DISPUTE SYSTEMS DESIGN: THE STUDY OF SLUM RELOCATION CONFLICT IN PHNOM PENH, CAMBODIA

By

LO SOPHEARITH

THESIS

Submitted to
KDI School of Public Policy and Management
in partial fulfillment of the requirements
for the degree of

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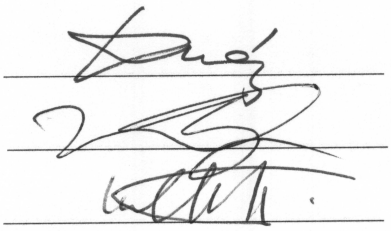

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ABSTRACT

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By

LO SOPHEARITH

This thesis provides a theoretical and practical analysis of dispute systems design as an approach to conflict management. The research is based in Phnom Penh, Cambodia. During its booming in real estate price, that country dealt with a number of slum relocation conflict. This thesis addresses the system of this conflict.

The thesis first provides a social theoretical analysis of dispute systems design. It explains how the dispute systems design process can modify social structures by implementing dispute resolution roles and procedures designed for specific types of disputes occurring in the conflict system. After this theoretical presentation, the dispute systems design process is applied to slum relocation conflict. The main system of analysis for slum relocation conflict in the Capital City serves as the foundation for the study of this conflict system.

Acknowledgement

I would like to express my sincere gratitude to Professor Kim Dong Young who educated me and has extensively helped me in editing and giving great comments on my thesis. I have found his comments to be especially helpful in tying together a series of theoretical and Practical approach. Professor Kim Dong Young is Deputy of Conflict Resolution Center. His ability to conceptualize and ground research projects has taught me much about assumptions I make when entering a system of study.

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Table of Contents

Chapter 1 Introduction 1

1.1 Introduction 1

1.2 Research Question 2

1.3 Objective of the Study 3

1.4 Significant of the Study 3

1.5 Methodology of the Study 3

1.6 Scope and Limitation of the Study 5

1.7 Types of conflict identified for research 5

Chapter 2 Literature overview 7

2.1 Background of Cambodia 7

2.2 The Origin of Slum in Phnom Penh city 8

2.3 Introduction to Dispute System Design 9

2.3.1 Approach to Resolving Disputes 9

2.3.2 Dispute System Design 11

2.3.3 Key elements of systems theory 13

2.3.4 Principles of dispute systems design 14

2.3.5 Steps for Designing the system 16

2.4 The theoretical framework for dispute systems design 20

2.4.1 How negative situation reproduce themselves 20

2.4.2 How dispute systems design reduces costly conflict forms 22

2.4.3 How dispute systems design creates in chronic and/or destructive conflict 23

2.5 The Concept of Deliberation 25

Chapter 3: Slum Relocation Conflict in Cambodia 29

3.1 Introduction 29

3.2 Land Dispute Overview in Phnom Penh 29
3.3 Land Dispute Cases in Phnom Penh 33
3.3.1 Sambok Chap Community, Tonle Bassac, Phnom Penh 33
3.3.2 Boeung Kak Lake, Phnom Penh 34
3.3.4 Dey Krahorm, Tonle Bassac, Phnom Penh 35
3.4 Actors in Land Dispute Resolution Implementation 36
3.4.1 Local Authorities 36
3.4.2 Municipal Courts 37
3.5 Existing Mechanism Analysis 37
3.5.1 Available Procedure 38
3.5.2 Motivation 38
3.5.3 Skill 40
3.5.4 Resource 40
3.6 Lack of Citizen Participation 43
3.6.1 Failure to Create Awareness 43
3.6.2 Non-alignment of interests 43
3.6.3 Decision-Making in the Absence of Citizens 44
Chapter 4 Policy Recommendation 45
4.1 Application of Dispute System Design 45
4.1.1 Entering into the system 46
4.1.2 Team formation and intervention plan 48
4.1.3 Conflict system Analysis 50
4.1.4 Design process 52
4.1.5 Slum Relocation Conflict Resolution Design 53
4.1.6 Developing support for the new system 57

4.1.7 Implementation of design 58

4.1.8 Evaluation and Sustaining of the Systems 58

4.2 Citizen Participation 61

4.2.1 The preparation phase 62

4.2.2 The Planning Phase 62

4.2.3 The Implementation Phase 63

4.2.4 The monitoring and evaluation 63

4.3 Success Factors 63

Chapter 5 Conclusion 65

Bibliography 69

Chapter 1 Introduction

1.1 Introduction

There were couples of slum areas in the Phnom Penh city which is the capital of Cambodia. People in those slum areas were relocated in the name of city renewal program. The implementation of the program resulted in the loss of residence and livelihoods of the poor. From 2006 to 2009, nine private developers were involved in the projects which will have forced the total of 9,464 families to be relocated (LICADHO, 2009).

The word relocation and land disputes in Phnom Penh have been heard almost every day, everywhere and every means for many years. The local authority and other civic society attempted to bring the costless mechanism for the conflict resolution in relocation for all involved parties as well as to bridge the broken relationship and mental suffering created by the relocation process. Information from many sources and my experiences working as a government officer from the local level to the ministerial level allowed me to observe most situations in Phnom Penh regarding the relocation and local development. That also allowed me to experience some kind of conflict first-hand. I visited slum area in Phnom Penh and worked with Phnom Penh Capital joining the workshop, dissemination and poverty reduction program for the poor communities in Phnom Penh. I met the slum people and representative leaders who were struggling with the issue of poverty reduction and fostering the participatory in governance and promoting the poor in the local development.

In 1990s, the booming of country economy, the government struggled to re-manage their mission. That was a good time to observe the big change in the slum the areas. I had numerous

opportunities to witness and observe the process of relocation and conflict during relocation implementation and the process of negotiating structure within the affected slum between the involved parties which are illustrated in Annex 1. These provided me many important lessons about conflict which requires the interest-base solution.

Also, concept of low cost resolution is very interesting and beneficial. In that sense, the Disputed System Design, shortly known as DSD, could be a new designing system for handling the conflicts, and the process of this system analysis was also very attractive. Therefore, this paper would like to present the concept of DSD in response to the current relocation conflict in Cambodia.

1.2 Research Question

The study is aimed at answering this question: What are the typical processes of government decision making or land beautification process including real estate companies in Phnom Penh. And what is the system output of this conventional ways, why such situations happen, institutional factor, what are the alternative ways to resolve this social problem, what are the necessary steps to foster the change? This study will focus on the challenges inherent in applying the application of Dispute System Design (DSD) in land dispute in Phnom Penh. The thesis aims, therefore, at identifying the conditions under which the DSD will maximize Disputes resolution between government and affected citizens while enhancing efficiency and justice in the dispute area.

1.3 Objective of the Study

The purpose of the study lays on three main objectives. Firstly, it will present the historical analysis of land tenure system in Cambodia, the background of the selected slum area and the conflict in the slum relocations. These will be written by describing the cause of slum area, showing how citizen participation engages in conflict. Secondly, this study will describe the dispute system design which is designed to minimize violence, damage and destructive due to the conflict and increase the harmony. The final objective is to contribute to the involved government body, civic society and affected families of the conflict resolution and citizen participation theory then presenting various attempts at creating appropriate policy recommendation. This will be done by describing the implication of dispute system design and citizen participation.

1.4 Significant of the Study

The answer to the question why there are so many land disputes in Phnom Penh and why people cannot learn from the existing experience to find the acceptable solution or system will give readers an insight into how land disputes were and are resolved in Cambodia. Through identifying such, it will allows us to understand the root causes and see through a better mechanism to better resolve the matter in Cambodia, particularly in its capital-Phnom Penh, especially working forward to a type of resolution with low cost concept.

1.5 Methodology of the Study

Initiating the system to be widely used for the present-day Cambodia, whose society is rather complex, is a very challenging task. It would require a lot of efforts and resources from both the government as well as the citizens to fight with the challenges they will be facing adopting the system. The idea of this study is to incorporate the Participatory Governance and the conflict

resolution into land conflicts solution in Cambodia. Therefore, the main sources of this study would be from the lectures, reading materials, and knowledge gained from the two classes at the KDI school- Participatory in Governance Decision Making and Conflict Resolution, and the negotiation class. The knowledge enabled me to explore a wider variety in the field of citizen participation and conflict resolution.

Moreover, my experiences working in the government sector allows me to interact with my government official, expertise and also the poor people. This provided an appropriate environment for understanding the situation in Phnom Penh, especially in land dispute in Cambodia society. The slum relocation under the theme of city renovation is a good foundation for stepping into various systems of conflicts as a dispute system design.

Other resources would be from conducting survey and meet many local authority people, affected people and civic society members. Formal and informal ways were employed in meeting with those stakeholders to collect data for this study. In the data collection, the following categories of date are determined:

- Number of dispute occurring during the relocation process
- Type of mechanism used by involved parties
- Monitoring technique and intervention employed by third parties

Once those were identified, the data was collected from the people who are most involved in the monitoring or intervention of the disputes. Data are also collected from the local authority achieves and other related NGOs. The overall goal of this data collection was to define the different systems of conflict identified by the institution either observing or participating in them.

This methodology is chosen because it will identify the array of conflict which will be the input when diagnosing a conflict system. To acquire detailed information, there was an informal meeting a number of people within the conflict to determine types of disputes, to differentiate the formal and informal leaders, and to seek out ways in which the disputes are being handled successfully or unsuccessfully. In this stage of diagnosis, 4 samples in 9 cases were chosen in an effort to gain as comprehensive a picture of the system as time allowed.

1.6 Scope and Limitation of the Study

It is interesting to notice that the relocation and the government's land conflict resolutions will cover two-third of the basis for the thesis. Through the date gained from the survey and other document, the concept of conflict resolution through citizen participation and DSD would be proposed to apply into current slum relocation in Phnom Penh area only. However, it is expected that this concept could also be used into the nationwide, when data in other provinces prove available.

1.7 Types of conflict identified for research

It would be essentially important to identify the type of slum area in Cambodia before moving into a deeper study. While each of these slums identified conflicts specific to their socio-political situation, there were a number of common themes in the types of conflict waged in the various slums area.

Each slum area was dealing with conflict over political expression and economic. There were common types of conflict that authorities are dealing with; those include police, military police, implementation of community development projects and conflicts between slum communities

and their municipal bodies. During the process of interviewing interveners, conflict emerged as likely targets for this study.

Slum relocation conflict had been addressed in some parts of the city as the sample, making it effortless to develop a rich understanding of the common issues of these types of disputes. The most significant factor in choosing slum relocation conflict came from the amount of cases and access to a number of people who intervened in this conflict. Many characteristics of this system would match an ideal type for slum relocation conflict. Through interviewing with people involved in this conflict provided historical background, helped define conflict issues, detailed intervention attempts and guided to possible dispute resolution roles and procedures for various kinds of recurring disputes. The richness of this conflict and the attempts at intervention made slum relocation conflict an ideal foundation for this study.

Chapter 2 Literature overview

2.1 Background of Cambodia

The Kingdom of Cambodia is located in South-East Asia bordering with three neighboring countries - Thailand to the North and West, Laos to the North, and Vietnam to the East; it also borders with Siam Gulf to the South-West. Cambodia covers an area of 181,035 sq. km^2 with a current population of about 14.5 millions (national census, 2008). Nearly 84% dwell in rural areas and engage in agriculture, an important sector of the economy, contributing around 40% (national census, 2008) to the Gross Domestic Product.

Cambodia's territory consists of 1 capital city known as Phnom Penh city, 23 provinces, 26 municipalities, 159 districts, 1621 Communes, and 13827 villages, according to the law of Local administration. Khmer is a native language and officially used, followed by English, French and Chinese. In terms of religion, the majority of population (about 90%) practices Buddhism and others are Islam and Christian. The country gained fully independent from French in 1953 with pluralism democracy. Currently, His Majesty the King of the Kingdom of Cambodia is the head of state while the Royal Government led by the Prime Minister appointed by ruling party leads the country.

