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Conflict continues: Transitioning into a battle for property in Cambodia today

Alexandra Kent

This article discusses the ongoing hybrid war crimes tribunal taking place in Cambodia — in the Extraordinary Chambers in the Courts of Cambodia (ECCC) — in relation to the simultaneous eviction of the Boeung Kak Lake community in the capital, Phnom Penh. Presenting these two phenomena alongside one another highlights the contradiction inherent in the liberal peace model's humanitarian rhetoric of societal reconstruction and its economic imperatives, which serve the interests of the elites. The material discussed here suggests that so-called transitional justice interventions may accompany a period of stabilisation, which is good for the global market, but do little to enhance fairness and peace for ordinary people.

The sustainable reconstruction of countries emerging from long periods of conflict is a challenge that we ignore at our peril.

James D. Wolfensohn, President of the World Bank, 1998¹

This article describes the ongoing hybrid war crimes tribunal taking place in Cambodia — in the Extraordinary Chambers in the Courts of Cambodia (ECCC) — in relation to the simultaneous case of an urban eviction from an area known as Boeung Kak Lake in the capital, Phnom Penh. The article builds primarily upon anthropological fieldwork conducted in two-month blocks in 2011, 2012 and 2014 on justice and social healing in Cambodia. The problem of land rights had become evident to me, however, when I first conducted research in Cambodia in the early 2000s, on Buddhism and social healing. The more recent blocks of fieldwork included semi-structured interviews and less formal conversations with Cambodian and international staff at the ECCC. I also made regular visits to the Boeung Kak Lake area and got to know several

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¹ James D. Wolfensohn, 'Foreword', in *Post-conflict reconstruction: The role of the World Bank* (Washington, D.C.: World Bank, 1998), p. v; http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/1998/04/01/000009265_3980624143531/Rendered/INDEX/multi_page.txt (accessed 18 June 2014).

key informants, including two community leaders, with whom I spoke on four occasions, and I accompanied residents on one protest in 2012.²

Presenting the ECCC and the Boeung Kak Lake eviction alongside one another is intended to highlight a fundamental hypocrisy in the liberal peace model. It aims to show how the liberal peace model in effect veils the bald political and material interests of global elites behind its humanitarian rhetoric and performance. Below, I shall first briefly outline the liberal peace model and the contradiction inherent in its neo-liberal goals and humanitarianism, and explain how the notion of transitional justice fits into this model. I then note some of the effects neoliberalism is having upon land rights in developing countries in general and in Cambodia in particular. An outline of the ECCC, the recent history of the Cambodian judiciary and of the privatisation of property follows before I present the illustrative case of the Boeung Kak Lake evictions. Finally, I draw some brief conclusions about the international community's interests in peace to secure markets, and, under these circumstances, the impact that foreign justice interventions are likely to have on how impunity and injustice are experienced by ordinary people in a country like Cambodia.

Transitioning to peace, justice and 'order'

The liberal peace model provides the rationale according to which today's power networks in the global 'North' have been seeking to reshape troubled societies in the 'South'. Its programme for peacebuilding conflates liberal politico-economic tenets with ideas for humanitarian societal reconstruction, which stress such things as strengthening the rule of law, civic trust and conflict prevention.³ Some peace scholars focus on the humanitarian aspirations underlying the model, 'What one hopes to achieve by such peacebuilding is to erect the foundations of political institutions that could make for a lasting peace',⁴ but note that most liberal peacebuilding operations of the past decade have failed in this regard. In this article I shall be focusing on the incompatibility of the humanitarian and the economic elements of the model. I argue that by coercing war-torn societies to join the global competition for profit, those who promote the ideals of the liberal peace in fact help sustain injustices, violence and exclusion in these societies.

Notwithstanding the humanitarian rhetoric, the liberal peace model in practice means that weak nations are being drawn into the global marketplace on terms that are dictated by and benefit the powerful but offer no protection for the most vulnerable.⁵ The deepening of Cambodia's neoliberalisation, Simon Springer explains, has been 'on the one hand, led by the aims and ideals of the international donor

2 Conversations were conducted mainly in Khmer and although I speak basic Khmer, my interpreter was with me on all of these visits.

3 Mark Duffield, *Global governance and the new wars: The merging of development and security* (London: Zed, 2001), p. 11.

