

INSTITUTIONALIZING CITIZENSHIP PARTICIPATION:  
THE ROLE OF NGOS IN DEMOCRATIZING  
LAND SECURITY IN PHNOM PENH

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## Abstract

As Phnom Penh is developed as the flagship city of Cambodia, increasingly once uncontested land parcels are subject to land grabs and speculative investment. This has brought to the fore fundamental and persistent inequalities in the country, highlighting the opacity of its land rights institutions. This paper attempts to break-down the reality of the landlessness crisis in Cambodia, unpacking the political, economic and social forces influencing the outcomes of land disputes. Much research has critically analyzed the role and form of popular participation in development. This thesis studies how the normative stance of non-governmental organizations as facilitators of participation in development trajectories translates into support for those excluded by the dominant land rights institutions; those groups vulnerable to unplanned landlessness. What is the potential for non-governmental organizations to *optimize* such participation to address extreme inequalities in land rights by translating it into citizenship for vulnerable communities? How is this affected by prevailing aid paradigms and state activity? In the Cambodian context, determinants of aid-flows must recognize that failures in the land market are largely due to the state itself, and therefore re-frame their policies to emphasize the role of non-state actors in delivering land security.

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## Introduction: the Evolution of Land Insecurity in Cambodia

Cambodia's turbulent history has been the driving force behind the epidemic of forced evictions occurring today. Since the abolishment of land rights and the eradication of the majority of the literate population during the Khmer Rouge leadership between 1975 and 1979, the country has struggled with a weak civil society, persistent political infighting and a lack of robust, equitable land rights institutions. By 1979, the country had no currency, no markets, no financial institutions and virtually no industry. There was no public transport system; no trains ran and the roads were damaged and unrepaired. There was no postal service, no telephones and virtually no electricity, clean water, sanitation or education (Mysliwiec, 1988).

In the collectivist regime of the Khmer Rouge, land rights were eradicated and all land became state-owned. With their overthrow in 1979, re-urbanization of cities began again, particularly to the capital, Phnom Penh. The city's population rapidly grew back to 600,000 by 1989, but due to the mismatch between the rate of in-migration and the capacity of infrastructure of the previously deserted city, this population had to fit into housing units designed to hold only 250,000 people, and they lacked any form of tenure security (Yap et al 1992b). The result was mass-overcrowding and the permeation of informal settlements across the city. Those with political leverage took centrally-located dwellings near where they worked; military and police officers took the best housing and monopolized control over the majority of the rest, whilst the poorest and later comers settled on rooftops, along roadsides and on river banks (Fallavier, 2009). This rapid, haphazard re-allocation of land and housing alongside the absence of private land rights created a chaotic and discriminating system.

The civil war was perceived to be over in 1989, following the fall of the communist regime and the subsequent withdrawal of Vietnamese troops. By this time, Phnom Penh had become an overcrowded and divided city. This was set to worsen as increased political stability and economic openness following 1989 spurred a massive migration of the 750,000 internally displaced people and demobilized soldiers who had been living in border camps back to their 'homes'. Approximately 90% wanted to return to rural areas, but land mines, poor infrastructure, and insecurity meant that no more than one third of this population could settle in the countryside (Yap et al, 1992b). This exacerbated the issue of slum creation and overcrowding in Phnom Penh, a city where minimal housing construction had occurred since the 1980s and no major infrastructure work had been conducted since the 1970s (Ministère de la Culture du Cambodge & Atelier Parisien d'Urbanisme, 1997).

The civil war officially ended, however, with the Paris Peace Agreements in 1991. These led to the United Nation's largest ever peace-keeping mission. The United Nations Transitional Authority to Cambodia (UNTAC) took over the country's administration at a cost of \$1.6 billion until it could

organize democratic elections in 1993. Although a milestone in Cambodian history (prompting 90% of eligible voters to cast a vote and creating the current Cambodian Constitution) these elections were unable to determine a majority leadership, and the result was a quadripartite government. The continued presence of Khmer Rouge troops along the Thai border and the inexperience of the political leaders prevented significant developments in democratic rule and the enforcement of the progressive set of rights established in the 1993 Constitution.

The death of Pol Pot and consequent surrender of the last of the Khmer Rouges in 1998 alongside a successful 1997 coup by Hun Sen's Cambodian People's Party arguably marked the (official) beginning of the current political era in Cambodia. It was seen as the starting point of real peace in the country after decades of political turbulence and illegitimate rule (McCargo, 2005). This led to a sharp increase in pledged overseas development assistance (ODA), which in turn prompted an unprecedented volume of NGOs to establish themselves in the country, particularly in Phnom Penh. Of key concern to a large group of these agencies was the establishment of a land rights system to regularize the land market as a basis for further development efforts. Concurrently, foreign investment in the land market sharply rose due to the positive impact of political stability on the tourism industry and trade relations driving the development potential of the long-ignored country. It is from around this point, therefore, that Phnom Penh's land endowment opened up to: external support for regularization; scrutiny from the perspective of equality of land rights and access; and outside investment for value capture and speculation. As will be seen, these did not manifest themselves equally or in harmony in Phnom Penh.

Despite the passing of the 2001 land law that recognizes formal rights for many of the once informal settlements in Phnom Penh, and the creation of governmental bodies charged with fulfilling these rights such as the National Cadastral Commission, forced evictions lacking due process are arguably the largest stain on Cambodia's current development trajectory. High profile land grabs are rampant in Phnom Penh, and across the country. By 2008, 45% of the country's land mass had been sold or leased to private investors by the state, resulting in the forced eviction of thousands of households with little planning for their relocation (Levy and Scott-Clark, 2008). Forced evictions are defined as the *permanent or temporary removal against the will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection* (Committee on Economic, Social and Cultural Rights, 1997). According to the World Bank, between 1998 and 2003 the Phnom Penh municipality forcibly evicted 11,000 families, mostly urban poor living in informal settlements in or near the city center (World Bank, 2006:48). Since then forced evictions have reportedly displaced well over 30,000 people in Phnom Penh alone. The number of landless households grew from 12.6 percent in 1997 to nearly one in five in 2004 (ibid). Some 150,000

Cambodians across the country are known to live at risk of being forcibly evicted from proposed development projects (Levy and Scott-Clark, 2008). Although forced evictions are occasionally legally justified when addressing public goals, similar to compulsory purchase in the United Kingdom and eminent domain in the United States, the scale of evictions and their lack of due process suggest that public interests are not driving the epidemic.

Households being evicted are those lacking the agency to resist such an eviction, regardless of their land or human rights supported by national and international human laws. The victims tend to be the poorest households in the city, occupying precarious settlements close to income earning opportunities. Forced eviction often results in these households being resettled far from their previous homes, to sites lacking basic service, access to employment, and adequate housing (Amnesty International, 2008). This reduces their standard of living and often prompts the remigration to remaining slums in the city, thus increasing their density and demand for already scarce services.

As the city is developed as a flagship of the development of an emerging nation, rising land values are prompting once uncontested land parcels to be subject to government aided land grabs and speculative investment. The legal basis of these grabs is often contentious with little discussion between the effected parties before forced eviction occurs. This has brought to the fore fundamental inequalities in Cambodian society between those with political influence and those without. The land market in Phnom Penh therefore offers a particularly rich study of struggles for land security. There is a stark conflict between demand for land from external investors and those who have resided there precariously for years. Despite aid-inserted attempts at formalizing land rights, the outcome of land disputes remains a result of who has the most power to negotiate the conflict with the monopoly mediator: the state.

The following section unpacks this land reform inertia, discussing normative theories on power relations and inequality that offer insight into the institutional landscape necessary to address the Cambodian epidemic. The potential role of NGOs is then highlighted, linking the facilitation of participation in land development projects and governance to citizenship and the democratization of the urban land market. This theoretical framework is then tested in the context of Phnom Penh, a city with opaque land rights institutions and high-profile disputes that have had devastating consequences on the evictees, and continue to threaten thousands of households with landlessness. By understanding what roles NGOs have played in negotiating land rights via participation efforts in this challenging context, a reframing of opportunities that exist moving forward to institutionalize more equitable land allocation and dispute

resolution mechanisms in Phnom Penh is debated in the concluding section. Therefore, this research asks the following question:

How do “strong” non-governmental organizations promote the participation of people with opaque land rights in the Phnom Penh land market? Do their efforts deliver land security?

## Literature Review

### The (Re)production of Inequality in Land Rights

The power to negotiate with the state is largely a question of political equality. Despite the 2001 aid-driven progressions on formal land rights to counteract the chaotic nature of settlement and ownership in areas like Phnom Penh, a state monopoly over land and a weak civil society provides an opportunity to government officials to ignore any possession or title rights households may have and gain excess rents from land allocation. This introduces the process of rent-seeking in the actions of the civil servants in the planning and allocation process, and is one of the practices that *perpetuate power imbalances between the state and society*. The very existence of rent-seeking acts as a barrier to institutional reform as those who seek monopoly rents are those who hold the power to make reform decisions.

The term rent-seeking was originally coined by Anne Krueger in 1974, although Gordon Tullock associated the concept with monopolies in 1967. Krueger describes rent-seeking as the competition for rents that arise from the restriction of economic activity. Corruption and bribery are both forms of rent-seeking. It is beneficial to public officials to maintain a government monopoly over land, a hangover from the communist period, given its rising value in this modern open market era. The land allocation processes become politicized, where the civil service becomes the principal mechanism for its allocation, and not the market. Thus rent-seeking behavior is directly related to government intervention in private exchange of land, becoming bureaucratic corruption. Put differently, bureaucratic corruption is directly related to the level and extent of government activity in the economy (MukumMbaku, 1991).

Charles Tilly’s relational theory of the production of inequality describes how class categories impact the durability of inequality, perpetuating the power imbalances in the land market created by this bureaucratic corruption (Tilly, 1998). It offers an account of inequality that places central emphasis on the negotiation of social relations, and speaks directly to the exercise of coercive power over land (Tilly, 2000). In a dichotomous state like Cambodia, with a clear distinction between those with political influence and those without, dominant and suppressed categories underpin the working of inequality, which is constructed by the prevailing political leaders. They have an interest in reproducing their privileges over resource



allocation, which enforce the boundaries and shape the relations between the dominant and controlled classes to ensure ongoing exclusion (Bordieu, 1984).

The key difference between this relational theory over other theories of the production of inequality, notably the structuralist or residualist theories, is the emphasis over the categories of power and how these perpetuate themselves through the behavior of the dominant State (Evans and Heller, 2010 p. 436). These three views on the relationship between inequality and the state have very different implications for interventions attempting to remedy severe inequality.

The residualist view is more influential in policy circles, and is related to the well-established anthropological categorization of explanations of inequality of ‘cultural’, which emphasizes inequality as a result of historical legacies in policy and attitudes. This results in bad policies and imperfect markets. The remedies rely on better policy, more complete markets and changes in attitudes. The structuralist view, also related to anthropological categorizations of functional and competitive explanations of inequality, emphasizes the role of global capital and industrial shifts on creating and continuing inequalities between the ‘working class’ and the controllers of capital (Tilly, 2000). Remedies are government social programs and reforms to allow trickle-down of benefits from shifts in production and income creation (Evan and Heller, 2010. P.435).