According to the World Bank research in 2008, 80% of the total population is dwelling in the rural area, and the percentage of landlessness has risen up to 20%. Moreover, 40% of the rural household owns less than 0.5 hectare. With the little amount of land for agriculture, many farmers are not able to cultivate and gain enough yield to hardly meet with the requirement of survival needs, let alone the good standard of living. The rural landless and land-poor are

happened mostly on the new-married-couples, because their parent fragment the farm land for them for the purpose of housing and farming (World Bank, 2008).

2.2 The Origin of Slum in Phnom Penh city

The origin of slum in the city is closely related to the historical even of the country. During the genocidal regime from 1975 to 1979, Phnom Penh citizens were evacuated to the province to work on the fields and left the entire city empty, and all the ownership and property rights were destroyed. After the collapse of this regime in 1979 by the Vietnamese forces, Land in Phnom Penh belonged to the state and people returning from the provinces and refugee camps were permitted to build house and take residence base on the first-come, first-served principle. In late 1980s and early 1990s, all existing apartments and houses were filled and the government did not take any measure to cope up with this issue. Thus, the newcomers returning from the refugee camps were allowed to dwell on the public vacant land. By the time the government privatized the land in early 1990s, most the public vacant lands had been occupied by both formal and informal residences and these people were in the position to claim the ownership rights for their residence or land.

The rural migrant from the countryside create the low-income settlements in Phnom Penh. They came to the city to seek for the economic opportunity and earn for a living. The slum population increased from the natural growth and the migrant of the relatives of the existing dwellers and the seasonal migrants move regularly in and out of city. The increasing of industrial and service sector attract the rural people to migrate to the city to make a living and live in the slum area. The slum dweller seek for any possible the employment and do anything for a living. Some may work for the garment factories, construction site and the other may be the motor taxi drivers, bulk of food peddlers, domestic servant or waste collector .etc.

2.3 Introduction to Dispute System Design

In all society system either communist or democracy, the conflict is most likely to be happened in different forms and different stories (Simmel, 1995). He observed how the *associative* and *disassociateive* perform the combination to establish the social relationship. He tried to settle the tension of conflict by moving from the individual level to the group level, showing how the characteristic of negative thing of the conflict in individual or small group can change to be positive for the social system. Moreover, he stressed that the unity as the paramount wholeness of the group covering *"the total group synthesis of persons, energies, and forms"* (1955:17). To resolve the tension between the unity and conflict for the individual and the group, society develops behaviors, norms, procedures, and institutions governing the engagement of conflicts.

2.3.1 Approach to Resolving Disputes

Besides employing the behaviors, norms, procedures and institutions to solve the conflicts, people use, in other way, power-based, rights-based or interest-based method (Ury, Brett and Goldberg, 1988). The power-based is determined by which party is stronger and/or more powerful, and it is usually the one of the costly mechanism and yet is done at less time consuming. Rights-based approach lies on the legal framework, independent standard to judge what is right or wrong and who is right or wrong. The last approach is the interest-based which seeks to adjust the needs, desires and interests of each party to the conflict. By taking the disadvantage and advantage into consideration

> *...in general, reconciling interests is less costly than determining who is right, which in turn is less costly than determining who is more powerful. This proposition does not mean that focusing on interests is invariably better than focusing on rights*

and power, but simply means that it tends to result in lower transaction costs, greater satisfaction with outcomes, less strain on the relationship, and less recurrence of disputes. (1988:15)

Since the conflict grows toward rights or power based approach, the disputant more likely involve in a more costly conflict. By applying these approaches for the conflict resolution, the disputants tend to spend the huge amount of time, emotion, money, resource, and everything in coping with the situations. In the kind of distress system, it will generate nothing more than the distraction and dissatisfaction with the solution, and it also can worsen the relationship among the involved parties and waste a lot of resources.

Figure 1: Moving from Distressed system to Effective System, by Ury, Brett, Goldberg 1993

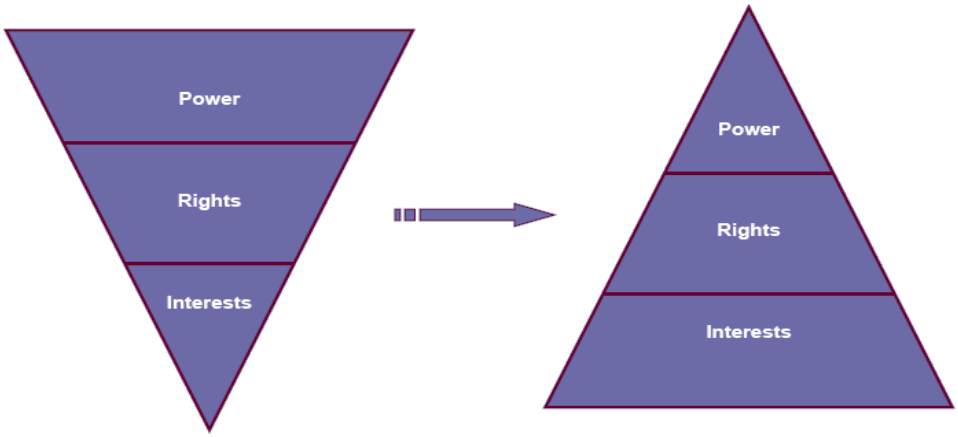


Figure 1 shows the move from a distressed system which focuses more on power and less on interests to a more effective system which put more weight on interests. This implies that the three dimensions are not to be abandoned in resolving disputes; however, giving them the right weight would result in a more effective resolution approach. First, go through reconciling interests by trying to meet the needs, concerns, desires, as well as fears of the counter party.

Later, adjudicate rights by observing some independent standard with perceived legitimacy to prove who is right or wrong, as mentioned earlier. Using the power would be the last approach in effective system, which is by using one's leverage to force or coerce someone to do something (Ury, Brett, Goldber, 1993).

The integration of the social value is compromised since the strength of conflict increases. Rather than creating cohesiveness in the system, the disputants generate more clear-cut boundaries. This action led to distrust of the effectiveness of interest-based approach. The disability of this approach in offering the effective and fair to the concerned party will result in question about the legitimacy of the system by the involved people (Coser, 1956). There are usually several problems to address, needing an array of solutions when the chronic conflict has reduced the cohesion of the system. Some strategic and smart conflict resolution technique such as agreement, moratorium and peace talk may not have any significant impact on the dispute because they do not concentrate on its root causes.

The repeated disregard of cease fires arranged by UN and other witness country in Paris Accord in 1991 to re-conciliate Cambodia is proof of this problem with strategic solutions. Alternatively, a high degree of conflict escalation may be a roadblock for the creation of strategic resolution options including forming democratic decision making bodies or establishing economic development projects because parties mistrust one another greatly.

2.3.2 Dispute System Design

The contents of the various types of conflict should be properly defined and identified for the conflict resolution approach which is costly levels of conflict. The contents can be why the conflicts take place, how they impact the resolution approaches, how they are handled and why

some conflict resolution procedures are applied and the other are abandoned. To answer all the skepticism, Dispute System Design (DSD) includes all the components of the dispute analysis and try to solve the tension between the unity and conflict for individual and group.

The Dispute System Design, shortly known as DSD, follows the systematic way toward the decision making and conflict management which concentrates on authorizing the disputants such as communities or organizations. Authorizing take place by creating the law(s), procedure(s), and institution(s) to aid decision making. Moore, et. Al (1992) defines six steps of the DSD approach:

1. Identifying types and causes of frequency occurring issues and disputes.
2. Developing and forming a number of decision making, conflict management, and resolution procedures which enable parties to use them to make decisions, which could in turn reduce the incidence of destructive forms of conflict, and assisting parties in the differences resolution.
3. Matching the disputes with the appropriate decision making, conflict management or resolution procedures.
4. Implementing efficient operations and administrative procedures to manage and track the newly created dispute handling and decision making systems.
5. Designing, developing and implementing information programs which promote the new dispute systems and educate people how the range of decision making and dispute handling processes can assist them in reaching agreement and resolving conflict.
6. Recruiting and training people to provide services needed to implement newly created systems.

However, the approaches to decision making and conflict involvement are applicable in the small scale of conflicts such as the dispute within the organization, communities and in large scale of conflicts such as regional, national. The development of the system allows the designer to integrate the local, national and regional into a comprehensive framework for the transformation of arenas of intractable conflict uncontrolled or difficult disputes. The content of the conflict may maintain the same, yet the newly formed decision making and conflict handling procedure may reconstruct the form of conflict. This empowers people through reducing high cost aspects of conflict while pushing the process of creating norms governing

the constructive engagement of conflict within the system.

2.3.3 Key elements of systems theory

To design the dispute system, the designer should make a couple of assumptions about the system. The following elements of systems theory are fundamental to this study of dispute systems design:

1. The systems under analysis are open systems.
2. The systems use negative feedback to regulate themselves and positive feedback to increase their capacity for goal attainment and adaptability.
3. The systems seek to preserve themselves.
4. They require a constant input of energy.
5. Identifiable units within a system influence one another.
6. Changing an input to a subsystem will have ramifications throughout the system (Turner, 1991).

Since the task of the dispute system designer is to determine how the above mentioned elements work and come together to establish the system under observation. The designer looks for inputs into the system and tries to understand how changes on the inputs could impact on the system. To achieve this, the designer must seek for identifiable units and study how all the units influence one another in the system. By modeling these direct, indirect, and feedback influences, it enable for forming the assumptions about the order of the systemic whole. Knowledge of these principles of systems theory is vitally important for diagnosing, designing, and implementing a dispute resolution and decision making system.

2.3.4 Principles of dispute systems design

Moore, et al. (1992), illustrates a number of key principles the designer must incorporate into any analysis of dispute systems, stated as following:

1. The DSD designer should view organizations and communities as systems.
2. The DSD should emphasize cohesiveness and interest-based approaches to dispute resolution[1].
3. When interest-based decision making approaches do not match, the systems should flexibly develop rights-based procedures with low cost in relevant to the system resource and relationship injured. Generally speaking, in the case where interest-based approaches break down, power struggles (e.g. strikes, litigation) are usually used. A systems approach intends to look for lower cost rights-based approaches (such as arbitration) so that they can maintain relations while reduce the strain on institutional resources.

[1] DSD mechanisms should seek to maximize the degree to which all parties interests are met while ensuring that fundamental rights of members of the system are protected.

4. DSD should be a tool to make sure that the problems are solved collaboratively among the involved parties. Generally, this could be done through working hand in hand toward a common idea of problem solving and decision making. A big part of doing that is to empower the parties so that they could solve the problems using their cooperative energy that could result in a stronger acceptability of the newly created mechanism for handling conflict. While this empowerment process is very important to the parties, they must also be protected from negative and unsuccessful attempts at resolving problems beyond their abilities. In these cases, the system needs to provide the possibilities for third party assistance to prevent

   conflict intractability.

5. When interest-based approach does not work, the involved parties should turn their focus on creating opportunities for them to engage in collaborative processes. An effective DSD will be the one that could create flexibility by allowing parties to step away from rights or power based approach when there are alternative way re-emerge.
6. A community's or organizations' cultural views[2] must be reflected in not only in the goal of the design but also on the process as well.
7. While acknowledging that conflicts are vital source of input for the system, it is noticeable that the prevention is powerful and important. The ultimate goal of DSD is to seek for appropriate expression, reaction, and engagement of conflict. It is possible to expect many forms of conflicts and put the right mechanism in practice to prevent conflict from happening by dealing with them before they escalate. This is said to not done to prevent the conflict, but rather to administer the form it takes.

[2] Like relationships, cooperation, competition, communication, time, and space

8. DSD should cover with many options in dealing with problems. The so-called ‘One side fits all’ cliché does not work anymore. Simply, there is no rule of thumb to how conflict should be resolved; it is diverse by the nature and characteristic of each conflict. Therefore, there should be different procedure of collaborative problem-solving and decision making. Some disputes may require third neutral parties while the other conflicts can be managed by merely the stakeholders. DSD must integrate a process of each conflict evaluating, determining what issues to

   address and which mechanism or mechanisms to use.
9. The last but not the least point is monitoring; it is very necessary for all dispute systems. It helps to ensure that the procedures and structures of the systems meet the goal that they are designed for. Since the dispute systems are integrated system, they will use the feedback to adjust or evaluate over the time frame and thus maintenance the effectiveness of the system.

