that will continue until fair treatment of all Phnom Penh citizens is won.

The extent to which people balance the present with the future is a much-frequented global dilemma, but the apparent disregard of human and housing rights in Phnom Penh need not be so blatant. STT found in 2016 that those affected by development are generally supportive of it, and understand the benefits development will bring to the city and its people.⁴⁵ They ask only for fair compensation and treatment in the face of forced eviction, and will continue to exercise their right to protest, and fight for protection of their full rights as outlined in the Cambodian Constitution.

Unfortunately, the current state of Cambodia's judicial system continues to obstruct community advocacy activity, where alleged corruption prevents fair trials for human and land rights activists. Additionally, fear of physical violence and criminal prosecution against those fighting for their rights is prevalent, and will continue to pose a threat to those participating in advocacy activities until steps to reassess the current judicial and law enforcement system are taken.

Recommendations

Affected Communities

Those unfairly affected by development should continue to exercise their rights together peacefully, and call for fair treatment by authorities. However, they should do so sensibly by adhering to the relevant laws, and seek the assistance of NGOs and trusted local authorities to help monitor the events and provide a level of security against potential violence.

Central Authorities

Inflicting community advocacy activities and human/land rights activists with threats of violence, imprisonment, reduced compensation, or otherwise, will continue to fuel the discontent and anger felt by those negatively affected by development. Instead, authorities should aim to reach a fair and suitable conclusion for compensation guidelines in the event of forced eviction, and fair judicial action, to help prevent further escalation of current disputes, and the emergence of new disputes. This would require sufficient participation from both the authorities and affected people.

NGOs and relevant bodies

It is crucial for NGOs and relevant bodies, both nationally and internationally, to continue reporting on community advocacy activity in Phnom Penh, and to provide support to those in need of it when possible. By facilitating discussion and increasing awareness on land and human rights issues, it is possible to encourage action, and incite positive change.

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