Reforms are particularly contested when attempting to democratize directly redistributive rights such as property rights, as is the case in land reform efforts. Power inequalities can restrain the power of democracy in this context due to the value of the resource held by the disenfranchised (Gallo, 2010). As elaborated aptly for the Cambodian context by Chris Tilly and Michael Hanagan, *democracy does not necessarily offer sufficient tools to curb capital-driven coercion* (Tilly and Hanagan, 2010, p. xxxii). The democracy implanted by UNTAC in 1993 clearly does not automatically democratize all resource allocation, such as land.

Unless power differentials are addressed between the State and society, any attempts at removing inequalities and promoting impartiality of citizenship via government reform or state-led programs will be unsuccessful, as elaborated by Gallo. Therefore, there is a clear primacy in the theories of inequality when politics and power struggles combine. The relational theory acknowledges that the durability of inequality can be due to self-reinforcing actions of the state itself, and hence requires reform of the state. Remedies to promote citizenship following the residualist theory risks bolstering disconnects between the state and society by strengthening a rent-seeking state against civil society. Remedies following the structuralist logic offer similar risks, if industry and global capital are strongly connected to the state. For these reasons, when tackling land rights inequality, it is important to address the root cause of political

inequality. This is especially true in the context of a state monopoly over land. This speaks to broader struggles for citizenship and democracy.

### Participation, Citizenship and Democracy

Tilly defines democracy as *the formation of a regime featuring relatively broad, equal, categorical, binding consultation and protection* (Tilly, 2004, p. 128). He acknowledges the unlikelihood of achieving this by defining democratization as the movement towards the above, and highlights the quality of citizenship as the key attribute of this (Tilly, 2004). Citizenship is expressed in terms of the *institutionalized quality of a subject's relation to government and its authority, which in turn exists in inverse proportion to the degree to which a subject's relations to government are mediated by categorical inequalities* (cited in Heller and Evans, 2010, p. 438). Citizenship, then, becomes vital for addressing underlying power inequalities in governance of a country.

Given the issue of forced eviction in Phnom Penh today, binding consultation and protection is being violated by the state. Land rights under the 2001 law are being widely ignored, and consultation in high-profile land disputes is non-existent. Similarly, Cambodian power inequalities are resultant of a persistent disconnect between the political elite and the disenfranchised, suggesting a low quality of citizenship for these groups: there is a seemingly impermeable wall between the state and civil society.

Participation has evolved in modern development and planning dialogue as a key step towards building a relationship between these groups. Kozul-Wright and Rayment argue that *by strengthening the local and micro-foundations of democracy, governments can be helped to design more effective strategies for reform and to build a broad coalition for societal change* (2007:260). This democratic developmental State is one that *not only embodies the principles of electoral democracy but also ensures citizens' participation in the development and governance process* (Edigheji, 2005, p5).

How this participation is being, and can be, promoted in land rights issues in Cambodia, along with the subsequent results, is the subject of this research. But before we can understand realities and opportunities for institutionalizing equal land rights in this context, it is important to critically unpack the concept of participation in development planning. How have different forms of participation evolved in development discourse, and how do they relate to citizenship and subsequently democratization in Tilly's terms? What characteristics of institutional spaces in which participation occurs are conducive to this evolving into political equality?

### Participation in Development

The extensive adoption and promotion of participatory development is grounded on various assumptions about its potential benefits. First, it is assumed that participation will promote democracy and the

empowerment of hitherto marginalized people, and therefore contribute local knowledge to more effective and socially sustainable development practices (Cook & Kothari, 2001; Cleaver, 2001; Stiglitz, 2002; Easterly, 2006). Second, participation of people in policymaking and projects that affect them is deemed to promote ownership and acceptance of these policies and projects, thus contributing to their political sustainability (Stiglitz, 2002). Third, participation is supported as a means to challenge traditional power structures (Kothari, 2001), to press for government accountability and transparency, and to promote social capital (Stiglitz, 2002). Finally, participation of civil society in projects is supposed to help governments to gain citizen's trust in the project and to help improve their image because it would appear that they are interested in listening to what people may have to say (Mpepo, 2000).

Summarizing these inherent values and their relevance to land rights struggles in Cambodia, *project* participation has been argued from three main standpoints: on the grounds of efficiency, effectiveness and equity of access to benefits (Cornwall, 2002); on the self-determination and self-governance potential of popular participation (see Stiefel and Wolfe, 1994); and as a mutual learning tool between, and among, 'the people' and those external resources and agents of change such as government agencies and NGOs (Oakley et al., 1991).

Moving forward, this research refers to the participation of those communities *within* civil society vulnerable to eviction in Phnom Penh. These communities are theoretically disaggregated from NGOs, although both are assumed to be part of civil society. This is to isolate NGOs supporting activities. The term civil society is highly debated and repeatedly defined (Garrison, 2000). This discourse will not be discussed here. In this context, civil society refers to all organizations and individuals that are neither business nor the state. Vulnerable communities with opaque land rights and NGOs promoting land security are subgroups of interest within this (Simons, 1991).

### *Categorizations of Participation*

Sherry Arnstein offered an early definition of participation, in the context of (US) planning, as "*the redistribution of power that enables the have-not citizens excluded from the political and economic processes to be deliberately included in the future*" (1969:216). Arnstein introduced a 'ladder of citizen participation' for local planning that represented possible degrees of citizen involvement as eight rungs (Arnstein, 1969). The degrees of involvement were seen as variations on strength of linkage between public officials and citizens, ranging from 'non-participation' (a top-down, centralized approach) to 'citizen power' (citizen groups shared responsibility of taking decisions and implementing plans). This speaks to its connection with citizenship.

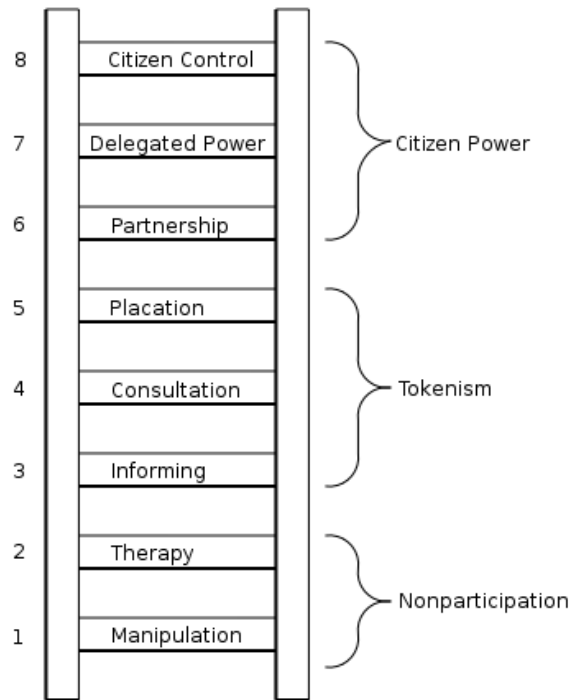


Figure 1: Arnstein's 'Ladder of Participation'

Choguill adapted Arnstein's approach to make it more relevant for community participation in developing nations (Choguill, 1996). The highest rung in Choguill's model is 'empowerment', where authorities formally delegate power to communities to improve their conditions. The lowest two levels are 'conspiracy', where there is no participation of communities in the programs that will affect them and this is disguised by the authorities, and 'self-management', where the government resigns from its role as provider and leaves communities excluded from the larger urban community.

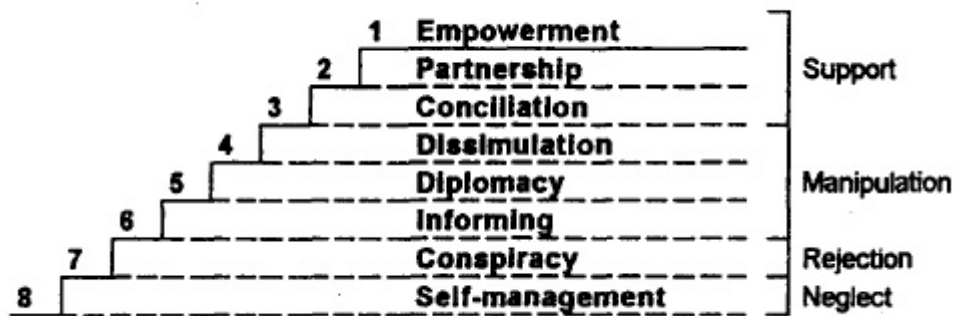


Figure 2: Choguill's 'Ladder of Participation for Underdeveloped Countries'

These, and similar oft referenced typologies of participation, represent levels of intentions and implications of the broad concept of social or project-participation (Gaventa and Valderrama, 1999:2).

Along with these different *levels* of participation come perspectives on processes associated with each. Cornwall categories these into three: for, by and with the people (Cornwall, 2002:22). In the first, people are the ‘beneficiaries’ of project efforts. They help in the delivery of these to make the intervention more effective and efficient. In this circumstance participation is an end in itself, done *for* the people who are invited to take part in the consultative process and shoulder some of the cost. This aligns with the ‘tokenism’ and ‘manipulation’ sections of the featured ladders. In the second scenario, participation becomes a process to be owned and controlled *by* the supposed beneficiaries, as a means towards community development and other goals. This begins to speak to struggles for democracy and equity, where participation is a means to gain rights over resources, and relates to the highest rungs on the ladders.

Lastly, the ‘*with*’ position relates to the connection between those representing beneficiaries, the beneficiaries themselves, and other stakeholders. It advocates a closer relationship between them, aligning with the ‘mutual learning’ argument discussed by Oakley et al and with the ‘partnership’ rungs of the ladders. When relating such elevations of participation to the struggle for land rights in Cambodia, it offers insight into important first steps towards addressing power imbalances in land allocation. It also highlights opportunities for manipulation within a context of inert political inequality, where participation is sold as a means towards empowering groups, but in reality is an end in itself, ensuring exclusion and the maintenance of the status quo.

### *Prescribing Participation: the Rhetoric of Intent.*

The discourse on participation has always been closely tied to that on development policy, mainstreaming the concept in practice. Participation requirements came to be a given in aid policies, overseas assistance and project planning. In 1975 the United Nations Economic and Social Council (ECOSOC) urged governments to, ‘... *adopt popular participation as a basic policy measure in national development strategy... [and] encourage the widest possible active participation of all individuals and national non-government organizations in the development process, in setting goals, formulating policies and implementing plans*’ (cited in Cohen and Uphoff, 1980:213). An ILO strategy paper in 1970 argued that, ‘*participation is by itself a basic need*’ (ILO 1978:2), further embedding participation in the basic needs approach.

A major milestone in the landscape of participation came in 1994 when a series of studies into the different dimensions of project participation by the World Bank's Learning Group on Participation resulted in a definition of the term; '*...the process through which stakeholders influence and share control over development initiatives, decisions and resources which affect them.*' (World Bank 1994, cited in Rietbergen-McCracken and Narayan 1998:4). This perspective has been embodied in the World Bank requirement of Poverty Reduction Strategy Papers<sup>1</sup>. This shrinks participation to stakeholders influencing and sharing *development* initiatives, rather than increasing popular control in society as a whole. This highlights why such participation is only a first step towards empowering disenfranchised groups in terms of land rights, which requires fundamental shifts in power relations. The influence of the World Bank in shaping global aid policy initiatives meant that this definition dominated action towards participation from then on. Whilst the promotion of participation in aid programs is necessary for equitable development, and a wealth of success stories of participation in small-scale projects came out of the 1990s, the influence of being linked to the extensive scope of aid policy has implications on the form of such participation, and subsequently definitions of 'success'.