Technical assistance along is not enough for dispute systems design (DSD); in developing a conflict management program it involves also the creation of participatory procedures or a third party service. To create a functioning system, the designer must determine what changes need to be made, develop a support mechanism for these changes, handle persistent to change, and motivate and train people to implement the new procedures.

2.3.5 Steps for Designing the system

The goal of the DSD process is to develop a system aiming at resolving the issues by focusing on the interests amongst the stakeholders wherever and whenever possible. In the situations where interest-based procedures cannot or should not be employed, however; the DSD process should attempt to find lower cost methods to determining who is right or who is more

powerful (Ury, et.al., 1988). The following are some common steps in designing DSD, presented by Professor Robert Bordone, at Harvard Law School, 2008:

Step 1: Conduct a conflict or stakeholder assessment

The goal of assessing the stakeholder is to identify them and their interests, to map relationship and connection between the stakeholders, and to get a picture of the conflicts. At this stage, the system designer should be able diagnose:

- What the disputes are about?

  This can be achieved by trying out the questions like: Who are the disputants? What types of disputes? How frequently do disputes occur? What is causing the disputes?…

- How are disputes handled?

  Figure out the procedure available and compare with the procedure in use; also assess the costs as well as impacts of the procedures.

- Why are disputes handled this way?

  Try to find out why they decide to resolve the disputes this way? Is it because of the lack of interest-based procedures? or lack of motivation to use them? or due to the lack of skill, resource? or is it involved with other obstacles in the organization, relationship, or larger environment?

Step 2: Ascertain system objectives and establish priorities among them

After having roughly the whole picture of the conflict through the first stage aforementioned, the designer should set out the objectives of establishing the system and list out their priorities.

Step 3: Develop the new system, working in concert with relevant stakeholders

When those objectives and priorities have been identified, one can develop the system, while keeping in mind what else are needed in order for this to be implemented successfully. This stage should not be done in isolation from the stakeholders.

Step 4: Implement the system, building in sufficient education and training along the way

When the 3 stages above have been identified and necessary resources are met which allows for the implementation of the system, capacity building among all participants should be done along the way. Sufficient education is essential for the process to go on smoothly and successfully.

In that relation, Ury, Brett, and Goldberg (1993) also mentioned similar six principles of DSD as following:

- focus on interests
- build in 'loop-backs' to negotiation
- provide low-cost rights and power backups
- build in consultation before, feedback later
- arrange procedures in a low-to-high-cost sequence
- provide the necessary motivation, skill, and resources

Step 5: Evaluate the system and modify in accord with changing the needs and objectives of the organizational or institutional stakeholders

The final stage is the evaluation of how effective the system is by focusing on transaction costs, whether the stakeholders are satisfied with the outcomes, what is the effect on the

relationship, and whether or not there is a recurrence of disputes. Following is the criteria and measurement from Costantino & Sickles-Marchant, 1996:

Table 1: Evaluation of Dispute System Design

Criteria	**Measurement**
Efficiency	Change in cost Change in time
Effectiveness	Nature of outcome Durability of resolution Effect on environment
Satisfaction	with the process with relationship with outcome

It is expected that through DSD, the outcomes produced would be fair, efficient, stable, and wise (Susskind, 1993). By fair, Susskind means perceived as legitimate in terms of both substances and process. Efficient is when the process is done with low cost and speedy; also it is in terms of substance, efficient strives for the most integrative and value-creating outcome. Stable is when compliance is high; stakeholders do not expend resources looking for another way out. The last criterion is wise. The table below summarizes the steps for designing DSD.

Table 2: Steps for designing Dispute System Design

Steps	Name	Description
1	Stakeholders' assessment	To identify and understand stakeholders and their interests
2	Ascertain objectives and priorities	To identify the objectives of the system and establish their priorities
3	Develop the system	Develop the system and working with relevant stakeholders
4	Implement the system	Implementation while focusing also on training the participants
5	Evaluating the system	Evaluate and modify the system

2.4 The theoretical framework for dispute systems design

To elaborate the theoretical framework for DSD, the combination of foundation of micro-foundation (Collins's 1981) and Ury's (et.al, 1988) theory on dispute system design. The objective for this combination is to utilize the concept of Colling to re-create social structure within the system conflict by understanding the communication across space, time and number of people. This section will address the following questions:

- How do negative situations reproduce themselves in a system of conflict?
- How does dispute system design reduce costly forms of conflict?
- In a chronic conflict, destructive conflict, how does the DSD process create?

2.4.1 How negative situation reproduce themselves

The Pomerants's approach is on the speech exchange in normal conflict which gives insight into what happens during the disputes communication and how the dispute situations reproduce themselves. In the small situation, the opposite ideas or thought are applied to other disputants.

The opposite thoughts need the reaction from the other parties or participants in the form of response such as a denial or non-preferred response such as an account, an admission of guilt, or delay in response (Pomerantz, 1984:64).

Generally, the participants should operate on a principle of a common willingness for agreement. However, in disputes, allegations work reversely because preference for agreement with the accuser would accuse of committing guilt, causing a loss face to the other parties. In addition, accusations often help to develop counter-accusations which put the accuser in a position of either responding with a denial or losing face. Once a dispute has commenced, the potential communicational disincentives (i.e. some form of self-degradation) for breaking the cycle of oppositional utterances, become the motivation for continuation of the conflict communication (Garcia, 1991:822).

If the parties do not want to identify reference points of mutual gain and understanding, they will get into the situation of having opposite or contradict ideas or views. In the sense of disputes, the communication with the opposite views, there are possibilities for conflict escalation. When it occurs, a number of dynamics will be emerged:

- Specific problems are replaced by more general ideological differences.
- The increasing a number of issues, resources, or people involved in conflict.
- Initial disagreement over issues transforms into opposition or personal attacks.
- Disputing tactics move from low to high cost, creating.
- Facts of the dispute are distorted in an effort to gain power in the communication (Wehr, 1979; Garcia, 1991:828).

Failure to solve the dispute with the interest-base approach, the conflict may escalate. When conflict escalates, disputing parties move to other approach which try to determine who is right or who is more powerful by focusing on rights-based and power-based, respectively. These approaches will incur with high cost such as transaction costs, relationship costs, administrative cost and dispute recurrence, while decreasing satisfaction with dispute outcomes (Ury, et.al., 1988).

An individual's activities to challenge the conflict will lean on that person's position in the community or society. For parties who is in the inferior or subordinate position in the dispute will create inferiors feeling in their emotional strength which will make them less confidence in further communication to solve the conflict (Collins, 1981:1002).

2.4.2 How dispute systems design reduces costly conflict forms

In the series of conflicts, the goal of having a common truce is often surrendered. If peaceful talks are unsuccessful, the participants experience a lost in emotional energy. This affects future communications through its negative impact on the individuals in terms of self-confidence and social warmth (Collins, 1981:1003). When conflict takes long time to be solved, the involved parties may apply the dispute resolution approaches or techniques which are ineffectual and frustrating. This frequently happens when parties want to use the procedure which does not match for a certain type of conflict. For example, in 1991 Paris Agreement[3] was to end the functional fighting in Cambodia. The parties are involved in the peacemaking exercises such as mediation or facilitation, but the rows between the disputants have not stopped. It may prove to be very challenging to keep every party at the negotiation table. However, there is no magical mechanism or single method to deal with all types of conflict. Therefore, the dispute system

[3] Detail the meaning of that agreement

designer must identify which procedure is most appropriate and under what circumstances they should be applied (Moore, et. al. 1992). By understanding the matching the type of disputes with resolution approach, the disputes system designers should increase the chance for successful negotiation. It can be done through increasing the psychological strength and trust building which enhance the future success.

The skilled manipulation of group conflict management and resolution procedure can support the participants and helps them to have a common definition of the situation. The senses of solidarity will speed up the process of conflict resolution and gain the confidence of involved parity to resolve their differences. Since these conflict communication chains are carried over space, time and number of people, the parties that develop among those share the common definition of conflict, which create inter-group solidarity, allowing the chance to alleviate the nature of conflict escalation.

However, when the involved parties cannot and/or should not employ the interest-based procedures, the system itself should be guided to the low-cost alternative such as arbitration, mediation and facilitation. In general, the alternatives are less costly then legal system and produce less negative effects to the involved parties' relationship. If the power-based cannot be avoided, the system could promote the use of local authority of non-violent direct action campaigns. By having an agreement on the means of displaying power, it becomes a solid and proof document for the stakeholders. Violation is perceived as a lack of respect for the group.

2.4.3 How dispute systems design creates in chronic and/or destructive conflict

When the DSD produce procedure, roles, and institutions that the members can employ to make decision on managing and resolving conflict successfully, those procedures, roles, and

institutions will become the nexuses of the newly emerging mechanism or social structures within the system network. The successful exchanges would lead to the increased psychological strength that would in turn result in greater confidence in future communication, implying the legitimacy of the components of the dispute systems design (Collins, 1981). As the legitimacy of the system increases its correctness, it is likely that people will increasingly seek that alternative for a given situation, making the structure more and more macro.

Naturally, however, in a rapid growth of conflict escalation, the internal solidarity is low with little room for disagreement (Coser, 1956). The need to adjust polarized parties is one of the main functions provided by the procedures, roles and institutions developed by the dispute systems design. To understand how the DSD creates the social structures, Simmel's (1955) examines how individual is defined by the intersection of group connection. First, as the stakeholders have the structure that helps them to deal with their differences, they bring with them their group network or connection. Also, if the ensuing communication provides the emotional strength improvement and strengthens the bond among the stakeholders, there is the possibility to erode the wall of intra-group solidarity. When the individual is a personification of a group affiliation, the group can be considered as in a similar manner. The group then takes form out of its linkages to certain groups and its detachment from others. The procedures, roles and institutions promoted by DSD help create linkages amongst groups through the provision of articulation that is designed to empower the stakeholders to converse about conflict issues by redefining conflict situations as beneficial to all stakeholders. The more frequent the point of articulation, the more they imbed into the group linkages of affiliations.

An example of this comes from the Slum Relocation in Phnom Penh which will be discussed in greater detail in Chapter 3. What happened was that a number of Slums were involved in a

series of destructive interaction lasting a few years. Finally, a third-party or local authority was able to successfully intervene and make up a forum which permitted these slums to have opportunity to talk with one another and among the stakeholders. The Forum communications allowed them to be able to negotiate form a series of group identity, and the creation of unified relocation. This resulted in new group conformity, which is one example of how the DSD process can create new group affiliations which modify group agreement within the system.

From small to larger scale, DSD influences the system of conflict. At the small scale, DSD prescribes roles, procedures, and mechanisms that allow people to make decisions or manage and resolve destructive forms of conflict. At the large scale, DSD modifies societal structures by providing connection points to empower groups to resolve or manage their differences. When that is successful, the connection of the system works to join and promote groups by developing crosscutting ties to groups and individuals seen to be the enemy.

Therefore, it is done by focusing on less costly forms of decision making and conflict resolution approach which consider ate the relationship as important rather than who is right or who is more powerful. It is through this process that dispute systems design uses the trust relationship to re-establish group solidarity and membership in systems that have been torn apart by chronic conflict.

2.5 The Concept of Deliberation

According to Lukensmeyer (2003), the United State government has called this concept as “A basic principle of Western democratic traditions,” meaning to place the citizens closer to the government affairs or decision making. This action will strengthen democracy, stability and transparency. Deliberation is also an approach to the decision making in which people join together to look for ways to cope with and solve the community issues (Mathews and McAffe,

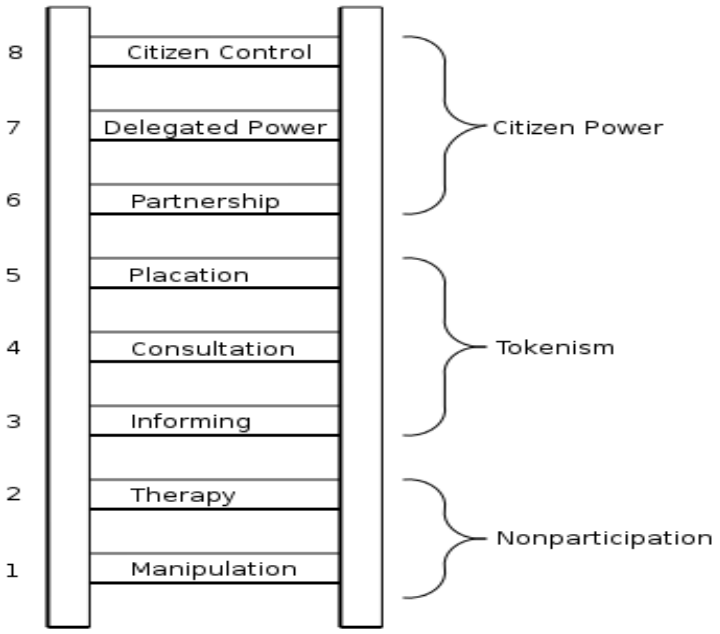
2002). During the deliberation process, the participants will consider the facts from multiple points of view, discuss and think very critical prior to their implementation. The processes of group reflection are used to enhance the public judgment as to the best course of action (Lukensmeyer, 2003). In short, the deliberation is the process to weigh the costs and benefits for various options before implementation of each option (Mathews and McAffe, 2002).

However, Lukensmeyer (2003) defines that the deliberation is different from the traditional forms of public participation. It is very useful to study the common tool for public participation in policy-making which is public hearing in order to understand the point of view. Public hearings are designed to facilitate the information exchange between the experts, policy-makers, authorities and citizens in the affected community. In general, the objectives are to get the fact and the public comments on policy draft. There is not enough opportunity to come to a general understanding of the complex policy since the public hearing arouse a little communication or dialogue, failing to facilitate the citizens' engagement. Nevertheless, the deliberation boosts the reflection and understanding more and more about the issues before citizens make their comments on the policy draft.

Empowerment and deliberation as well as participation imply the power sharing (Lukenesweyer, 2003). Therefore, as some scholars and researchers argue that understanding the concept of deliberation is the powerful tool for effective participation in community planning. As in the classic article of Sherry Arnstein (1969) in her 'A Ladder of Citizen Participation', she wrote that *"participation of the governed in their government is the cornerstone of democracy."* This provides the power for the citizens to be included in the process of politics and economy; thus the participation in the community planning is very critical for the livelihoods of the people.

After she explored many issues and factors in citizens participation in the community or country program such as Urban renewal, anti-poverty and model cities, she found out that generally the citizens were kept behind or uninformed about the planning process. As in her theory, Arnstein prescribes a model or step of citizen participation which is called “A Ladder of Citizens Participation” in order to encourage more communication between the involved stakeholders or parties such as local citizens, planner, professional and other involved parties who are affected and engaged by the program or planning. She established the ladder of participation by characterizing the eight steps based on the actual decision making power—from less participation approach to more participation approach of the community. Each step indicates a legitimate effort to offer the participation opportunity to the community. This concept is used of as the road map in both practice and theory for participation process in the community in the United State since the 1960s.

<u>Figure 2:</u> Eight rungs on the ladder of citizens participation by Sherry R. Arnstein:1969



The bottom of the ladder which is (1) manipulation and (2) therapy describe level of non-participation; this usually employed by power holder to manipulate the participants. Rungs (3) and (4), informing and consultation respectively, progress to the level of ‘tokenism’, allow the have-nots to hear and have a voice. However, the participants lack the power to ensure that their opinions and inputs will be heeded by the powerful. Rung (5) placation is merely a higher level of ‘tokenism’ because it allows the have-nots to advise, but retain for the power holders the continued right to decide. Above these are the levels of citizen power with increasing degree of decision-making clout. Rung (6) of partnership enables them to negotiate and trade-offs with traditional power holders. Rung (7) Delegated power and (8) citizen control, as the terms apply, the citizens obtain the majority decisions-making seats, or fully managerial power. To sum up, this ladder help to illustrate the point that many people have missed, which are significant gradation of citizen participation. Knowing these makes it possible to go into deeper insight of the increasing demands for participation from the have-nots as well as the ranges of confusing responses from the power holders.

Chapter 3: Slum Relocation Conflict in Cambodia

3.1 Introduction

For the last couple years, the land dispute cases have dramatically increased all over the country, thus these disputes have been the critical issue for the Cambodia at the present. For instance, 173 cases have happened in 2008 and most of the cases occurred within the area of rapid economic growth and development project. However, the majorities of the disputes have been occurred for long time ago, but only a few have been solved (NGO Forum, 2009).

Increasing in land price, insufficient of disputes resolution mechanism, lack of knowledge of legal and government land policy, lack of authorities capacity building, involved in corruption are the elements of land dispute in Cambodia. So far, most of land disputes are taken place in some areas including state land, forest, no clear ownership and slum area. In response, the Government has tried the approaches to solve the Dispute peacefully such as the establishment of National Authority for Resolution of Land Dispute (NARLD), local authority. Many NGOs and development partners tried out some mechanisms such as compensation policy, but the result seems not significantly change or provides a satisfaction outcome for all stakeholders.

3.2 Land Dispute Overview in Phnom Penh

The city government acts as the real institutional in the city, simplifies the development plan and take several legal action to implement its plan. As the first step, the city government proclaims the development planning which requires displacing the slum communities to rural urban. This further led to turn those areas into business centers, office buildings, other infrastructure, and renovation of social structure.

The partner for relocation of urban poor in Phnom Penh for the selected cases are local tycoons whose purposes are to turn those areas into the business centers, residents, shopping malls and office buildings with the cooperation of foreign businessmen or company. For instance, the Shukaku Co. Ltd is the joint venture between local tycoons and foreign partners to develop the Beoung Kak area.

For the relocation process, the local authority acts as the moderator or bridge between the real estate developers and local people. The authorities try their best to coordinate to peacefully relocate the slum people. After the developing area has been announced, the local authority starts to work closely with the affected local people to prepare the legal procedure to relocate the voluntary families to other places. The number of families relocated by selected locations developed by various developers is presented in the Annex 1.1. It is evident from that table that the scope of relocation is pretty large for last decades. Even though majority of people accepted eviction, still there were some rejected and were evacuated, eventually, by force; some were injured, and some were imprisoned.

From 2006 to 2009 under themes of urban development or beautification, the Capital of Phnom Penh has relocated thousands of urban poor families to the new-far areas where some loss their income generation and source of employment and gain high possibility of dropping from school, high commuting cost to the downtown. The process has been viewed as unfair, violation of human right and corruption by many civic societies. For example, the affected families at Sambok Cap[4] were moved to Andong, 2 kilo meters from the central city. For those who persisted to stay in their location, where the development is targeted, were usually forced to move out by the court decision and operated by local authority and police (LICADHO, 2009).

[4] Sambok Chap is the name of urban poor communities or slum area in the central of capital

However, each relocated location was informed by the local authority to the affected poor communities through workshops, group meetings which were conducted by the local authority. The purpose of the information is to notify the affected families to prepare themselves to accept the offer by the developer or negotiate with the authority in case they do not satisfy with the offering package. Moreover, during such a public hearing, the slum people were also informed about the preparation of the legal document as prove for their status, because difference status will get different offer. As the principle, only the families which are recognized by the local authorities as the local resident will be legitimate to be offered the compensation as prescribe by the agreement.

Regarding the relocation, the local authority with the economical support from the developers provides couple of options (i) financial compensation (ii) replacement flat or land, (iii) any other type of compensation depending on the negotiation outcomes between the stakeholders—authority and local people. More often than another, there is almost no negotiation between the developer and the local people. Also, although compensation system is one of options for the fairness in relocation, there is no specific guideline or policy to protect conflict escalation. We can observe that each relocation case had encountered with the force or conflicts which led to the loss of private property, wasting the government forces, and detaining people.

To some families, they accepted the compensation policy and voluntarily moved out to the new place or to somewhere upon the agreement. For other families who persisted to stay and had high bargaining position which demands more compensation might end up with the force to relocate and received no compensation. To move the rest of the persistence families, the local authority applied the decisive force which is considered the speedy resolution and no further negotiation is made. For example, the relocation case in 2006 at Monivong Hopistal Poor

Communities relocated 168 families to Ang Snoul site, 30 km from Phnom Penh city. During the relocation activities, three women were hospitalized; one pregnant woman was injured by the electronic baton[5] of the police.

There are two remarkably relocation processes as an overall. One is voluntary relocation and the other is forced relocation. First of all, the local authority deals with the families who are voluntarily and willing to move out of the area upon agreement on one of the above compensation options. The voluntary families get a lot of support from the local authority such as transportation to the new site, construction tool and household equipment. The second one is government is trying to negotiate with some persistence families by setting the target to move otherwise the local authority will use force to move out. As the consequence, the property of those families would be damaged and a lot more negative consequences.

The cases show the experience that people does not have enough tools or means to negotiate; thus they have to leave the site and accept the offered options rather than having their belonging damaged when the local authority applies their forced administrative procedure. Say Ouk, 60, who moved to the new Trapaing Anchanh relocation site in Dangkor district on July 15, 2009, said she did so in response to the threats from the authorities, which she would lose everything if she tried to stay. "I was forced to move out because I was afraid that I would have nothing, not even one riel," she said[6].

The relocation which carried out in the past years has left many unadoptable experiences for the future relocation such as (i) ignoring the baseline information on land price; (ii) insufficient relocation planning; (iii) insufficient of consultation and participation for local people; (iv)

[5] LICADHO Report in 2009
[6] From Newspaper Evictees criticize new site

compensation budget is uncompensable; (v) insufficient expertise in relocation and institutional capacity.

3.3 Land Dispute Cases in Phnom Penh

Following will be some examples of the relocation conflicts happened in Phnom Penh city. The selected relocation includes Sambok Chap community, Boeung Kak lake, and Dey Krahorm, the most famous relocation occurrences in Phnom Penh, the capital of Camboodia.

3.3.1 Sambok Chap Community, Tonle Bassac, Phnom Penh

Following with two unidentified fired in 2001 and 2002, the slum area which is located in the heart of Phnom Penh capital and close to National Assembly, Ministry of Foreign Affairs and International Corporation known as Sambok Chap[7] Community in which 3000 families were forced to evict to the new far area, 20 kilometers from the capital. With unplanned relocation and inappropriate mechanism, those people returned back to Sambok Chap and resettle. Despite a failure to issue the ownership of the land to the residents who began to occupy the site since early 1990s, one private company, Sour Srun[8], claimed to be the owner of the land of that community. As a result, more than 1,500 families were forced to move from their community on May 3, 2006.

The Authorities implemented the security force equipped with guns and electronic batons. With the support from NGOs and as the requested by the affected family, the negotiation and discussion about the relocation process and plan were frequently refused by the Municipally of Phnom Penh. Unfortunately, on 31 of May 2006, one pregnant woman was severely injured by the security force and the private company's fence was damaged.

[7] Bird nest
[8] This name is in Khmer language.

3.3.2 Boeung Kak Lake, Phnom Penh

Beoung kak is a large lake in north-central Phnom Penh capital. People began settling around the lake in the 1980s and by 2007, it was home to more than 4,000 families. This lake is also the source of living for those people.

In February 2007, the municipality signed a 99-year agreement to lease this lake and its surrounded areas to one local business developer in an amount of USD 79 million (Land and Housing Working Group, 2009). The is lease contract completely against the Land law which states that State public property, including lakes that have inherent public value; and thus cannot be leased for more than 15 years and cannot be destroyed by the beneficiary of the lease[9]. In direct contravention of this provision, the company began filling in the lake on August 26, 2008 and apparently plans to develop a new "satellite city" with private housings, stores and office buildings in the area. No precise development plan has ever been released, and no public meetings have been convened with the affected communities to discuss the major development project in the heart of Phnom Penh.

This development is more likely to lead to the forced eviction of more than 20,000 people and arouse the conflict between the affected families and authority. The affected families are presented with two options which are cash compensation of USD 8,500 or a house located far from site with additional compensation of USD 500. Unfortunately both options were far below the market value and did not provide the sufficient and satisfied compensation to the affected families (Land and Housing Working Group, 2009).

[9] Land law 2001, Articles 15,16 and 17; Sub-degree on Rules and Procedures on Reclassification of Sate Public properties and public entities.