Ultimately, project participation and the categorizations featured here are referring to forms of participation that have been *invited* by those controlling the spaces (physical and institutional) for such engagement as an end in itself. Those struggling for rights are *beneficiaries*, they are 'users and choosers' as labeled by Cornwall (2002:71). Empowerment is an assumed by-product of such invited participation by aid agencies promoting it. This presents the opportunity for manipulation in the options provided for participation by those delivering it, and the masking of exclusionary engagement with 'popular participation' of all affected people (Sager, 1999). This is participation *for* the people, where ownership became associated with people buying in to development initiatives intended for their benefit. Whilst this can bring positive impacts with it in terms of capacity building and the forging of relationships across stakeholders, it does not promise any of these benefits extending beyond the project both in terms of physical scale and temporally. Aid recipients were able to satisfy participation stipulations merely through including the stakeholders, without critically assessing who was participating and who was not. The scope for empowerment within this framework, where people take power for themselves, is small where political inequality is rife. What is lost here is any acknowledgement of the relations of power that might prevent people from taking up, or making use of political spaces that might be opened up by efforts to 'empower' them. As noted by Arnstein, "[P]articipation without redistribution of power is an empty and frustrating process for the powerless. It allows the power-holders to claim that all sides were considered,

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<sup>1</sup> see [www.worldbank.org/participation](http://www.worldbank.org/participation)

*but makes it possible for only some of those sides to benefit. It maintains the status quo” (Arnstein, 1969, p. 216).*

The promotion of participation as an end in itself in aid projects in the 1990s therefore limited its scope to, at best, movements up the ‘ladders of participation’. Such participation does not address the equalizing power structures necessary for addressing relational inequality, to move the ‘users and choosers’ to ‘makers and shapers’ in Cornwall’s terms. This introduces the key problem in the journey from participation to citizenship necessary for relational inequality to be reduced. Unless social participation can be introduced in a way that a) gives citizen’s power, and b) institutionalizes this power, ‘citizenship’ will only reach the bounds of the project. As Long and van der Ploeg point out, *‘conceptualizing intervention as a discrete and clearly localized activity (i.e. as a ‘project’) obscures the theoretically important point that intervention is never a ‘project’ with sharp boundaries in space and time... Interventions are always part of the chain or flow of events located within the broader framework of the activities of the state and the activities of different interest groups operative in civil society’ (1989:228).* I.e. Participation is always a means to something, intentionally or not, be it reinforcing the status quo or institutionalizing empowerment.

Given this, as participation is prescribed in the majority of aid projects, not only does it not guarantee ‘empowerment’ or ‘citizen control’ at the project level (termed in this research as ‘optimized’ project participation), but it also lacks the mechanisms to ensure political equality in future decisions around projects and governance. This highlights the schizophrenia in participation discourse and reality today. The artificial, yet insisted, lines between participation’s form and function as a *means* or an *end* have become extremely blurred:

	MEANS	END
MACRO	Participation in design of policy	Empower people to influence policy
MICRO	Participation in implementation of projects	Empower people to influence projects

Figure 3: Participation Matrix

This lack of clarity and the assumed outcomes of participation, offer further opportunities for those controlling spaces of participation to claim ‘empowerment’ without actually delivering it. Necessary micro and macro level participation for long-term political empowerment, as broken down in Figure 3, becomes conflated with short-term improvements in participation by the existing power holders. This allows for the maintenance of the status quo in Arnstein’s terms. Institutionalizing participation by reframing such participation to a means towards equalizing power relations introduces the elusive idea of politics in participation. It can bridge the gap between the idealized harmony invoked by the World Bank’s definition of participation, and the difficulties of implementing participation which addresses relational inequality by ensuring long-term citizenship.

### *Scaling-Up: the Good Governance Doctrine and its Impact on Participation*

The necessary scaling-up of participation from the project level to broader development terrain, as shown in Figure 3 at the macro level, has been catalyzed by the introduction of the ‘good governance’ and state reform-centric aid trajectory led by the World Bank, following evolution of the Washington Consensus. This offers opportunities for new spaces of engagement of the marginalized as actors in political arenas that can ultimately address inequality, but only if the foundations for effective and equal participation are satisfied. This development practice emphasizes the creation of a good *process* as an end in itself, determined by an international normative framework, rather than as a *means* to achieving context appropriate development goals.

The World Bank defines governance as “the manner in which public officials and institutions acquire and exercise the authority to shape public policy and provide public goods and services” (World Bank, 2006: 2, paragraph 4). This exclusion of emphasis on the outcomes generated by the so defined ‘good governance’ has biased monitoring of aid policies away from change on the ground towards state led reporting of institutional reform (Fallavier, 2007). This risks further exacerbating the problems of exclusion in participation in development as it places control in the hands of the state to ‘invite’ participants. It establishes formal mechanisms for empowerment that make many assumptions regarding the trickle-down of aid and the agency of the intended beneficiaries of such aid. It blurs the once partitioned social and political realities of participation.

There are clearly conflicts between the rhetoric of participation in development and its implementation, at both the project and policy scale (micro and macro). This is complicated by the association of the trajectory of participation mechanisms with aid policy, which motivates involvement of marginalized groups in development efforts regardless of the substance of such involvement. Therefore, measures of success of attempts to optimize participation are highly subjective and prone to hypocrisy and ambivalence. Where weak civil society exists, there are a number of reasons why invited participation

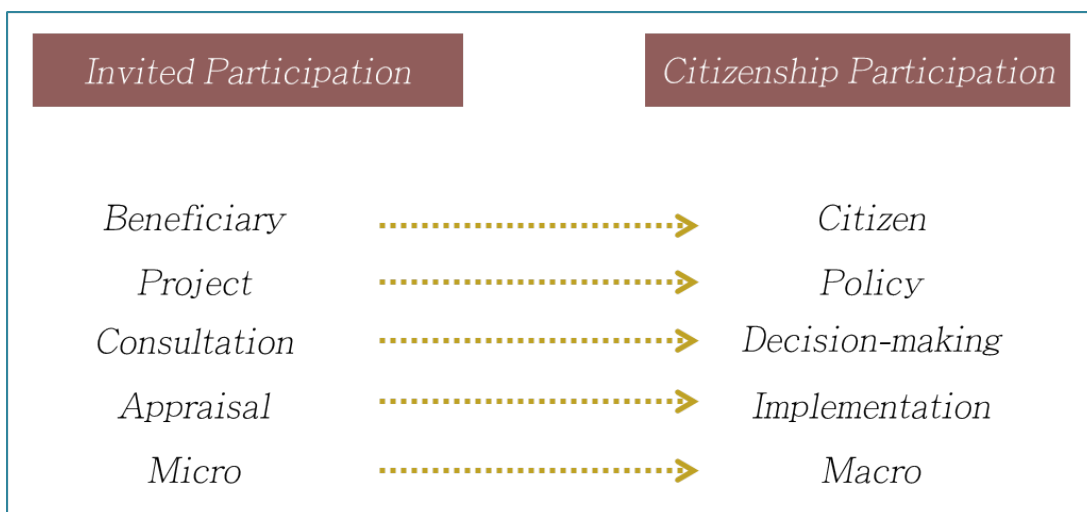


may be unfair: inhibiting power relations, weak citizen organization, weak participatory skills of such citizens, lack of political will to engage the beneficiaries and insufficient funds at the local level to enforce effective participation (Gaventa and Valderrama, 1999).

*Prolonging Empowerment: Citizenship Participation*

Subsequent to this, such measures also preclude any effects that extend beyond the scope of the prescribed intervention. This includes any processes that may prevent or promote citizenship and democratization as outlined previously, a transition from participation which is highly problematic.

In addition the shift in participation from a means to an end in Figure 3, a breakdown of this transition has been effectively portrayed by Gaventa and Valderrama (1999):



**Figure 4:** Gaventa and Valderrama's 'Shift in Participation'

The right hand column highlights the attributes of what the authors have termed ‘citizenship participation’. This is the form of participation that enables political inequalities to be addressed, positioning participation as a right, linking it to citizenship and thus the democratization of development. The left-hand column offers a categorization of the reality of optimizing participation in a context of political inequality. By only looking at ‘invited’ spaces of participation, any empowerment is still controlled by those providing the space. With the good governance aid trajectory, this is increasingly the state. Whilst important, it does not offer a sustainable form of empowerment where political inequality and state complicit rent-seeking persists, and therefore can easily preclude citizenship.

As a more recent evolution of participation discourse, some have argued that the ‘*right of participation in decision-making in social, economic, cultural and political life should be included in the nexus of basic human rights. Citizenship as participation can be seen as representing an expression of human agency in*

*the political arena, broadly defined; citizenship as rights enables people to act as agents'* (Lister 1998:228). Indeed, it is even included in international law as a fundamental human right (Article 25 of the International Covenant on Civil and Political Rights). This takes empowerment to a new level from popular participation, involving more than being able to speak up in the liminal space of a prescribed exercise. It pushes wider transformations in the ways in which people negotiate the institutions of everyday life (Kesby, 1999).

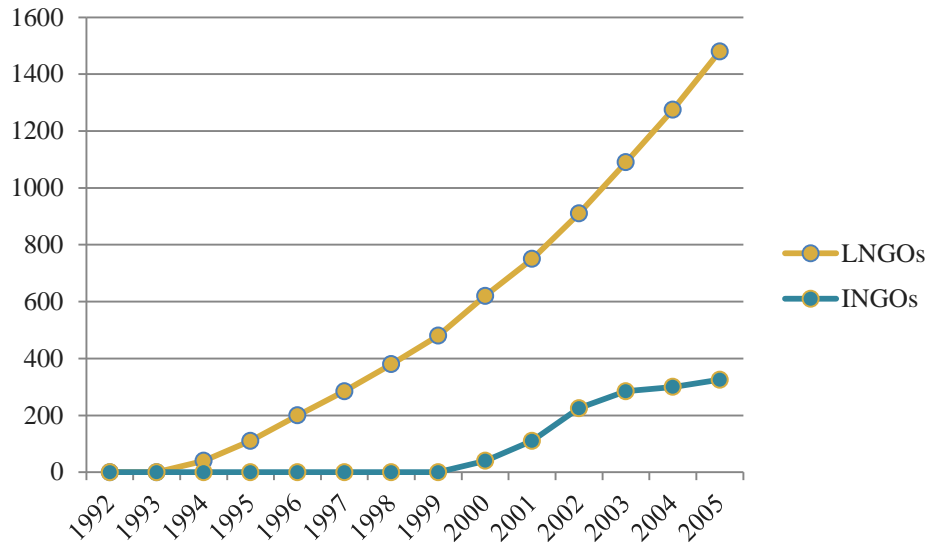
In a context like Cambodia, participation is promoted within a dominant aid framework, but the type of participation required is that of citizenship participation to allow real institutionalization of empowerment in land rights and to overcome inertia in political inequality. In this case, invited participation needs to be optimized to become a prerequisite or a starting point for other claims, where people's capabilities to advocate for their entitlements from those who are charged with service provision is maximized. They can then assert the right to participate more actively in determining the shapes of those services, and achieve citizenship and democratization of resource allocation, such as land (Hauserman, 1998).

Given the normative roles of nongovernmental organizations (NGOs), and their large presence in Phnom Penh, they have the opportunity to play a vital role in both optimizing participation, and empowering groups to utilize invited spaces to become makers and shapers in land policy. The next section highlights ways in which NGOs can support the shift of participatory interventions away from invited participation in pre-determined spaces towards enabling people to define for themselves their own entry points and strategies for change (Cornwall, 2002).

### Normative Roles for NGOs in Bridging the Participation Gap

As has been highlighted, inviting 'the people' to participate as beneficiaries, or even consumers, is not in itself enough to bring about meaningful change. This is especially true in a political context like Cambodia. The challenge there is both to enable those excluded by poverty and discrimination to take up opportunities extended to them for influence and control effectively *and* to exercise agency through the institutions, spaces and strategies they make and shape for themselves. This is where NGOs could have a strong role.

As can be seen in Figure 5, the number of NGOs operating in the country has risen steadily over the years, since the UNTAC sponsored democratic elections in 1993. The figure shows data on the local and international NGOs from the Cooperation Committee for Cambodia (cited in Rasmussen, 2010):



**Figure 5:** Trends of LNGOs and INGOs Registered at the Ministry of the Interior and Ministry of Finance 1993-2005

NGOs working on land rights issues make up a large proportion of those working in Phnom Penh due to the escalation of forced evictions. According to Najam (2000), capable NGOs are characterized by their ability to promote democracy, participation and empowerment. They will be independent and able to hold governments accountable, and they will allow the voices of the poorest and typically excluded to be heard. This establishes them as entities normatively able to both improve the process of invited participation, and subsequently convert this positive assistance into long-term empowerment towards citizenship.

### *Moving Up the Ladder: Optimizing Participation*

As discussed by Gaventa and Valderrama (1992), there are a number of reasons why invited participation may be unfair. NGOs can offer a vehicle for optimizing the outcomes of such participation, overcoming some of the barriers presented, by facilitating *collective action*. According to Arrow, nonmarket social institutions will form to bridge gaps between the *optimal state* and reality (Arrow, 1963). Srinivas corroborates this suggestion in the context of redistribution by the state and welfare institutions, claiming that in late industrializing countries such as Cambodia, non-state actors shape such institutions (Srinivas, 2010). They can nurture voice and trust within communities, build a critical consciousness, advocate for the inclusion of women, children, illiterate, poor and excluded people, at the very local level, and empower calls for better accountability (Cornwall, 2002). Supra-community NGOs can utilize lessons from other communities for resident education and awareness building, and provide technical expertise for plural planning (Davidoff, 1965). This can elevate invited participation from the consultation and placation rungs to the partnership and citizen power rungs, by empowering the beneficiaries through

education, trust, resistance, coordination and voice. Thus, NGOs can prompt more effective self-organization and community action to bridge Arrow's 'gap'.

### *Sustaining Collective Action: Citizenship Participation*

The difficult transition from invited participation to citizenship participation can be aided by NGOs once the space of invited participation no longer exists. NGOs can help to institutionalize the empowerment and trust it delivered by formalizing the attributes of this participation. Such formalization could take the form of a community savings scheme or self-help group to create formal fiscal and organizational ties between members of a community or coalition. This can help to both maintain and build social capital, whilst addressing fiscal barriers to achieving prolonged citizenship participation (Care, 2007). Supra-community NGOs can create advocacy networks to build collective knowledge from the participation efforts and bring external pressure for reform. This can in turn reduce the gains to be made through rent-seeking in the land market by state officials through promoting accountability (Weinstein, 2009).

### *Creating Spaces for Participation*

Both local and non-local NGOs can also help to create spaces for participation. This becomes particularly relevant when empowering communities threatened with forced evictions. A crucial result of optimized invited participation is trust that is built across the beneficiaries. *Trust reinforces the willingness of people to act in the interest of the group or community, which, in turn, allows them to resolve social dilemmas together* (Carpenter, Daniere and Takahashi, 2006 p. 682). During forced evictions invited participation is often absent, but this shared threat across a community can produce reactive trust. *Immediate need overcomes any existing mistrust in those communities where communal action takes place... there is regular interaction among community members and between communities leading to the capacity to overcome... threats to community survival* (Ibid, p.685). The importance of this trust creation and sustainment for social movements is emphasized by Marcuse, who claims that groups opposing a coercive state (i.e. one providing few spaces for invited participation) will only have a chance of success if their *solidarity is based on social trust, rooted in physical and economic, material and cultural needs* (Marcuse, 2010). This highlights the key role of trust in the concept of collective action: eviction threats from the state become a catalyst for trust formation between households, and this can be elevated by NGOs to allow community groups to mobilize and demand participation in land disputes to retain or enforce their rights.

### Research Area

There is clear exclusion in the enforcement of land rights in Phnom Penh. Formal institutions are seemingly not dominating informal, tacit political biases that promote discrimination in land rights. As

Phnom Penh strives to become a regionally competitive city, the stakes are raised on available returns for the fundamental resource: land. With increasing competition for space, land disputes have become a leading issue in the country. They are negatively impacting the poorest households, and have long-term implications for the development of the city.

Participation as a tool to deliver land rights through enforced land laws and reform needs to be enhanced to address political inequalities allowing inertia in previous and existing reform efforts. Absent of a supportive state, are non-state actors able to deliver the legitimacy needed for land security? This is what the research question attempts to address. This research investigates how normative roles of NGOs materialize in the politically repressive context of Phnom Penh. This is to offer insight into new frames for NGOs attempting to bridge the gap between participation as an end in itself, and as a means towards institutionalizing the fundamental bundle of rights associated with land security.

Given the literature review, it could be hypothesized that NGOs can play three roles in delivering land security: optimize invited participation in land projects impacting vulnerable communities; help to convert optimized invited participation into long-term empowerment by institutionalizing the resultant collective action mechanisms; leverage trust formed in forced evictions to create spaces for demanded participation. The following research design and methodology seeks to test these hypotheses.

## **Research Design and Methods**

### **Design**

To investigate the research question, two research trajectories were followed. First, field research was conducted in Phnom Penh to study current case studies of land disputes in the Capital, and to perform archival research. By investigating disputes happening now, the hope was to understand the present institutional landscape shaping the form and outcome of such disputes, and the role of NGOs within this. Newspaper reports, publications of aid agencies and NGOs, public observation at the dispute sites, interviews with representatives from NGOs working on land rights issues and with members of community based organizations (CBOs) and the Phnom Penh government were all used to understand this landscape.

Prior to, during and post this field work, research into the evolution of the position of NGOs in the land rights in Phnom Penh since the 1997 coup by Hun Sen was used to further understand the path dependencies explaining findings of their current position. This time frame was chosen as 1997 marks the beginning of political stability and the notable influx of factors influencing NGOs position in the debate.

This part of the research was done by locating NGOs in past land disputes, participatory planning efforts and policy reforms. Similar methods were utilized for this angle of the research: interviews and archival research.

## Methods

As mentioned, a mixture of methods was used to understand the context of land disputes in Phnom Penh, to identify case studies, and to understand the processes and outcomes of each.

### *Semi-structured interviews*

Fourteen interviews of key figures working on land rights issues in Phnom Penh were conducted. Eleven of these were during my trip to Phnom Penh, two occurred over Skype, and one was conducted in New York. The following categories of stakeholders were interviewed:

1. International Aid Agencies (IAAs)

Three representatives of IAAs were interviewed in Phnom Penh. The purpose of these interviews was to establish the origin of their assistance in the Capital, and to discover how their assistance has evolved over time. Another important enquiry was into the nature of their relationship with the State on initiatives that they were involved in, and the structure of their relationships with the intended recipients of their aid programs.

2. Community-based and national/international NGOs

Five representatives from four NGOs (including two coalitions of community based organizations - CBOs - working on land rights issues) were interviewed to discover their approach to the issue of forced evictions in the Capital. A key desired contribution of this group of interviewees was the identification of case studies to be investigated, and details surrounding them. They could also offer insight into any changes in the political, social and economic context of their activities over time, including past case studies of policies and disputes.

3. Journalists

Two journalists were interviewed. One from an English language paper and one from a paper published in Khmer. I approached journalists to identify the current most newsworthy land disputes, as well as to understand the political context of their reporting, and any trends in disputes over time. What aspects of disputes were reported on? Was there a noticeable rise or decline in the extremity of such disputes?

4. Government Officials

One government official was interviewed from the Phnom Penh Capital Hall, who has worked on urban poverty alleviation programs since the mid-1990s. She was interviewed to discuss a current case study in detail, to understand the relationships across the various stakeholders of the land dispute. Another key set of questions for her was regarding the evolution of policy and programs aimed at improving land security for the urban poor, and their outcomes.

#### 5. Real Estate Professionals

One Khmer real estate professional was interviewed to understand how the land market, specifically regarding private development in Phnom Penh, functions on the ground. What is the process of identifying parcels and then purchasing land in the Capital? Who is investing in this land, and who mediates the supply?

#### 6. Academics

Two academics were interviewed. One was engaged to discuss the theoretical underpinnings of the Phnom Penh land market, and the issue of evictions. This was to provide a macro-level lens to bolster my analysis of the findings from my previous interviews. The other was approached to provide information on historical case studies, and their surrounding context, given his research background in land rights in Cambodia.

#### *Public observation*

This part of the research involved visiting the two most prominent current case studies as identified in the interviews: Boeung Kak Lake and Borei Keila. This was to understand and document their current conditions. The direct sites of the land disputes were investigated, as well as the surrounding areas. This was to observe any development patterns that could have influenced the dispute, or which may explain the current condition of the site and the affected households. Further elaboration of these two case studies can be found in the findings and analysis. An event held for NGO workers in land rights was also attended, where various presentations were given on methods employed by the different groups for engaging the various stakeholders in land disputes.

#### *Archival and current secondary data review*

Prior to, during, and after my trip to Phnom Penh, research into data archives and secondary data review was carried out. This was to understand the social, political, economic and legal contexts of land disputes in Phnom Penh. Before conducting interviews, this research was used to identify potential interviewees and to inform educated discussion. During the data collection in Phnom Penh, I visited the World Bank Public Information Center (PIC) to collect information on their Land Management Administration

Program (LMAP) – elaborated in the findings and analysis as a key land reform program to be discussed – resulting from information garnered in the interview phase. Local publications from news sources and NGO newsletters were also gathered. Following the field work, continued observation of online reports and follow-up investigation of identified documents and sources of relevance was carried out.

Sources for secondary data review include:

- World Bank educational, policy and program documents from the PIC and online.
- Online policy documents of other donor agencies active in Phnom Penh, and documents received at interviews.
- Newspaper articles from the *Phnom Penh Post (PPP)* and *Cambodia Daily* during the visit and from the *PPP* online archives on land dispute case studies.
- Reports on the real estate market of Phnom Penh from CBRE, the *PPP*, *Economics Today* and *Invest in Cambodia*.
- Publications from NGOs interviewed and active in Phnom Penh on their activities.
- Publications from local and international research groups (including the *Cambodian Development Review Institute*).

The above research methods were used to provide a holistic overview of the contexts of land disputes in Phnom Penh, as well as the details surrounding each identified case study: the various processes, stakeholders and roles that led to each outcome. This was to ultimately understand the particular role of NGOs in mediating (or not) with the State to promote the outcomes that benefit the urban poor. This research design allows for a timeline of influences impacting today’s institutional landscape within which NGOs and participation operates. This in turn allows current case studies to be unpacked in a way that acknowledges each of these influences, and offers a grounded base for projecting NGOs role in promoting citizenship and land rights in the future.