3.3.4 Dey Krahorm, Tonle Bassac, Phnom Penh

More than 400 of persistence families of Dey Krahorm community were forcibly evicted from their home on January 2009 (Land and Housing Working Group, 2009). This slum area was mentioned by Cambodia in its November 2008 state report to the committee, as a positive example of the Government's commitment to upgrading urban poor who is the slum people and ensuring their tenure security (Land and Housing Working Group, 2009).

Moreover, in 2003 this slum area was one of the four Phnom Penh slum areas to be granted a social land concession over their land and assisted for onsite development by the government. However, in 2005, a few community residents acted as the representative of this slum to sign the contract with a private company without the acknowledgment from the other residents. The agreement was to swap the land in return for an apartment at a relocation site 20km away. As soon as the other innocent residents found out about the contract, 800 families filed complaint for the contract to be null and void.

While the complaint is hold at the court, the private company backed by the Phnom Penh Municipality mounted a campaign of violence and intimidation against residents to persuade them to move out of their houses (LICADHO, 2009). One among the many strategies was raising unsubstantiated criminal charges against the newly-elected representative.

In January 2009, prior to the forced eviction, approximately 150 families with possession rights continued to refuse to relocate to new location without a fair compensation. These families attempt to engage in negotiation with the company and municipality for a better compensation. On January, however, the authority unilaterally broke off the negotiations and forcibly evicted

the slum. In the drawn of the morning, approximately 300 armed police and military police, equipped with tear gas, rubber bullets, and water cannon, moved into the community and lead to clash between the authority and slum dwellers. The clash results in loss of both side (Land and Housing Working Group, 2009).

3.4 Actors in Land Dispute Resolution Implementation

There are generally the actors that are employed to govern the land dispute resolution: local authority, juridical mechanisms and cadastral commission. The land dispute resolution process in Phnom Penh often involves both informal and formal mechanisms being employed simultaneously.

3.4.1 Local Authorities

In some respects, the village and/or commune chiefs act as a bridge between informal mechanisms of social enforcement and the more formalized state structure. These leaders usually use local customs and traditions to solve disputes within their authorized boundary and simultaneously standing on behalf of the legal authority of the government. It is at this level that decisions and actions of local leaders in their capacity as government authorities acquire the legitimacy of legal force, even though the procedures they may employ might not be technically legal. This is thus one source of complication of law governing land rights and the stage at which the distrust of the system is occurred. At the same time, villagers often show greater distrust officials at the provincial level, who, according to the villagers, had no understanding of the local situation. The villagers also expressed concern that the outsiders of the community who appeal to legal procedures, enjoy greater access to formal legal processes, much to villagers' or local

people's disadvantage. In short, mostly there is a lack of trust on the local authority from the point of view of local citizens.

3.4.2 Municipal Courts

Since early 1990s, and the beginning of more land disputes in the wake of the 1989 land distribution, the disputants have increasingly employed the provincial courts as a means to resolve the land conflicts. Most of these conflicts have involved boundary disputes, overlapping claims, and inheritance. In particular, cases that could not be resolved between neighbors, with or without the intervention by local authorities, have been pushed up to provincial courts. For instance, according to the court officials, most cases they hear involve disputes between individuals. The courts are expected to decide cases based on the relevant laws governing use. In this sense, the courts will make judgments regarding who is wrong and who is right. Also, land conflict regarding the relocation of slum area located in the state land and is decided to be developed would also eventually resolved to municipal courts, if compensation and negotiation could not be satisfied by the stakeholders.

In that regards, there are sometime questions about the neutrality of this system. There are citizens who could not fully trust and thus rely on the court system in Cambodia, claiming that even this legitimate system could be corrupted and thus produces unfair judgments. Even though this might be true to only a slim extent, there is a huge lack of trust from the citizens toward this system.

3.5 Existing Mechanism Analysis

The involved authorities as well as the developer arrange many meeting with the affected community and conduct the public hearings with the residents and/or resident

representatives at the site and local authority office, yet there are no significant results or understanding outcome. However, they mostly end up with the physical collision, property damaged, forced eviction and emotional suffering. As the result of the usage of power based, the relationship between the government and the affected citizens is destroyed and thus become tense. To identify the dispute resolution system in more a practical way, following part will go into detail procedures.

3.5.1 Available Procedure

Phnom Penh Municipality does not have any proper procedure or any citizen participation mechanism to deal with slum relocation conflict and establish the development plan, respectively. In 2009, the government proposed the bill and approved by the parliament to allow government to seize any public lands which are considered illegally occupied by the people[10] and pay the compensation below the market rate by the government. The new law known as "Expropriation Law" prescribes the procedure to allow the government to have privilege to develop any public land. In other words, the feature of this law is that the law will secure the government's rights to seize the land with the provided compensation even it does not meet the demand of the affected family.

3.5.2 Motivation

For the efficiency and effectiveness of dispute resolution in relocation, the city government officers and local citizens should be offered with motivation to encourage them to engage in an interest-based negotiation rather than rights or power-based. At the first look of the decentralization system which has been applied to the local community, it may imply that local

[10] To classify the legal or illegal occupant, only the legal document can prove. Yet for those people have some trouble to get the legal document

people can participate in the process and engage in their community activities and program in relation to the government officer decision on development planning process. However, in practice, the government officers do not offer any incentives, for example opportunity to express the needs and to participate, to local residents, especially local districts and communes who are suppose to implement the relocation plan according to the capital government's decision.

First of all, only after the slum location were selected and transferred to be ownership of the property developer, then the capital governor orders the district and commune officers to negotiate with designated slum residents regarding the compensation issues. The development decision leasing the slum's land to the property developer is already made and then the controversial issues are merely the kind of compensation the slum people could accept and how much they want. However, angry citizens, who do not acknowledge the decision, find it hard to be satisfied with offered compensation, are regardless as legitimate families to obtain the compensation; and thus do not have any motivation to talk with the authorities due to the perception as a powerless when the decision is already made and approved. If they were provided the chance to go into the development and decision process, they would have some incentives to negotiate more on their interests and needs rather than position. But the point is that they do not have any rights to modify or regulate the decision.

The more problematic is that the affected residents who support the ruling party are more likely to have better and first offered, because they may have secrete negotiations to offer them better than those who oppose to the ruling party. In that sense, the number of voluntary families who move out cannot be the representative for the whole community to show that the offered is a fair compensation. If the government can affect the number of affected slum families who support the government to accept the offered compensation, they have an incentive to deal with

those families with the compensation. But the angry and persistence families tend to organize or ask for NGOs help to block the relocation implementation. What is worse from this situation is that the disputes have been escalated between the non-supportive government, affected group, and the local authority. On the local authority side, there is more incentive to displace persistence families out of the area as soon as possible. The incentive can come from the property developer in the monetary term or promotion in the government.

3.5.3 Skill

For non-support relocation family representatives, once they are selected to negotiate with the capital government, they tend to find the support from the outsiders such as opposition party, legal and advocacy group and other interested party with much experience and knowledge in terms of legal framework and fighting with the government decision. Their negotiation approaches are far from the interest-based negotiation and focus more on demanding to have a higher compensation. Moreover; the interference of opposing party is the less preferable by the city government which is the ruling party side. Both the city government officers and affected family representatives have insufficient negotiation skills, knowledge, and experience, so they tend to fall into position bargaining and creating greater ZOPA (Zone of Possible Agreement).

3.5.4 Resource

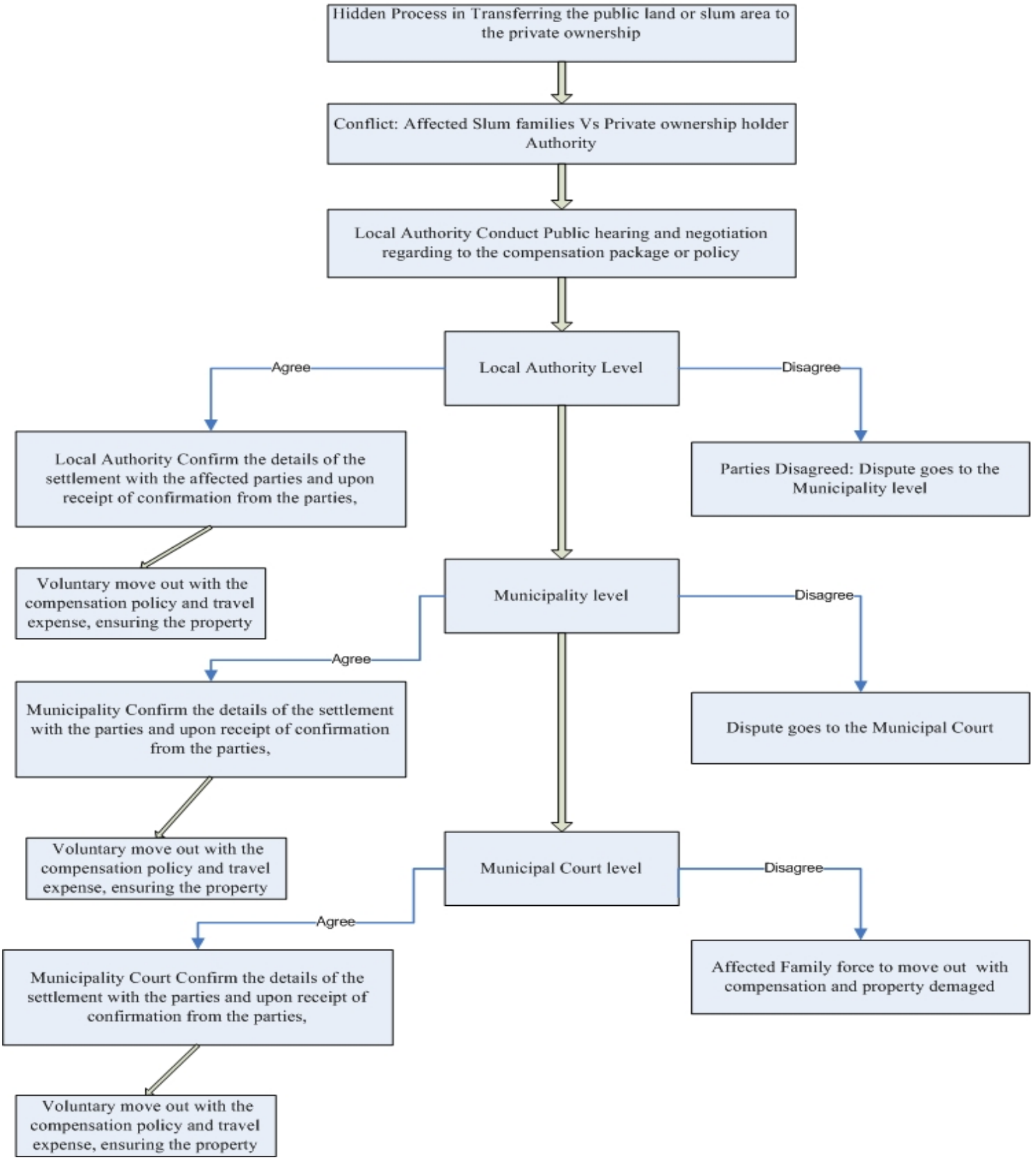
So far, all the relocation cases happened in Phnom Penh city showed that the outside resources such as neutral facilitators, mediator or conflict assessors were not employed, because they have difficulty in finding the third neutral party who can be accepted by them. There was a lack of trust on the third party and particularly who could be suitable to be their third party and

thus acceptable by all stakeholders. Generally, they fear that the third party may even slow down the process, make the situation even worse and result in unfair judgment.

In short, there is a hidden process in transferring the slum area to the private ownership and most cases of relocation create various conflicts and problems. The decision of land transfer is made unknown and only announce to the residents when the development is about to happen in a workshop or public hearing, leaving it the shocking news to the residents, a key stakeholders in the process. Once it is announced, the local authority will start the relocation process, with very small compensation to the residents and usually move them to further place, leaving them problems of access to many infrastructures. For those who are resistant to move out, their case will be sent to an upper level-municipality. Their negotiation with the resident is also enclosed; and when it results in disagreement, the case will be sent out further to the municipal court level. If this stage leads to an agreement, the municipality court confirms the details of the settlements with parties and upon receipt of confirmation from the parties. In contrast, if that still produce no agreement, then the affected family will be forced to move out with little compensation, property damage, and in the worse case, violence could also happen and some affected residents were put in jail.