## Limitations

### *Design*

A large limitation when structuring the research was the open-ended nature of the research question. This weighted emphasis on the field trip to Phnom Penh over preparatory research, including in the identification of the case studies. Whilst ideally the case studies would be identified before the field research began, it became clear that it would not be possible to effectively identify relevant case studies until the visit, which meant that their analysis had to be delayed to after the trip. This is due to the lack of robust information on the specific details of land disputes in Phnom Penh in the public domain, and the



complexities surrounding the issue. This made the research design somewhat speculative. Therefore, flexibility in the design was necessary during the data collection phase of the research.

### *Methods*

A survey of affected residents in the identified case studies could not be conducted due to limitations in language, confidentiality and consent requirements. The public observation aimed to provide as best an equivalent as possible to this, as well as archival research into testimonies in newspaper articles of vulnerable residents.

## **Findings and Analysis**

### **Introduction to Findings**

The crux of this research concerns the ability of NGOs to empower communities in Phnom Penh with opaque land rights to negotiate with the state for improved tenure security in the absence of robust property rights institutions. Put differently, it concerns the role of NGOs in improving these communities' participation in the Phnom Penh land market. Referring back to Tilly's work deliberated in the literature review, this participation is an essential part of promoting citizenship and a more democratic land allocation system.

1. In the late 1990s, there was a period of cooperation and coordination between aid agencies, the government, NGOs and communities with opaque land rights resulting in positive examples of NGOs roles in optimizing project participation, satisfying the first part of the hypothesis.
2. Once 'peace' was perceived in 1998, following the 1997 coup and dissolution of the Khmer Rouge, it had two major impacts:
  - a. Foreign direct investment (FDI) in land in the Capital rapidly increased, increasing demand for, and therefore conflicts around, land.
  - b. The volume of international aid reaching the country also sharply rose as embargoes were lifted, complicating aid-driven participation efforts.
3. These impacts severely complicated the institutional landscape that NGOs operate in. The influx of aid increased the scale and complexity of participation following aid policy doctrines, demanding the scaling-up of any existing participation structures. This happened prematurely, unraveling progresses that had been made.
4. Simultaneously, FDI was increasing land disputes on valuable plots with existing settlements. The nature of this FDI strengthened the state against communities resisting eviction, increasing

the extremity of inequality of enforced land rights. This posed a larger challenge to supporting NGOs than before.

5. The net result of the transition to peace is, paradoxically, a reduction in accountability in land rights. The state has been strengthened against civil society by incoming aid and FDI, jeopardizing positive gains from the success stories from the period of coordination. This has affected the current effectiveness of NGOs interventions promoting land rights via citizenship in two key ways:
  - a. Many NGOs have been coopted to become aligned with state-driven participation efforts, in search for funding and legitimacy.
  - b. Those remaining autonomous NGOs are severely restricted in their ability to negotiate with the state, given their automatic confrontational stance preventing constructive dialogue. A new draft law threatens their sustainability by giving the government the power to shut-down NGOs, with no appeals process, epitomizing the political context that land rights NGOs operate in today.
6. Some opportunities exist in the changing economic and aid landscape for a positive shift in accountability between the state and citizens, prompting the possibility of NGOs and communities creating new spaces of participation. These are elaborated in the conclusions and further research section at the end.

## Analysis of Findings

### *Period of Cooperation and Coordination*

As part of the first phase of the Phnom Penh Urban Poverty Reductions Strategy (PPUPRS) 1996-1999, coalitions of NGOs, commune leaders, international aid agencies and government officials experienced increasing levels of success in terms of partnerships in land security efforts. This is according to both NGOs and government officials who were interviewed. A number of exposure trips to India, Pakistan and the Philippines were instigated by a coalition of NGOs combining local community representatives, NGOs and officials from the Ministry of Phnom Penh (MPP) to highlight how positive improvements in precarious settlements could be achieved together. Working groups were created and pilot upgrading projects were initiated and completed.

Using Arnstein's definition of participation (Arnstein, 1969, p.216), and Choguill's adapted ladder of participation (Choguill, 1996), in the mid to late 1990s the findings suggest that communities on contested land in Phnom Penh occupied the upper rungs; Partnership or even Empowerment. The MPP

formally recognized representatives of communities when resolving land disputes (Partnership) and allowed them a leading role in this resolution process (Empowerment). NGOs aided the communities in finding suitable relocation sites where land-sharing and upgrading was not possible, and provided assistance in planning upgrading and land-sharing pilot projects. The few international aid agencies operating in Cambodia at the time (most notably the now UNDP) provided the structure for these partnerships. As the trips led to pilot projects, these formerly labeled ‘squatters’ gained legitimacy with the state. Citizenship was being carved out by the more than 250 communities who were organized by such entities as the Solidarity for the Urban Poor Federation (SUPF): a network set up by the Asian Coalition on Housing Rights (ACHR) that directly resulted from the emphasis on collaboration across groups. The ACHR also instigated the Urban Poor Development Fund (UPDF) for the families of such projects to provide a community savings scheme that could fund improvements at the various relocation or upgrading sites. One success story from these efforts came with the relocation of 129 families in 1999 from the roadside in Phnom Penh to create the Veng Sreng community:

**Box 1: Veng Sreng Community Relocation:**

A community of 128 squatter families that had been living alongside the wall of the National Pediatric Hospital was relocated after extensive consultation with the community and the Ministry of Phnom Penh. The coalition of NGOs managing the PPUPRS was approached by the Veng Sreng community leader for assistance in obtaining legal security of tenure, access to basic services, and the chance to find jobs.

After three years of joint work to find a suitable site, prepare it for relocation, and to agree on how to manage its development and the gradual move, the 128 families relocated voluntarily on one hectare of serviced-land forming the Veng Sreng Community nine kilometers from Phnom Penh’s center.



There, several factors combined to make the resettlement successful in improving living conditions. First, wells allowed people to obtain clean drinking water for free, while they had previously spent up to 25% of their income on water cost. Second, the site was located near an industrial area where garment factories had been set up. This provided employment to many of the residents, either in the factories or selling goods to the workers. It also allowed them to rent out rooms in their new houses to these workers. This generated a steady income to repay their \$400 loans from UPDF and to upgrade the houses that they had built in large part with recycled materials from their old shacks. In less than six months, most houses were consolidated with concrete frames, brick walls, and tiled roofs. People had formed an economically vibrant community with access to basic services. The community continues to thrive today.

Source: Fallavier, 1999

The political environment allowed for horizontal coordination and cooperation across all groups attempting to deliver land security to communities on contested land. The new government was eager to be seen as cooperative with the currently sparse donors, and “strong” NGOs mediated through knowledge transfer and education of communities (and officials) to be able to have a productive working group discussion. They would ‘bridge the gap’, and were providing a facilitation service that was valued by the state. They created new spaces of participation, promoting ownership of development projects around

land security. These efforts improved living conditions in the informal settlements, and strengthened the capacity for future self-help and collective action by these communities by managing formal participation structures within the affected communities, such as the UPDF and upgrading committees. Lastly, it enhanced relations between authorities and the communities with land insecurity. Frequent dialogue enabled accountability and inclusion.

### *The Impact of Peace*

By the late 1990s, the urban poor (labeled in this context by the MPP as “squatters”) were successfully mobilizing against forced evictions, and were gaining political legitimacy through successful pilot projects. But a major political shift changed this picture according to interviewees, in a way that removed the possibility of horizontal coalitions across communities and government officials.

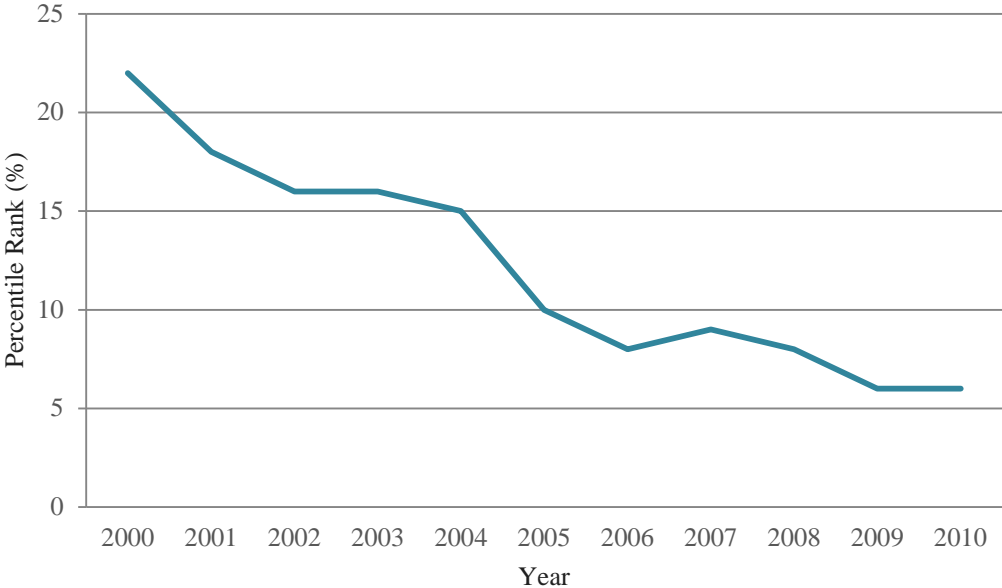
In this period of cooperation, the Cambodian state was weak because of political fragmentation of the elite and the way in which new power was implanted by international forces. Between 1993-1997, the Khmer Rouge still had representation along the borders of the country, constantly searching for political power, and there was no direct central guiding figure to spearhead development policies even after the UNTAC elections. In this period, the relationship between the state and civil society was balanced. After the 1997 coup led by Hun Sen, the removal of Khmer Rouge presence in the country following the death of Pol Pot in 1998, and the increasing number of success stories of urban upgrading like Veng Sreng, the Cambodian government finally began to receive some international recognition. Peace, which had proven to be so elusive in the country, was perceived to have arrived. This had two major impacts: the influx of foreign investment, and the return of vast amounts of foreign aid that had been held back whilst the government had been regarded as illegitimate.

### *The Impact of Peace: Foreign Direct Investment*

In this new period, increasing demand for land in Phnom Penh has encouraged government officials to reportedly collude with investors, increasing the volume of land disputes in the Capital between groups with political leverage and those without. This has exacerbated the problem of forced evictions, even against the backdrop of increasing aid. Foreign investment in the land market sharply rose due to the positive impact of political stability on the tourism industry and trade relations driving the development potential of the long-ignored country.

According to interviewees, the first influx of FDI was strongly connected to long-standing political elites who had kept assets outside of Cambodia until there was political stability. The high profile land disputes

that have occurred in Phnom Penh in the last decade, identified as the most resilient to resistance, are often tied back to senior officials in the MPP, officials in other government agencies, or their close friends and relatives. Indeed, Cambodia ranks highly in many corruption indexes, including Transparency International’s Corruption Perception Index. This index measures the perceived level of public sector corruption, and in 2011 Cambodia ranked 164/183 with a score of 2.1 (Corruption Perception Index 2011). The index scores countries from 0 (highly corrupt) to 10 (very clean). TI’s Corruption Barometer is a second survey which records opinion on change in the level of corruption in a country 2007-2010. 47% of Cambodian respondents said that it had increased, 27% reported that it had stayed the same (Global Corruption Barometer 2010). Cambodia also ranks poorly in the 2010 ‘control of corruption’ rating in the World Bank’s World Governance Indicators, positioned in the 0-10<sup>th</sup> percentile category. This means that less than 10% of countries in the ranking have poorer control of corruption than Cambodia (Country Data Report for Cambodia, 1996-2010, World Bank). This ranking has steadily fallen since the early 2000s, shown in Figure 6:



**Figure 6:** WGI 'control of corruption' ranking 2000-2010

These qualitative and quantitative findings show a link between public power and public decisions, on the one hand, and private benefits, on the other. This allows us to consider the Cambodian state as a case of a neopatrimonial state. This is a modern extension of patrimonialism, and these definitions of the state can be traced back to Weber, and later, Eisenstadt (Eisenstadt, 1973). As defined by Christopher Clapham, a neopatrimonial state is a mixed system where public officials use public resources for private gain, but within a political and administrative system which is formally constructed on rational-legal lines

(Clapham, 1985). According to Kohli, the neopatrimonialist state is akin to Peter Evans’s ‘predatory state’, and is depicted as a structurally weak state, taken hostage to corrupt leaders whose only interest is personal aggrandizement. Corruption and rent-seeking is endemic, and leaders have no commitment to the greater good (Kohli, 2004; Evans, 1995).

One interviewee introduced the idea of the ‘nouveau riche mentality’ amongst senior officials as new revenue streams became apparent. This is teamed with a lack of deep knowledge of planning processes and sustainable economic development ideals within the political elite who control urban land transactions, resulting in defensive government behavior with regards to land use conflicts in Phnom Penh. The central officials controlling larger Phnom Penh land transactions hold vast political power, and it was suggested that ‘ego trumps the public good’. The default position is that the main political character leads, and everyone else follows.

*The Impact of Peace: Overseas Development Assistance*

Along with a growth in inflowing FDI, a lift on aid embargos meant that the landscape of aid-driven interventions became more complex. Aid came from numerous sources, and although it has reduced over the years, it is still a substantial portion of GDP. In the 2000s, Phnom Penh received by far the largest proportion of aid of any other province in the country. The World Bank, the Asian Development Bank, China and Japan have been prominent sources of financial support over the years (the Cambodian Rehabilitation and Development Board). Figure 5 also shows the rapid influx of international NGOs in this period, speaking to the increase in activity and available funds:

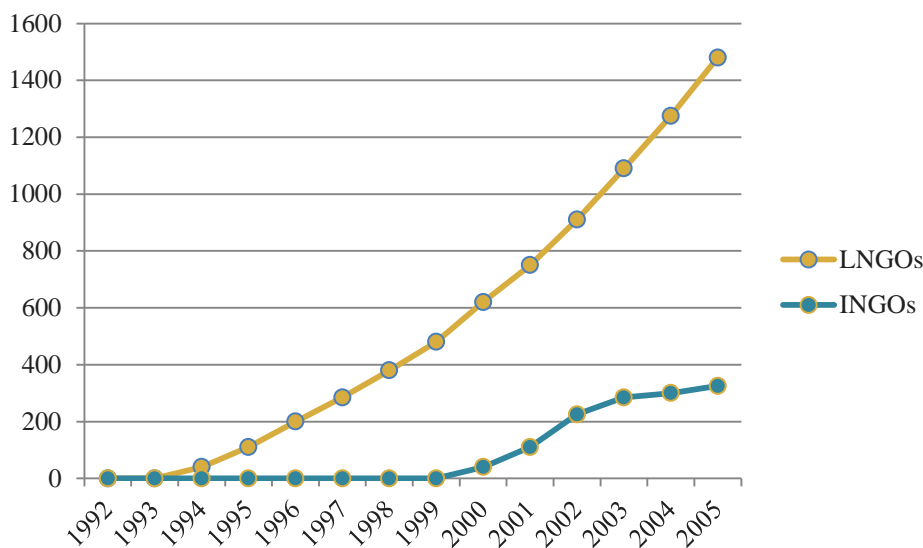


Figure 5 Ibid



The discussed supremacy of the World Bank over other agencies in setting the agenda for international aid has dictated the goals and forms of the majority of international aid sponsored projects in the past decade in the country (Fallavier, 2009). The dominating form of aid in the late 1990s/early 2000s emphasized the roles of free markets, private property and individual incentives, with a circumscribed role for government in defining development practice. Due to the perceived expense and non-scalability of piecemeal, project-based aid programs, the ‘good governance’ approach aims to utilize dominant economic theory to serve a broader population, and to increase the efficiency of interventions (Special Interest Group in Urban Settlements, MIT, 1999).

With this shift, there was also an increased emphasis on global economic frameworks to determine policies, which would then be monitored and evaluated using a national framework (Gore, 2000). As termed by Gore, *there was a shift towards global liberalism and methodological nationalism as a frame for development* (2000:794). Aid policies aimed to enhance state capacities as a means towards delivering the benefits of aid to civil society through efficient resource allocation by state regulated markets. This played directly into the structuralist and residualist theories of the production of inequality.

This emphasis on state reform impacted attempts to devolve power and benefits to local levels. As warned by Rodrik, institutional innovations must be context specific, as they do not travel well (Rodrik, 2005). The arrival of a plethora of new aid-sponsored projects and programs demanded the scaling-up of efforts like the PPUPRS, and introduced competing organizations and projects into the development landscape. Many NGOs working on local, participatory upgrading schemes were co-opted by larger programs, whilst infant, local structural adjustments that came out these schemes could not withstand the replication to expand the scale of the model.

The demise of the PPUPRS illustrates the impact of aid on existing project participation well:

**Box 2: The Impact of ‘Peace’ on the PPUPRS:**

By the end of the Project’s first phase, the mood of all of the participants was upbeat. The Ministry of Phnom Penh (MPP) had agreed that participatory *in situ* upgrading could help improve the living conditions of the urban poor and the appearance of the city; that forced evictions were not long-term solutions and would be discontinued; and that the relocation of the communities that could not stay in their current locations needed to be gradual and planned (such as the case study of Veng Sreng). It also recognized that poverty reduction should be a key component of its future strategy of urban development. The strategy had benefitted from having a clear structure of operation, with only one aid agency (the UNDP) in charge of its eventual roll-out and coordinated NGO support.

At the end of the pilot stage however, when aid began to flood the country, the strategy was yet to endow any legal rights to the involved urban poor. This would help to institutionalize power that had been devolved in the original projects in the UPRS. As NGOs were co-opted and scales of intervention



increased, lines of accountability were lost in the existing projects of the UPRS. The empowerment of communities being achieved by the Strategy was solely dependent on the cooperation of the MPP, and the strength of the NGOs and community stakeholders to enforce this. The impact of FDI on rent-seeking behavior in land conflicts, and the falling accountability in the scaling-up projects resulted in the MPP defaulting on the agreements within the UPRS. Simultaneously, the affected communities were unable to protest this as a series of fires in many UPRS settlements led to their emergency relocation. NGOs could not assist in eviction resistance, as they became involved with the humanitarian relief and emergency relocations work as opposed to participatory planning.

Source: McCargo, 2005

### *Empowering the State against Society*

Between 1998-2001, the number of families displaced in Phnom Penh rose more than 6,500% from 99 to 6,583 (Sahmakum Teang Tnaut, 2011). This rapid increase following successful invited participatory land security projects suggests a correlation between aid, FDI and the empowerment of the state against society in land conflicts. The argument here is that the perception of peace actually prompted disempowerment of communities vulnerable to eviction precisely because of its impact of increasing external sources of revenue and legitimacy to the government.

### *Aid and FDI in a neopatrimonial state*

Tilly's relational theory addresses fundamental power imbalances that perpetuate inequalities in Cambodian society, but the structure of international aid reaching the State following the 'good governance' motif does not affect this power balance. Instead, it ignores it and places increased fiscal power in the hands of the State.

As argued by Moss et al, aid in a context like Cambodia could act as a disincentive to the state to transform from neopatrimonial to a rational developmental state (Moss et al, 2006:4). They hypothesize that aid can be analyzed in the same way as the 'resource curse', where an unearned rent accrues to the government which can have a *negative and anti-developmental effect on the economy, public institutions, and on the government's relationship with its citizenry* (ibid:5). Aid, like FDI, can be seen as another revenue stream flowing through the government officials which erodes its need to relate to society for tax revenue and legitimacy. This relates back to the discussion on aid and its 'good governance' trajectory touted by the World Bank. In a neopatrimonial state, aid is a resource to be captured by private interests allowing them to "hoard opportunity" (Tilly, 1998).

Many interviewees hinted to NGOs being created by government officials to act as repositories for aid revenue to satisfy conditions, or existing NGOs being co-opted by the state. These NGOs then marginalized the legitimate non-state actors pursuing development goals whilst adding little to the development agenda. Kham (2008) speaks to this when discussing aid and institutional reforms. Khan compliments Tilly's analysis of the structuralist theory by highlighting the importance of interventions which are attuned to the capacity and needs of the recipient nation. Structural weaknesses of developing countries can be overwhelmed by the volume of reforms demanded by international development policies. Grindle describes this as reform overload, because *getting good governance calls for improvements which touch virtually all aspects of the public sector* (Grindle, 2004: 524). This can lead to insufficient funds to provide public services, and this then brings Tilly's relational theory back into play. With excess reform demands, politicians serve powerful factions to ensure political stability (adding pressure to perpetuate power imbalances). This is done through patron-client relations (Khan, 2008). The potential for institutional dualism as a direct result of aid then arises, where the formal governance systems, as reported to aid agencies, are mainly a façade for a dominant informal system ruling the outcomes of any structural adjustments. This informal system is the dominance of the State over society in governance and resource allocation decisions, as hinted to in the interviews. Where any reforms are ambiguous or controlled by the state, there is more room for the informal system to prevail over the formal (Brinkerhoff and Goldsmith, 2005). This dualism provides the opportunity for manipulative planning as there is asymmetry of information, further eliminating participation and power devolution as an effect of aid-driven institutional reforms. This shifts civil society's participation in development efforts down to the tokenism and conspiracy rungs of the ladders (Sager, 1999).

A catalyst for aid having an adverse effect on the government's relationship with its citizenry is the demand for land coming from FDI, through the state. The statist Cambodian land market is an example of how rent-seeking permeates all levels of government in the form of bureaucratic corruption. The government is strongly connected to land transactions and holds the power to redistribute land to the highest bidder. There is little disconnect between the urban land market and the state, and therefore FDI strengthens the economic motivations for corruption in land transactions, reinforcing barriers to participation.

Both aid and FDI can therefore be seen as external sources of revenue to a neopatrimonial state. This has severe impacts on the relationship between the Cambodian government and society by removing the influence of formal accountability institutions, such as taxation, on the government's behavior. As argued by Schumpeter, a country's tax system reflects its political institutions (Schumpeter 1918/1991). *Reliance*

*on citizens for raising public revenues, as opposed to... external assistance is considered an essential ingredient to establishing accountability between the state and society* (Moss et al, 2006:10). According to Bauer, by imposing preconceived institutions, foreign aid displaces the process of institutional maturation essential to development, including the capacity of the state to collect revenue (Bauer, 1996). A telling statistic could be that only 11% of the 2010 GDP made it into the National Treasury's coffer (Yimsut, 2012). This 'institutional maturation' was arguably underway with the PPUPRS, but failed to reach a critical level to achieve citizenship participation, and therefore collapsed when new institutions were imposed by competing aid. Moore has argued that countries which rely on 'unearned' income will tend to be less democratic and have less effective institutions and accountability. They do not have to worry about maintaining legitimacy with civil society (Moore, 1998).