This lack of motivation, skills, participation and appropriate procedure in relocating has resulted in not only the resistant of the residents but also lead to public complaints and the decreasing of trust on the government. The figure below illustrates further details on how most relocation in Phnom Penh city have been made.

Figure 3: Process of Existing Mechanism in Land Relocation Disputes in Cambodia



3.6 Lack of Citizen Participation

With all the efforts of the city government and compensation for the each affected family, it is frustrated to face the problem of inefficient mechanism of the relocation in the capital which resulted in many consequences, and also worsening the trust between the city government and the local people, creating the criticisms on the plan, the government and the policies.

3.6.1 Failure to Create Awareness

The city government does not successfully create the local citizen awareness regarding to its relocation policies and development plan due to the sensitivity of land and housing issues of the public especially the affected poor. Not until the relocation is about to take place, the local citizen realize about the plan. They don't even know much about the costs and benefits rejecting or accepting the city government offer. However, this can be one of main causes why some families resist displacing as they perceive their properties are being taken away or sold by the government. In addition, the previous relocation matters make them feel that the city government or the state government colludes with the property developer to sell or lease their land by compensating them in low and thus unfair price; therefore they still stick to their own position not to leave as long as the compensation is not equal or lower than the market price.

3.6.2 Non-alignment of interests

The absence of the concrete communication between the city government and the local citizens slow down the relocation process and produce inefficient and ineffective results, as the rows arise when the city government announces the plan to be implemented with ultimatum, when the citizens get to know about this shocking news for the first time when almost everything is about to be implemented. This has become the common issue in the relocation program when the city government announces to relocate one slum area in the capital for development purpose

facing the citizens and the civic societies' criticism on the city government decision-making procedure. It is also the main point that the city government and affected citizen have different interests leading to opposite point of view.

3.6.3 Decision-Making in the Absence of Citizens

The public participatory in policy planning and decision making has not been taken into consideration and practiced by the city government regarding the slum area development plan. This system has caused the angry public to criticize the government since the city government has acted as the only player in the capital without acknowledging the local people, who is also one key stakeholder. Without understanding the scenario, it is less probable to come up with effective solution or mechanism for the slum relocation conflict resolution. In the aspect, the implemented relocation has been criticized by public opinions.

Chapter 4 Policy Recommendation

The following will be about the application of Dispute System Design into the relocation conflicts in Cambodia, particularly Phnom Penh city, creating an alternative mechanism to resolve the conflicts which would produce a better result.

4.1 Application of Dispute System Design

The application of Dispute System Design process will be applied to the Slum relocations conflict in Phnom Penh. It intends to develop the systematic solution for a repeated or same type of conflict by establishing the mechanisms which enable the stakeholders to jointly solve the repeated type of conflicts, and seek the ways to focus on mutual gains forms of decision making. Therefore, this approach should focus on the following aspects to determine the readiness of the system of conflicts:

- The involved parties must recognize that the current mechanisms are more costly than the DSD. Affected people gather to protest and demonstrate against the government decision and action. The government employs force as the mean to solve the conflicts. The cost refers to the outcome of the solution: satisfaction, transaction cost, level of relationship and repetitiveness of the conflict and effectiveness of the mechanism.
- The approaches and usages of interests, rights and power-based are the means to keep the involved parties in the boundary of non-violent conflict resolution.
- The proper time for applying the DSD should be when there is a sign of conflict escalation or costly crisis. When there is possibility, the government should employ such participation in an earlier stage, before the decision is publicly announced.

- There are enough resources in both human and financial, which can used to implement the approach and train people to use it (Moore, et.al.,1992).

Moore (Ibid.) describes seven stages of dispute systems design:

1. Entering into the system.
2. Team formation and intervention plan.
3. Conflict system analysis.
4. Design process.
5. Developing support for the new system.
6. Implementation of design process.
7. Operating the new system.

The DSD approach will be a comprehensive method to a shared decision-making and dispute management which adjust to each region or community and it permits the designers to create interfaces to initiate the harmony.

4.1.1 Entering into the system

According to the Moore (1992), the first phase must be performed as the following:

- To understand whether there are the possibilities which lead to the conflict escalation or crisis or recurring the conflict.
- Determining the group who need the support or intervention and explain the process to them.
- Conducting the preliminary interview with involved parties.
- Defining the scope, procedure and goals of the system.
- Starting to develop the system.

In this phase the trust building must be developed. First the requesting parties must trust the capacity, abilities and neutralities of the designers. Finally, the designer must encourage and persuade the stakeholders, especially the affected family to trust on the efficiency, effectiveness and fairness as a result of the DSD.

As it was found out the in the conflict of slum relocations, there were a high level of mistrust between the involved parties due to the use of either right or power based or both of these approaches in dealing with or analyzing the conflict in the past experiences and also have often unsuccessful in attempting to coordinate the parties publicly. On top of that, in the multiple-parties conflicts, political position can hamper the progress of the negotiation because the leaders of each party which is influenced by the political interests have influenced over and manipulated the group member of community, for their political purposes. It is hard to distinguish which participant is joining upon political reasons; which is why assessing the stakeholders which is the first step in designing the systems is crucial. Coaching parties to make a good-faith behavior to the others may be perceived as an opposite view by group member who are not at the negotiation table.

In the slum relocation dispute, the action which broke the deadlock should be requested by one of the involved parties or both for a confidential meeting with the third parties whom they consider neutral such as Arbitration office or independent third parties. The third party should conduct a number of secret interviews with the affected parties to develop a picture of the conflict to effectively contribute to the process. By allowing the parties to experience exchanging the good thought behaviors, the meeting may develop the trust while reducing the need to perform any inconvenience actions which may break their fragile relationship.

In most slum relocation disputes, there is always a history of intervention whose structures are benefited for the designer to open a door of intervention. Much of the intervention preceding dispute systems design work is either police/military presence or monitoring of the violence. Using these structures or approach, as well as any local human rights or peace committee or slum committee, enable the designers to get access to people who are aware of the conflict and can help to them determine the scope of the intervention. These people should also be motivated for joining up commitment from the parties to the process of dispute systems design.

4.1.2 Team formation and intervention plan

The second phase of the DSD deals with the establishing the team work and setting the goals, tasks and schedule of the process (Moore, et. al., 1992). It is the most difficult of the dynamic and volatile the nature of the conflict. During the stage of entering the systems to conflict, the DSD designer should understand who the primary parties, formal and informal leaders, and stakeholders are.

In the process of the team work formation, it is very important to include the people from different entity or organization and levels within organization to develop legitimacy of the system of the conflict, because the democratic process in Cambodia has undermined in many ways, formal leaders may not always have theirs legitimate power. Thus, it is critical to insure that all identified and involved parties agree that they are well represented. The task of creating this representative team is to start with the team member selection. In order to pursue the tasks, it is also necessary to prescribe the roles of the team, communication procedures and guidelines, and determine the decision making process (Collins, 1981).

Within the small group of communication, the team becomes the symbols of this emerging group (Collins, 1981). For this reason, the team must model the values, roles and procedures for the conflict system. This process embeds these arising group symbols into the implementation of the design, showing disputants how to identify common-ground. For example, if the participatory democracy is considered as the common goal, the newly formed team needs to model this concept for two concrete purposes. First, it gives them the chance to use the skills (e.g. group facilitation) necessary to create a democratic body. Second, this, in turn, helps them spread these skills and their importance to members of the conflict system.

Once the procedural issues and team work are agreed upon, the team must focus on how to disclose, what to address and need to be known about the conflict, and who can provide that information. The situation of slum relocation conflict makes this a challenging task. Conducting the meeting with the appropriate shareholders, formal and informal leaders at the beginning of the process is challenging due to the fact that at the root of the slum relocation conflict, there are interests involving many groups including slum dwellers, local authority, local politicians, and businessmen. Therefore, the establishing of any workshop or forum for discussing potential issues and solutions should be encompassed the issue of identifying and including people or groups who have a large enough stake in the conflict so that they can push up the successful implementation of any plan for regulation or resolution. The provisions for including arising leaders and stakeholders throughout the intervention and subsequent implementation of any conflict regulating mechanisms are a necessary part of this phase. While sustainability of this team is vital to the process, the designer must prepare for the addition or removal of participants (Collins, 1981).

To be more well represented and develop legitimacy in the process, the team should be will established by including all members from all affected communities and parties involved in the conflict. For example, Slum association leader may feel that they speak for both the individual affected household and the entire affected community. However, there may be reasons for including the representative from each subgroup within the slum association or communities so that concerned important to the slum people or affected people will not be swapped away in favor of concerned more important to the other sub-committee. In the same way, communities may perceive the dispute from different perspectives. It may be a problematic to assume that local government members, political, or businessmen can represent all those interests. The involvement of informal community leaders that are directly affected by violence at specific slum area or are personally familiar with issues faced with during the other slum area relocation may provide the process with critical information which improves the support of the DSD process at the grassroots level. Since the team for operating DSD is a source of its legitimacy for its process, development of roles, guidelines, and decision making procedures should reflect the intent of participatory democracy (Collins, 1981).

4.1.3 Conflict system Analysis

In the conflict system analysis phase, it starts with determining who holds information or data about the conflict and who is able enough to collect them. The groups that identified in the first two phases will be included in the analysis process. Identifying who should be assigned to talk or negotiate is a challenge similar to determining who the member of the team is. However; in the phase, the designer should seek out who are the decision makers in the institute within the system and who are the informal leaders or influenced people. This phase should be able to determine as the following:

- Common issues, types and frequency of disputes.
- Current mechanisms for handling disputes, noting what is working well and what is not.
- Costs and benefits of present conflict regulation and mechanism practices.
- If the current mechanism does not produce fruitful results, the next step will be proceeding.
- Who has power or authority in the current mechanism?
- What resources and motivation are available to aid efforts to modify or change the mechanisms and what will be the main obstacles to implementing the alternative mechanism (Moore, et.al. 1992).

In the Annex 1, it will show the typical issues involved in slum relocation conflict from 2006 to 2009. It also outlines the types of mechanism people used and are using. The designer can use this annex to compare and contrast typical slum relocation conflict with the system under study. This will help in identifying what type of approach will work and which will not. The annex 1 outlines the typical disputes occurring in a system experiencing slum relocation conflict in Cambodia (LICADO, 2009).

By categorizing the different types of disputes, such as unfairness of solution and allegations of local authority and arm forces interference, the designer can start looking for an appropriate approach to take over all these issues. The information from the annex may show that the reason why truces or codes of conducts are not functioning well. For example, if political affiliation, coalition and backing-up does play a role in the conflict but local political leaders are not involved in the decision-making process, then accountability along party lines is easily compromised. Including these leaders in the process will increase the legitimacy of the truce or conduct code.

Using the annex, the newly formed team can start determining the needs of the new system. For instance, the conflict takes place when the slum area relocated without proper compensation, mechanism or relocation policy. However, implementing the system analysis may find that one slum relocate to the new-far location. This may put them at risk of livelihood and be far from the economic activities, or the concern for social services issues such school, electricity, running water, hospital and other emergency services at the new location these may clarify why the current efforts that do not have proper policy and mechanism are failing.

By trying to understand how elements of the conflict system impact one another, the new-formed team is able to develop a comprehensive picture of the system of conflict. The success of the dispute systems design hinges on how well the team can capture how the system's elements impact one another.

4.1.4 Design process

This phase is a collaborative effort involving the groups identified in prior stages of analysis. During the design process, each dispute type is studied to determine which conflict management procedures are best suited to handle it and create the desired outcome (Moore, et.al., 1992). The options that system designers must consider ranges from unassisted procedures where the parties collaborate to resolve their differences, to assist procedures designed for advocacy and win-win solution objectives. The designer must be familiar with the objectives of each method of conflict resolution or regulation in order to select the most appropriate option or set of options.

Unassisted procedures, such as collaborative problem solving, where parties work together to mutually beneficial solutions, and negotiation, are best used when hostilities are low, power

relatively equal and parties have a high degree of trust or easily cooperate with one another. A second form of conflict management is needed in systems where there are institutionalized procedures to handle requests, and these procedures are either complicated or disempowering to the parties (Moore, 1993). In this situation, advocacy groups, such as LICADHO, UN…, perform a necessary role in the system of conflict.