Typical channels to transparency between the state and society are therefore arguably eroded by aid and FDI in Cambodia. The findings suggest that as external revenue increased, the number of evictions increased. The ability of NGOs to permeate the wall between state and society in the land market, and support lasting empowerment of the urban poor, has worsened with the influx of aid and FDI, not improved. The case study of Boeung Kak Lake in Box 3 offers a rich illustration of the issues discussed, highlighting the behavior of the state in high-profile land transactions. It offers an understanding of the inertia of power structures, catalyzed by FDI, where informal rules dominate aid-implemented formal institutions:

**Boeung Kak Lake and the Land Management Administration Project:**

The example of the eviction of Boeung Kak Lake (BKL) residents in 2008 from central Phnom Penh provides a good illustration of the broader processes occurring in the urban land market.

BKL was a 90-hectare lake situated in the heart of Phnom Penh, Cambodia. It was surrounded with residential space and commercial areas. It acted as a crucial element in the lives of the residents as they relied on the lake for their livelihood. For the city, BKL served as one of the last open spaces left and a natural reservoir for the flood-prone city during the monsoon season.

People began to settle around the BKL in the 1980s and by 2007, it was home to more than 4000 families. The informal settlement around the lake was created by refugees of the Khmer Rouge who found shelter in the land.



Boeung Kak Lake, 1999

As one of the only large open spaces left in Cambodia's capital city, BKL served as an open space corridor in the urban cityscape of Phnom Penh. During the rainy season, the water level in rivers rises above the ground level of Phnom Penh, which makes drainage to enter the river impossible. A key function of BKL was that it allowed for the retention of rainwater and prevented flooding in Phnom Penh.

Although the lake's status was state public property under stipulations of the 2001 Land Law, the Municipality of Phnom Penh (MPP) announced in February 2007 that it had granted a 99 year lease for only 4% of the market value to a private developer Shukaku Inc. This was for the development of 133 hectares of BKL to a mix of high end office, residential, and retail development<sup>2</sup>.

Despite strong evidence to prove their legal rights to the land, BKL residents were excluded from the titling system when land registration was carried out as part of the World Bank led Land Management Administration Project (LMAP) in the neighborhood in 2006. Shortly thereafter, the Cambodian Government granted the illegal 99 year lease over the area to Shukaku Inc., a company chaired by CPP Senator Lao Ming Khim, close associate of Prime Minister Hun Sen. This land sale occurred overnight with no due process. Residents of the area – many of whom had lived lawfully in the area since the fall of the Khmer Rouge in 1979 – were suddenly accused by the Government of being illegal squatters on State-owned land.

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<sup>2</sup> *Lake Dwellers among Thousands to be Evicted*. Phnom Penh Post. March 8, 2007



Boeung Kak Lake, 2012

Since then, the lake has been filled in with sand to prepare the ground for the luxury development. This flooded the informal settlements surrounding the lake, forcing the removal of those households who had remained behind to protest the eviction.

The LMAP was a project driven by the World Bank to institutionalize enforcement of the 2001 Land Law. It is an example of an intervention that promoted the ‘good governance’ agenda of the time. It created the National Cadastral Commission to systematically register each parcel in the country 2004-2015. A regulatory body was set up within the government to handle land disputes, with representation at the lowest political scale: the Sangkat. This project was discontinued in 2008 following the Boeung Kak Lake forced eviction. An Investigation Panel into the delivery of the LMAP, promoted by the evicted households with support from human rights NGOs, found the project to have been improperly managed. This is due to the skipping of the residents around the lake immediately prior to its leasing to Shukaku Inc. This was one example of many, where the LMAP was accused of avoiding contentious plots of land, many of which were predictably located in Phnom Penh. The outcome of this Panel prompted the World Bank to cease all new funding to Cambodia until the issue regarding the Boeung Kak residents is resolved.

Source: Interview with a member of an NGO coalition

As cases like Boeung Kak Lake show, ‘high-profile’ cases present particularly challenging contexts for ensuring land security to the affected urban poor. According to various community-based NGOs, these land transactions tend to involve central government figureheads and highly valuable sites. They offer very little due process, and occur extremely quickly. The permeation of bribery is more extreme in these examples, and the power differentials prevent any collaboration. Most land grabs in Phnom Penh have been of this nature due to the unavailability of free land, the rising physical scale of these projects and the increasing value of such developments. As highlighted in numerous newspaper articles, attempts at resistance to such evictions have been met with arrest and/or violence<sup>3</sup>. All of these factors erode any opportunity for invited participation or collective action. This is corroborated by Cambodia’s ranking in Freedom House’s ‘Freedom in the World’ index, which scores countries in terms of civil liberties and political rights from 0 (free) to 7 (not free). Cambodia was classed as ‘not free’ for both categories in the 2012 report, with a score of 5 and 6 respectively. The Polity IV index measures concomitant qualities of democratic and autocratic authority in governing institutions, and in 2010 it described Cambodia’s as being rife with ‘persistent, overt coercion’ (Polity IV 2010). This highlights the inherent difficulties in the emerged political landscape determining NGOs’ roles in optimizing participation in the land market.

### *The Picture Today: Remaining Barriers to Empowering Society against the State*

This past discussion sheds light on the observation that the state has become less willing to partner with communities in land disputes in the past decade, finding legitimacy elsewhere. This has created a more challenging context for the remaining autonomous NGOs and community groups attempting to promote accountability and transparency through *partnership* with the state. Invited participation is unsustainable as it is vulnerable to cessation by the state, regardless of the level of micro-empowerment achieved. Forced evictions occur rapidly, often overnight, with little or no planning for household’s relocation resulting in a lack of access to basic services, adequate housing and employment opportunities.

Many remaining NGOs now act as emergency services to the affected poor, rather than as mediators to promote positive future outcomes. They have become damage controllers, bringing aid to inadequate relocation sites or legal assistance to detained protestors. The lack of due process in the Phnom Penh land market prevents NGOs from acting as mediators in productive planning discussions between the state and the urban poor, as they once were. This erodes the potential of NGOs to utilize typical approaches to empower vulnerable groups, highlighted in the further findings below.

### *Adopting a name and shame approach will be unsuccessful*

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<sup>3</sup> e.g. Phnom Penh Post, 20<sup>th</sup> February 2012 ‘Borei Keila Seven Released’



Within this modern context, NGOs behavior must be very different. As consistently suggested by the representatives of community groups and NGOs, any support to communities that is confrontational to government activity will be unsuccessful, and detrimental to future successes. The adoption of tactics that utilize a ‘name and shame’ approach is not productive, and has resulted in the shutting down of at least one NGO for six months. Therefore, promoting media attention of a wrongdoing by the government, for example, will not lead to successful mediation with the state.

*Clearly aligning with communities under the threat of eviction will prevent positive outcomes*

NGOs are often seen as automatically confrontational by the government due to their alliance with communities who have direct conflicts with the state, and their image as ‘experts’, according to the leader of a community based NGO. This creates a negative starting point for any NGO attempting to build a positive relationship with the government. Consistently suggested was that an NGO clearly not directly aligned with a community under the threat of eviction would be more successful. This could be through invisibility (facilitation of community solidarity, but not as spokespeople or organizers). Alternatively, it could be through alliance with the government itself (promoting pluralism in planning, land-sharing designs, showing a pro-active and non-confrontational stance). The consensus across interviewees was that this would be the only way of engaging meaningful negotiation and coordination with government officials, but requires staunch loyalty on the part of the NGO to steer participation from within larger-scale interventions. The key finding here is that NGOs will not be successful if they sit directly between the government and the urban poor communities if attempting to facilitate negotiations between these groups. This calls into question the possibilities for success of NGOs playing the role of *mediator* directly with the state.

*Negotiation with the state has been achieved in this latter period by communities precisely due to lack of NGO/donor/media support*

One interesting addition to these findings is that there have been a small number of examples of communities who have successfully built relationships with the state to eventually earn the results that they wanted. A famous example is that of the ‘Mangrove Voices’: a community in Phnom Penh that was under threat of eviction due to an illegal land grab along the river bank. The households within this community earned a large portion of their income from the river, making the threat of removal particularly damaging. Without donor support for coordination, and without approaching media outlets, 200 members of the community marched to the offices of their local official of relevance and demanded action on their behalf against the land grabbers. This prompted collaboration between the authorities and the community, and official land titles were issued and the land sale stopped.

Their success was posited to be down to a strong leader and the lack of donor or media presence. These aspects of their petition to the government a) scared the government as the community mobilization seemingly came out of nowhere and had no NGO support, and b) created a non-confrontational stance of the community by going behind closed doors directly to the government officials. They give insight into aspects of resistance that are of most potential to vulnerable communities. Any route to *negotiation* is essential, building a long-term relationship with the government is the ultimate goal, and any confrontational tactics are likely to be detrimental to any campaign. NGOs must fit into this model to successfully support communities, if they are attempting to directly connect the state with vulnerable communities.

*Community saving schemes in Phnom Penh offer opportunities for bribery and exclusionary practices which negatively impact the very poorest households the most*

Communities saving schemes, such as the UPDF, pose opportunities for bribery and corruption in land transactions which negatively impact the poorest households the most. NGOs historically facilitate the creation and organization of these schemes as they have been proven to enable community upgrading projects to occur. These schemes inadvertently provide proxies for land titles in the form of a savings book. This includes the names of all households who have contributed to the community's savings. This often excludes the very poorest of households who simply cannot afford to contribute any cash, but who have legal possession rights to the land that they occupy under the 2001 land law. In Phnom Penh, the high demand for land and its subsequent spike in value, has prompted officials colluding in externally funded real estate developments to bribe community leaders and local officials who control these savings books, resulting in the erosion of any trust formed from the 'shared crisis'. The highly centralized rent-seeking in land has permeated all levels of government as the salary of local officials is too low to prevent rents being sought at every opportunity. Therefore, bribery is particularly successful, and corrosive to community solidarity. This is the case with the eviction of Borei Keila residents in Phnom Penh in January 2012, who were part of the UPDF:

**Borei Keila Eviction:**

Phan Imex, a development company who leased land in central Phnom Penh to build luxury housing, agreed to a land-sharing scheme with the existing residents. They would provide social housing for residents with legal possession rights on the land following the stipulations of the 2001 Land Law. By emphasizing the saving scheme as the primary location of land rights, and controlling which names were included and excluded in the book, the officials used this as evidence when relocating families or assigning housing units. Bribes to community leaders to add or remove names from this list, in the form



of promised housing on site, resulted in eligible households losing housing rights (often the poorest), and outside speculators gaining access to these rights



Site of Borei Keila settlement during demolition phase

This reality does not align with the belief that community saving schemes, as promoted by NGOs, can enhance solidarity within a community. In this case, such a scheme allowed the government to break-up collective action by dividing the residents. Borei Keila is just one example of many following the same path. Many Borei Keila residents continue to protest the inadequate compensation and community level corruption with assistance from human rights NGOs, and have been subject to police brutality and imprisonment as a result.