The third party approach is another ways to assist the conflict management techniques. Its goal will separate the parties and end hostilities. Monitors, observers, rally marshals and rumor control mechanisms would fall in the category of third party. Third parity exercises are designed to allow parties to manage or reconcile their differences through collaboration, negotiation or mutually agreed upon decision making procedures or bodies. The third party roles would include message carrier, advisor, facilitator, mediator, judge or arbitrator. Third party focuses on strategic rebuilding of relationships, reintegration of social institutions and addressing economic problems. It procedures include economic development projects, forums for restoring relationships amongst community groups or education programs geared to address issues like democratic decision making or political tolerance (Moore, 1993).

4.1.5 Slum Relocation Conflict Resolution Design

Due to the complexity of the issues in the slum area relocation conflicts, a single type of conflict, yet it takes place in different location. It may have different or multiple conflict management options. This creates a need to evaluate disputes as they arise to ensure that the most appropriate management procedure is used for that dispute. In addition to this evaluation process, the designer must also find ways to integrate dispute procedures with other traditional

and legal-rational conflict mechanisms operating within the system or having an interface to the system of conflict.

Since it is likely that the level of violence is high and there is little trust left between the disputants, the conflict designer may have to focus on peacekeeping at first. Developing and pushing the mutual agreement on a code of conduct and procedures for monitoring the code builds trust and creates momentum which the team work can use to implement the entire plan. Without sustaining momentum, the code of conduct will likely be crushed under the pressure of perceived economic injustice. If the code is successful and monitoring activities are working, the designer should incorporate these mechanisms into the design structure to address the ongoing desire to prevent future violence to the slum people, their property, their human dignity and also the public property.

Even if the peacekeeping effort is very suitable concept at first, the possibilities of the future violation of codes of conduct is still high. In order to be well prepared for this, a peacemaking mechanism is needed. One possibility is to use the local authority with the technical support from the Alternative Dispute Resolution (ADR) expert to handle the conflict by creating the slum conflict resolution rules. This could mediate dispute and the complaint of the disputants can be seen. The criteria for the set of rule could be combined with procedure for how to hand off the cases to the legal-rational justice system that deemed inappropriate (e.g. those in which acts of violence occurred). The creation of a slum conflict resolution rules could act as a mechanism for resolving conflict which will reinforce traditional concepts. The agreement reached in the slum conflict resolution rules becomes agreement that representing the wisdom of the collective

conscience. A person who violates this decision would be seen as attacking the community, forcing it to defend itself (Collins, 1981).

There are a number of other possibilities for managing daily disputes which could disrupt the peace process. The idea of using the rumor control mechanism in the slum area would be useful to prevent the unsubstantiated rumors or provides timely response to critical problems by alerting the appropriate authorities. The other possibility of idea is to form the group conflict resolution or ADR trained people. Thus, they will act as both peacemakers and peacekeepers by responding to the crisis to either monitor or intervene in the conflict. Providing the trained people to intervene in crisis situations increases the chance that disputants can successfully negotiate an interest-based conflict communication. If they are successful, the boost in emotional energy will encourage them to attempt similar procedures in the future (Collins, 1981). Otherwise, they may conclude that power-based methods are easier and more effective without understanding the long term costs of using these alternatives.

Many of the problems in the slum relocation experience are rooted in economic and compensation issues. Engendering real peace means taking on this difficult problem. In some disputes, the dispute solver should invent many options such as reschedule the relocation time, bargaining the compensation policy and revising development plan. While this is a very innovative solution, it still does not address the basis issue of relocation of slum area under the purpose of city beautification. Without dealing with this, the slum areas are still in the trap of conflict, engage in force eviction, fight over more compensation and attempt to keep and stay at those areas that do not have better living and healthy environment. Most of the slum relocation activities for the last 10 years were involved in violence underscore the need to peaceful solution

in basic conflict management. There may not much concentration on how interest-based approach can seek the peaceful result. When the relocation is encountered, the response is usually ended up with force.

The allegation of authorities and arm forced harassment and corruption create an unfair and unjust feeling to the affected people. As in the conflict, relationship with the local authority and other authority are a source of deeply entrenched conflict. While communities are starting to address the issue of rebuilding local authority relations, this will take time. In the relocation conflict, there are a few things that could be done to encourage this relationship. If the local authority would make the transparency about the relocation in public, a fact-finding would emerge. This would allow independent entity to analyze the plan or policy such development plan, compensation policy or slum living condition to determine if the certain slum area will be offered other alternative regarding to the relocation conflict. In addition, there are allegation that the some elite or high ranking official get the benefits from the relocation or are the backed up by the businessmen and that their policy or harassment activities are used to protect or break the affected people gathering or persistent people. This allegation of a conflict of interest would either be confirmed or proved unfounded if the development plans were made public or with the targeted slum area.

Since the credibility of local authority or authority is often an issue to the conflict, there are ways to address this problem. During the relocation implementation or earlier than this, a number of suggestions from many different sources were discussed and suggested about the including the local input such as citizens in the development process and planning of the area. It may be the worthy investment and task to convince the local authority that it is in their interests to open the planning process to all affected parity. The public forum or deliberative process will provide a

mechanism for gaining input from many stakeholders of the community which are affected by this development plan. If the forum or deliberating is successful in negotiating conflict, they become the place where the communities come together to discuss about the solution and express their emotion (Collins, 1981). They also provide a place where disputants must publicly prove their commitment to or rejection conflict engagement. Finally, it shows that the group decision-making and conflict handling are growing over space, number of people, and perhaps even time.

Above all, designing mechanisms for controlling or resolving conflict requires that the systems designer know the types of disputes occurring in the system and what types of outcomes people in the system of conflict will find desirable. Once these two things are clarified, the designer must determine how conflict management procedures can be woven together to produce the desired outcomes from types of conflict occurring in the system.

4.1.6 Developing support for the new system

The next step works at gaining a commitment from the affected parties once the design is created. Prior to the formalizing the design, each party should have chance to review and comment on the new mechanism to handle the conflict. During this process, the formal and informal leaders who are capable of either promoting or degrading the new mechanism within their scope of authority should be identified. Plans to use the promoters or persuade the critic should be developed to aid the campaign to acquire formal acceptance of the new system. Once this is accomplished, they should start the training or process of education. All the affected stakeholders by the dispute handling changes should be briefed on how the system works and what the benefits of the new procedures are (Moore, et.al., 1992).

4.1.7 Implementation of design

Implementation of the new procedures is training intensive. People responsible for system operation must be taught to diagnose arising disputes and refer them to the most appropriate dispute handling mechanisms. People who provide the training to the new mechanism must have their roles defined and know who to refer the trainee—involved stakeholders—back to the mechanism operators when their services do not match the needs of the requestor. The trainee must learn how to access the system and, perhaps, unlearn former responses to conflict (Moore, et.al., 1992).

An extensive grassroots education plan is necessary to develop support for using the new disputes system. For people involved on the frontline (e.g. monitors, people operating rumor control stations), a thorough knowledge of how to access the dispute mechanisms is important. For the slum relocation conflict, the local authority and slum organization could serve as the foundation for this type of effort. They could partner with NGOs to act as agents of dissemination about how the new system operates as well as educate members of these organizations to provide the required services. One last aspect of implementation is putting procedures in place to monitor and record cases as they move through the new system. The tracking of cases is an important source of feedback for the dispute system. This information is used in the ongoing stage of operating the new dispute system.

4.1.8 Evaluation and Sustaining of the Systems

This final phase of dispute systems design (DSD) cope with managing the daily operation of the new system. This stage uses information from case records to determine the effectiveness of certain dispute handling mechanism, type of disputes the system is handling and information

about the people using the system (Moore, et.al., 1992). These data feed information back to those manage the system. The feedback is used to modify the system to reduce destructive and structural conflict. Feedback also helps direct strategic plans for the system. Creation of a feedback loop permits the system to adapt to the conflict environment in which it resides, making the dispute system resistant to obsolescence.

The seven steps to dispute systems design presented above provide a comprehensive approach to managing chronic forms of conflict. These steps empower people within the system of conflict by institutionalizing procedures and roles to help them resolve or manage conflict. Dispute systems design attempts to use interest-based methods to encourage building relationships while addressing issues of conflict. If the designed procedures and roles are effective in helping the disputants negotiate successful, they are likely to continue using them. Shifting the emphasis on power-based to interest-based means of addressing conflict creates opportunities for they society changes through the new conflict handling institutions and the relationships they are developing. Table 3 summarizes the procedure of DSD application into the Land Relocation Conflict in Cambodia.

Table 3: The Procedure of DSD Application into the Land Relocation Conflict in Cambodia

No.	Procedure	Description
1	Enter into Systems	- Trust building - Assessing stakeholders - Determine participants - Identify third party (Conduct interview….) - Look at history of prevention
2	Team of Info & Intervention Plan	- Establish team work (Include people from different entity) - Set the goals, tasks, schedule of process… - Information collection and analysis - Workshop, info dissemination …to make people see disputes from many perspectives
3	Conflict System Analysis	- Group in phase 1 and 2 will be included in this process - Start with identifying who holds info/data about conflict - Analysis who the decision-makers, who are informal leaders or who influence the people - Indentify: + Common issues/frequent of disputes + Current mechanism in use + Costs & Benefits of current mechanism + Who is the authority in power of current mechanism + Resource & motivation available to change the current mechanism
4	Design Process	- Study the alternative disputes, base on the info from stage 1, 2, &3 to analysis which alternative solution is based - Approaches: + Collaborative problem solving

		+ Conflict management + Third party + rumor control mechanism
5	Slum Relocation Conflict Resolution Design	- Evaluate disputes - Peace making & trust building - Code of conduct and create momentum to prevent violence on the slum people, their property, human right dignity…. - Experts of ADR (Alternative Dispute Resolution) - Capacity building/Training - Deal with compensation, creating many options - Avoid arm forced & corruption (Increase transparency) - Open a planning process for local citizens through public forum or deliberation
6	Develop Support	- Chances for each stakeholders review and comments on new mechanism - Campaign to promote or persuade the stakeholders to accept the new mechanism - Training/Education Process
7	Implementation	- Training on diagnosing dispute - Train on identifying most appropriate mechanism
8	Evaluation and Sustaining of the Systems	- Cope with managing the daily operation of the new system - Evaluate the results - Feedback and response with feedbacks to modify the mechanism

4.2 Citizen Participation

Citizen participation is a key factor in Dispute Systems Design. DSD application above is about creating a system readily for resolving the conflict, particularly the land relocation disputes.

While resolving the issues, planning for the development, and even in the evaluation phase, citizen participation is highly needed.

After many poor communities family have been relocated from the inner-city for the purpose of local development, it can be observed that the purpose will not be successful without cooperation from the community and their participation to seek for better alternative development plan and mechanism for displacing them. It's also important to make the development plan more visible regarding both social and economical aspects. The below participation plan cannot be carried out without local community involvement. Therefore, the need for the community participation is critical.

The process of slum displacing incorporating citizen participation mechanism is divided in to four phases including the preparation phase, the planning, the implementation, and the evaluation phase.

4.2.1 The preparation phase

The preparation includes planning socialization and verification of poor family. In other words, the community should know well about the plan and involve them since the beginning of the development plan. This should be informed and raise awareness of all related local citizens. Verification of poor family data is needed to validate the existing data of government within the targeted community.

4.2.2 The Planning Phase

This is the planning phase of incorporating citizen participation. The aim of the phase is to know the direction of development: who will do it, and what will they do for the growth of them. The components of phase include:

- Priority program proposal, which cover all program proposal of community relocation.
- Planning program that the detail of program will do. This planning should mention to arrange new location situation, types of available social service, quality standard and requirement of social service activity (from government/local institution).
- Resource support, covering materials (made locally), energy (skillful local) and fund (also loan guarantee if needed).

4.2.3 The Implementation Phase

With the involvement of local citizens and other stakeholders in the implementation phase is important in ensuring the smooth processing of the development program. The implementation of program should be:

- Human resource improvement and community empowerment
- Business and Job opportunity creation at new site or nearby.
- improvement of Housing Condition at new relocated area
- Technical assistant of program

4.2.4 The monitoring and evaluation

The affected residents should be encourage and given chances in an on-going monitoring of the program, making sure that everything is going as planned and check what should be modified according to the situation changed. The results will be evaluated; feedbacks should be also be sought out from the local residents, to look for what to do better in the next participation program as well as development program.

4.3 Success Factors

Base on the analyses made, there are several recommendations for better relocation which will ease the urban beautification as described below.

The components for improving slum displacement are:

- Improvement of human resources and community empowerment such as the foundation human dignity, deliberating and negotiation, etc.
- Establish and strengthen the Slum relocations Association for managing of program in the community.
- Enhance small scale business for them when they are relocated to the new location such as business training and provided grant or loan for the business.
- Making them Understand the next generation improvement that to improve quality of the house and land tenure.
- Physical environment improvement that improving the overall environmental quality of the respective relocated location.

Eventually, as the conflict of slum relocation showed, the creation of a single slum association should be examined. Settlements to these conflicts have reached to no result, but force eviction. The common interests of the slum citizens are readily apparent. If the conflicts are politicized preventing unification, the created team may be able to link this conflict to broader issues in the system of conflict, such as political tolerance. Therefore, political channels become avenues for ensuring commitment by slum organizations to the peace process. Whether or not it is possible to unite the slum association to one entity or organization, creating an ongoing forum for discussion between associations may provide a means for promoting trust. By having the regular meeting, parties can address issues on a timely basis rather than letting conflict escalation. In addition, the forum or deliberating could be used to prepare the affected people to respond to issues that affect their location, such as changes in plan, notification for the authority. The creation of slum organization can be used to share the information and keep they be informed within and with the other communities.

Chapter 5 Conclusion

Dispute System Design attempts to establish method to handle many conflicts within a system of conflict. By focusing on less costly forms of decision making and dispute resolution and management, DSD stresses on reconciling all affected stakeholders' needs, desires and fears. While choices made by the team and designer will generally benefit majority interests in the system, an effective DSD will find ways to protect the rights and interests of minority groups.

In the destructive conflict, power-based and rights-based conflict engagement techniques are wielded to gain an advantage over other parties or to repress manifest conflict. In either case these techniques often sacrifice components (e.g. transaction costs, satisfaction with dispute outcomes, relationships and dispute recurrence) which in the long term promote healthier aspects of conflict. Dispute systems design (DSD) seeks to address this problem by encouraging parties to use interest-based, or less costly rights-based and power-based, methods of dispute resolution (Ury, et.al., 1988). By de-escalating tension in the system, parties can reduce the level of internal group cohesion necessary to wage conflict. This provides a stabilizing force in the system by permitting members to reach across party boundaries to build relationships.

Collins' (1981) theory on successful micro-rituals suggests that it is the resultant emotional energy which strings these communications across space and time. In distressed conflict systems, the success of a micro-ritual is based on an interactant's ability to literally or symbolically beat the opponent. In this situation, there is one person who gains emotional energy and one who loses it promoting intra-group, rather than inter-group, solidarity. The dispute systems designer must transform the completion among the group member into something which builds inter-group solidarity. The reason interest-based procedures are best suited for this purpose is that in

the small scale-context, the primary goal is to meet one's interests, not defeat the other disputant. With the party's interests becoming the primary object, two things occur. First, there is a greater satisfaction with the outcome because, amongst other things, damaging the other party is not necessarily in either disputant's best interests. Second, it is possible for opposing party members to engage in a successful with the relationship-oriented conflict management practices. In the former, escalated system of conflict, clear-cut party boundaries are replaced by more interdependent system units, decreasing the violence and intensity of the conflict (Coser, 1956).

Dispute systems designs for slum relocation conflict show how this can occur. In the heart of the city, a number of slum relocation conflicts were engaged in a number of power-based struggles. What was lost in the battle to determine who was strongest was the reality that they wielded more power together than apart. Design processes which focus on uniting them through their common economic interests. The DSD for this conflict system suggests that initiatives which provide housing or utility services are one way to invest both parties in the peacebuilding process. The betterment of living conditions, which is precluded by violence in certain areas, becomes a possibility when both parties recognize the other's role in this joint interest.

Even though there is a feedback loop which seeks to modify the system to handle new forms of conflict, this adaptation is contravened by the process of growing bureaucratization of dispute handling institutions. Especially in Cambodia, where unemployment is high and the political has created a tremendous power upheaval, people who provide dispute management services in a newly designed conflict system may resist changes dictated by feedback. If status or power in a structure is threatened, it is likely that service providers will create rules which modulate system adaptation to favor their interests. This growing rationalization makes the system less flexible.

Over time, rigid processes for handling disputes run the risk of cracking apart either through disuse or lack of legitimacy.

Another problem for which the dispute systems design process is not well-suited concerns with extra-institutional forms of grievance redress. While DSD can determine how to handle extra-institutional waging techniques, it cannot govern the forms that are popularly acceptable. As power-bases form in the new system, groups may find themselves in positions where they will have to use empowerment techniques (e.g. collective action, non-violent direct action, etc.) to modify the distribution of power. Attempts to co-opt an arising group into some institutionalized process while they are in the process of increasing their group's number may be seen as detrimental to their cause. The DSD process can be designed to let these conflict forms run their full course; however if the challenge group successfully raises the question of the system's legitimacy, it is unlikely that allowing the system to adapt to the changing environment will be seen as an acceptable solution.

National political is a complicated and uncertain process. Authority has used many of the standard practices (e.g. military intervention, high-level negotiations, education of the public) at keeping and sustaining peace. The government set up the National Land Dispute Resolution which is designed to foster peace in the land dispute resolution. Even though aspects and goals of this entity are for the land dispute resolution, there have not many notable successes. Nonetheless, many protracted, violent conflicts persist. As less costly intervention techniques are deemed unsuccessful, frustrated calls for more powerful methods of intervention arise. But as recent scenes from DeyKromhom slum community show, even police intervention does not provide an automatic solution. This is because the diversity of conflict types requires a variety of techniques for resolving or managing them. Dispute systems design works at identifying the many disputes

which comprise the system of conflict. DSD then seeks to find the most appropriate ways to handle these disputes. And along the way, it prepares the people within the system to learn or use skills which promote constructive forms of conflict.

Bibliography

1. ACHR. (2001). Building an urban poor people's movemnet in Phnom Penh, Cambodia. Environmental and Urbanization, 13, 61-72.

2. ACHR. (2004). Negotiating the Right to Stay in the City. *Environment and Urbanization , 16,* 10.

3. ADB. (November 2007). *Compensation and Valuation in Resettlement: Cambodia, People's Republic of China, and India*

4. Archong Fung and Elena Fagotto. (2006). Empowered Participation in Urban Governance: The Minneapolis Neighborhood Revitalization Program. *International Journal of Urban and Regional Research* .

5. Arnstein, Sherry R. 1969. A ladder of citizen participation. Journal of the American Institute of Planners. 35: 216–224

6. Bank, W. (2008, April 23). Land Allocation For Social and Economic Development Project. Retrieved on January, 2010, from: http://www.worldbank.org/external/default/WDSContentServer/WDSP/IB/2008/05/05/000333037_20080506000231/Rendered/PDF/429310PAD0P08417365B01off0use0only1.pdf

7. Bendersky, Corrine. 1998. Culture: the Missing Link in Dispute Systems Design *Negotiation Journal 14 No 4 October 1998,* pp. 307-311

8. Collins, Randall. Conflict Sociology. New York, NY: Academic Press, Inc., 1975.

9. _____. On the Microfoundations of Macrosociology. American Journal of Sociology, 86 (March 1981): 984-1014.

10. _____. Theoretical Sociology. Orlando, FL: Harcourt Brace Jovanovich, Inc., 1988.

11. Coser, Lewis. The Functions of Social Conflict. Glencoe, IL: The Free Press, 1956.

12. Costantino, Cathy A & Sickles Merchant, Christina. 1996. Designing Conflict Management Systems. San Francisco: Jossey-Bass

13. FIDH,COHRE,Human Rights Watch,Amnesty International. (2008, December 4). Open Letter by International Federation for Human Rights (FIDH), the Centre on Housing Rights and Evictions (COHRE), Human Rights Watch and Amnesty International Regarding the Forced Eviction of Residents of Boeung Kak Lake in the Phnom Penh Municipality.

14. Forum, N. (2009). Statistical Analysis on Land Dispute Occuring in Cambodia 2008.

15. Fung, A. (2004). Empowered Participaton Reinventiong Urban Democracy. Princeton University Press.

16. Garcia, Angela. Dispute Resolution Without Disputing: How the Communicational Organization of Mediation Hearings Minimizes Argument. American Sociological Review, 56 (December 1991).

17. Habitat, U. (2003). The Challenge of Slums.

18. Kim, D.-Y. (2007). Enhancing BATNA Analysis in Korean Public, KDI School Working Paper Series.

19. KIM, D.-Y. (2008). Civility or Creativity?: Application of Dispute Systems Design (DSD) to Korean Public Controversies on Waste Incinerators. KDI School Working Paper Series.

20. Land and Housing Working Group (2009). Land and Housing Rights in Cambodia Parallel Report 2009

21. Law on Elections of Capital Council, Provincial Council Municipal Council, District Council and Khan Council. (2008). Law on Elections of Capital Council, Provincial Council Municipal Council, District Council and Khan Council . Kinngdom of Cambodia.

22. Lawrence Susskind, Michael Elliott, and Associates. (1983). Paternalism, Conflict, and Coproduction : Learning from Citizen Action and Citizen Participation in Western Eurip. New York: Plenum Press.

23. L.Creighton, J. (2005). The Public Participation hand book. Jossey-Bass.

24. LICADO Report (May, 2009). Land Grabbing and Poverty in Cambodia: The Myth of Development. Phnom Penh

25. Libor Jansky and Juha I. Uito. (2005). Enhancing Participation and Governance in Water Resouces Management . United Nation University Press.

26. LICADHO. (2009). Land Grabbing and Poverty in Cambodia: The Myth of Development. LICADHO.

27. OECD Handbook on Information, C. a.-M. (2001). Citizen as Partners . OECD.
28. O'Rourke, D. (2004). Community-Driven Regulation: balancing development and the environment in Vietnam. Massachusetts Institute of Technology.

29. Lukensmeyer, Carolyn J. 2003. "Deliberation for Community Planning and Economic Development." A Discussion paper prepared for the Charrette Institute. Washington, DC: AmericaSpeaks.

30. Mathews, David, and Noelle McAfee. 2002. Making Choices Together: The Power of Public Deliberation. Dayton, OH, USA: Kettering Foundation.

31. Moore, C.W., Priscoli, J.D., Wildau, S.T., Smart, L.E. and Mayer, B.S., "Introduction to Dispute Systems Design". CDR Associates, Boulder, Colorado, 1992.

32. _____. "Implementing Peace Accords on the Ground." Track Two, Centre for Intergroup Studies, Cape Town. May, 1993.

33. Pomerantz, Anita. "Agreeing and Disagreeing with Assessments: Some Features of Preferred/Dispreferred Turn Shapes." In J. Atkinson and J. Heritage (eds.). Structures of Social Action: Studies in Conversation Analysis, pp. 57-101. Cambridge, England: Cambridge University Press.

34. Simmel, Georg. Conflict and The Web of Group-Affiliations. New York, NY: The Free Press, 1955.

35. Turner, Jonathan. The Structure of Sociological Theory. Belmont, CA: Wadsworth Publishing, 1991.

36. Ury, W.L., Brett, J.M., and Goldberg, S.B., Getting Disputes Resolved: Designing Systems to Cut the Costs of Conflict. San Francisco, CA: Jossey-Bass Publishers, 1988.

37. Wehr, Paul. Conflict Regulation. Boulder, CO: Westview Press, Inc., 1979.

38. W. Robert Lovan, Meichael Murray and Ron Shaffer. (Reprinted 2005). Participate Governance: Planning, Conflict Mediation and Public Decision-Making in Civil Society. Ashgate Publishing Limited.

39. Zaman, M. (2002). Resettlement and Development in Indonesia. Journal of Contemporary , 255-264.