Source: Interview with member of the MPP

### *Long-Term Implications of Current Trends*

Before discussing possible opportunities for NGOs promoting participation moving forward, it is interesting to deliberate the potential impacts of this current trend of land grabbing on development in Phnom Penh. Can we at least say that the large-scale developments that result in the eviction of thousands of people ensure long-term economic growth and trickle-down development effects? The Cambodian state does align with many of the characteristics of a developmental state, as defined by Leftwich in

‘Governance, the State and the Politics of Development’: it has a regime which came to power by a coup, autonomous state institutions and elites, a weak civil society, and has utilized strict measures to suppress opposition from civil society (Leftwich, 1994:378-379). A developmental state, by definition, suggests a positive long-term trajectory in terms of economic growth and development. The Cambodian state, however, lacks the very features of such a state which makes it *developmental*. A key defining difference is the ‘culture of corruption’ found in the urban land market that has arisen from the collusion of senior officials with private investors, merging the market with the state.

As discussed by Bardhan in ‘Corruption and Development: A Review of the Issues’, corruption is not automatically bad for development. This aligns with Leftwich’s analysis of the developmental state. Corruption can improve efficiency and promote economic growth in an overly regulated market (Bardhan, 1997). But in the case of the Cambodian urban land market, corruption within the state is linked to speculation in land, rather than activities that can be said to promote productive transformation of the country. Numerous examples exist across Phnom Penh of stalled real estate developments and vacant plots of land that have resulted from opaque land deals involving prominent public officials. Public resources have been transformed into stagnant private resources, particularly vulnerable to global economic downturns. This follows vast increases in construction project approvals in recent years, peaking in 2008 with \$740.9 million worth of such approvals in Phnom Penh alone (Cambodia Development Review, July-September 2011). This could be seen in January 2012, where many large developments were stalled under construction:

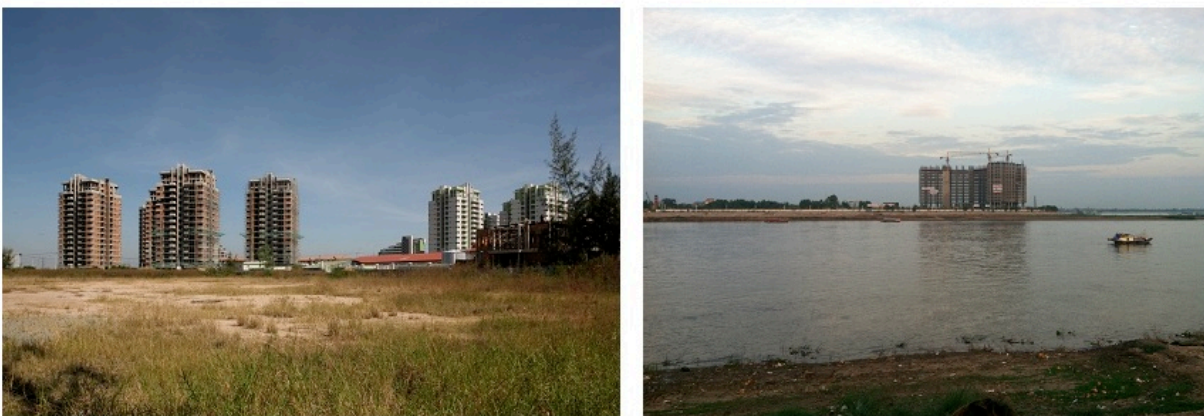


Figure 7: Stalled developments observed in Phnom Penh. Boeung Kak Lake and Tonle Sap River, 2012

In 2011, there was a decrease in price per square foot of office space in the Capital, and vacancy rates increased<sup>4</sup>.

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<sup>4</sup> <http://www.phnompenhpost.com/index.php/2012021054423/Business/premier-pushes-skyscrapers.html>

This trend has dangerous implications in terms of long-term economic growth and development, because it creates a moral hazard where the incentive to adopt good policies and reform inefficient institutions is reduced. The impact of aid (and potentially FDI) on the collection of taxes is another inhibitor of institutional reform that would promote sustainable development, as it severely limits government revenue. This weakens the government's developmental performance and encourages rent-seeking (Heller and Gupta, 2002). Currently, the Cambodian government actively encourages further investment by having extremely transparent and minimal investment rules, marketing itself as 'one of the most open economies in the world' (*Invest in Cambodia*, 2011). This suggests that the problem of forced evictions and the associated land rights epidemic is a problem extremely unlikely to be dealt with through macro-economic policy. One long-term potential from the current trend is in the positive trickle-down economic impacts of increased tourism. Many developments in the city are driven by rising tourism rates, and once complete will increase the physical capacity for tourism in the Capital. Although an insufficient social route to promoting growth, the results of the current physical development pattern should be a series of economic drivers in the city. The challenge moving forward therefore is two-fold: not only must the land market ensure that new development honors existing land rights for all stakeholders; but that those projects that have already been approved, albeit absent of due process, have long-term benefits for the equitable development of the city.

### *Summary of Findings*

This research discovered that the relationship between 'civil society' and the state, in terms of land rights, has deteriorated since a shift in the late 1990s. The perception of peace prompted disempowerment of communities vulnerable to eviction precisely because of its impact of increasing external sources of revenue and legitimacy to the government alongside rising land conflict. An emerging private demand for land in the Capital, following growth in tourism, has increased pressure and motivation to state to ignore land rights as land values rise. Collusion between the state and private industry in land transactions has prevented fiscal routes to public accountability, as tax and other social revenue is superseded by increasing rents from corrupt transactions.

Aid has worsened the relational inequality in the emerging Phnom Penh land market by simultaneously increasing revenues going through the state and removing forms of NGO assistance to civil society. As aid flowed into the country in the late 1990s, participatory planning projects were prematurely demanded to scale-up and increase in complexity. Existing efforts to optimize invited participation (such as the PPUPRS) unraveled, before the resultant organizational structures and systems had become institutionalized. The reporting of participatory efforts and aid outcomes fall on the state, allowing for

invited participation to lie on the tokenism rungs to satisfy formal aid requirements. At the same time, NGOs have been co-opted by the state to engage in the larger-scale projects and to reach the funding streams. Invited participation has become unsustainably vulnerable to cessation by the state.

Additionally, vulnerable communities do not follow the theories of trust formation and collective action elaborated in the literature review following shared crises. Interviewees agreed that there is a heightened sense of self-preservation resulting from the specific history of political turbulence in Cambodia.

Secondly, pervasive bribery has reached the local level, meaning that attempts to formalize trust networks through community saving schemes are detrimental to attempts at collective action. These interventions, which create a financial proxy for property rights, offer opportunities for the state to fragment communities through bribery and coercion of key group members.

High-profile disputes - such as Borei Keila and Boeung Kak Lake - are increasingly potent examples of the lack of due process in land conflicts, and failures in the young land market. The top-down assertion of state power, bolstered by FDI and aid, has eradicated the possibility of NGOs delivering citizenship participation in property rights through invited participation. This summary of findings offers a set of specific conclusions that relate to recommendations for addressing relational inequality in the urban land market moving forward.

## Conclusions and Recommendations

### Conclusions

1. Determinants of aid-flows in Cambodia must recognize that the failures in the land market are largely due to the state itself. The trajectory of aid following the Washington Consensus encourages free markets nurtured by the state, having implications on the aid-driven attempts to address market failures.
2. Aid agencies must begin to recognize the potential of *non-state* actors in correcting the market failures in the statist Cambodian land market.
3. A fundamental shift in the ecology of non-state actors in the country means that those actors with such potential are not those service-based NGOs typically positioned to optimize invited participation. They have been coopted by large scale aid projects which are under significant control of the state following prevailing aid policy. They can no longer be classified as ‘non-state’.



4. The remaining non-state (autonomous) actors that have proven to be most resilient to cooptation are those rights-based NGOs focused on the fundamental rights that are violated by the current failures in the land market.
5. The emerging challenge is converting these advocacy groups into productive actors in correcting market failures and reducing power inequalities.

### Recommendations

In Cambodia, this conversion of the rights-based NGOs to enablers of self-determined participation for vulnerable communities in the urban land market requires them to change their frame of action. In this context of pervasive bribery and weak law enforcement, land security is not synonymous with formal land rights. Therefore, these actors must shift their behavior away from advocating for direct state recognition of *legal* rights towards promoting land *security*. This must be done by bolstering bargaining power of those communities vulnerable to eviction alongside reducing state power in land transaction to create spaces for, and not just utilize invited spaces of, participation.

In the context of forced evictions, community-based indigenous NGOs are those best suited to resistance to enable negotiation. Following the example of Mangrove Voices and the views of interviewees, the absence of supra-community support for resistance is a beneficial factor in negotiating with the state for land security. These groups have strength because they represent themselves *as the community*, not groups that can be shut-down by the state.

This provides a framework for the recommendations on supra-community organizations' roles and actions moving forward. They must provide assistance to at risk communities to increase their autonomous resistance potential in case of forced evictions, whilst simultaneously reducing the likelihood of such a threat. The following section highlights some potential routes to this for these NGOs:

#### *Reduce likelihood of an eviction*

1. Identify communities vulnerable to future land conflicts, and promote data collection on potential relocation sites.
2. Connect these with funding to upgrade with infrastructure on a community by community basis, increasing land security. Examples include using permanent building materials and introducing postal addresses. This will increase the sunk cost of future evictions, and therefore reduce the excess rents that they generate.

3. Educate communities on aid programs and their purpose whilst promoting regular dialogue between aid agencies, the media, and the beneficiaries. This will reduce information asymmetry on the purpose of these programs and their impact on land rights.

#### *Increase strength of collective action*

1. Through the process of non-state delivered participatory upgrading, social capital within communities, including trust, can be developed.
2. Use existing broad advocacy networks to connect communities together for knowledge sharing and education.
3. Improve leadership in communities through education, technical assistance and support groups. By promoting strong leadership in communities, the influence of bribery is reduced and efficacy of collective action is enhanced.
4. Instigate an incentive scheme for local officials to bolster their income levels relative to supporting communities' land rights. This would reduce the influence of bribery at the local level within the state.

By increasing the immediate and sunk costs of evicting residents, reducing rents available from land grabs, these actions of non-state groups can help to reduce state power and correct the existing failures in the Phnom Penh land market. Bolstering prolonged resistance from evictions reduces the ability of the state to ignore due process in compensating residents, and reduces the value of such land to outside investors by increasing uncertainty. It buys time to take complaints to aid agencies, as was the case with the Boeung Kak Lake residents resisting unfair compensation, which resulted in the World Bank ceasing funding to the country until the conflict is resolved.

Aid sanctions and the eradication of outside investment in the land market is not the sought outcome with these actions. These actions are focused at the community scale, on a case by case basis. This can set a growing number of positive examples of alternatives to mass evictions whilst building capacity for collective action, slowly evolving the land market to respect due process and inherent land rights. Aid agencies must recognize these rights-based NGOs as fundamental actors in developing efficient land market institutions, and correcting existing market failures. This is essential to shaping this emerging city and economy as a dynamic, robust and equitable metropolis.

Following the long-term demographic impacts of the war, 96% of the population is below the age of 65<sup>5</sup>. The nature of collective action is set to change in the coming years, with an increasingly educated population emerging in a country open to global trends and influence. Can the small scale opportunities available today for non-state support of land rights issues lay the ground work for self-determined land security in the coming future?

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<sup>5</sup> [http://www.indexmundi.com/cambodia/demographics\\_profile.html](http://www.indexmundi.com/cambodia/demographics_profile.html)

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