4 Endre Begby and J. Peter Burgess, 'Human security and liberal peace', *Public Reason* 1, 1 (2009): 92.

5 See Jenina Joy Chavez Malaluan and Shalmali Guttal, 'Structural adjustment in the name of the poor: The PRSP experience in the Lao PDR, Cambodia and Vietnam', Focus on the Global South and CUSRI, Chulalongkorn University, Bangkok, 2002; <http://focusweb.org/publications/Research%20and%20Policy%20papers/2002/PRSP.pdf> (accessed 6 Dec. 2013).

community since the United Nations (UN) sponsored transition of the early 1990s ... and on the other hand, readily taken up by local elites as a kleptocratic means to enhance both their wealth and their hold on political power'.⁶

Mark Duffield notes that the liberal peace is a form of global governance whose objective is to transform marginal, war-torn societies into cooperative entities, and its ultimate goal is *stability*.⁷ But for whom is this stability important? Springer has argued that the 'preoccupation with order and stability serves the interests of capital at the global level and political elites at the level of the nation-state'⁸ but does little to protect the interests of large segments of the population. Indeed Springer's argument is that the imperative for stability is the very reason that authoritarianism and violence have become the principal mode of governance by many ruling elites in post-conflict settings.

The notion of 'transitional justice' falls within the scope of the liberal peace. It refers to international justice processes — such as prosecutions, institutional reform and reparations — implemented during a supposed transition from state repression or violence to peace, in which victims' rights will be recognised, impunity will end, and the rule of law will obtain. Establishing the rule of law is assumed to mark a break with the past and generate a culture in which state actors may not transgress the law for political gain.⁹

Using the Cambodian case, this article seeks to demonstrate that instead of fostering self-sustaining and inclusive peace, the imperative for governments to liberalise their economies and maintain stability may encourage formerly militarised elites to monopolise capital and use it to intimidate populations, perpetuate injustice and create social exclusion. Unsurprisingly, implementing a transitional justice mechanism under such conditions is likely to leave a wide discrepancy between the 'lofty promises of justice issued by lawyers, commissioners, diplomats and politicians, and the messy realities on the ground and within the institutions themselves'.¹⁰ Experience suggests that the leaders of societies that are targeted for habituation to international norms may simply reiterate official international justice and reform narratives while following 'hidden transcripts'¹¹ by which they exploit the new political economy to convert military power into economic power.¹² In effect, this means that entrenched power patterns may persist or deepen, with old battles continuing to be fought, but with new weapons — particularly land.

6 Simon Springer, 'Illegal evictions? Overwriting possession and orality with law's violence in Cambodia', *Journal of Agrarian Change* 13, 4 (2013): 525.

7 Duffield, *Global governance and the new wars*, p. 33, emphasis added.

8 Simon Springer, 'Violence, democracy, and the neoliberal "order": The contestation of public space in post-transitional Cambodia', *Annals of the Association of American Geographers* 99, 1 (2009): 1.

9 Christopher Larkins, 'Judicial independence and democratization: A theoretical and conceptual analysis', *American Journal of Comparative Law* 44, 4 (1996): 606.

10 Anders Gerhard and Olaf Zenker, 'Transition and justice, an introduction', in *Transition and Justice: Negotiating the terms of new beginnings in Africa*, special issue, *Development and Change* 45, 3 (2014): 397.

11 James C. Scott, *Domination and the arts of resistance: Hidden transcripts* (New Haven: Yale University Press, 1992).

12 See also Andrew Robert Cock, 'External actors and the relative autonomy of the ruling elite in post-UNTAC Cambodia', *Journal of Southeast Asian Studies* 41, 2 (2010): 241–65.

New battlegrounds

All over the so-called developing world disputes over possession of land have become an increasingly grave problem as land becomes a commodity with an escalating market value.¹³ In post-conflict settings the problem may be compounded by customary possession practices clashing with the introduction of formal land titling systems, returning refugees seeking to (re)claim land, and growing populations. In developing states, the imperative to liberalise the economy in exchange for foreign loans¹⁴ often also results in people with only customary rights to their land finding themselves pitted against more powerful, self-serving compatriots who profit directly from the commodification of land or indirectly by sealing deals with foreign investors.¹⁵

Cambodia is a good example. The country suffered decades of social disruption due to conflict in the early 1970s, followed by the catastrophic Khmer Rouge communist experiment of 1975–1979, and then continued conflict throughout the 1980s when the Vietnamese were governing Cambodia. As early as 1988, while Cambodia was still embroiled in civil strife, the then Minister of Justice described how the country was already entering into yet another war: ‘a war of houses and a war of land’.¹⁶

After peace agreements were signed in 1991, the same international bodies that had stoked conflict in the country throughout the 1980s by supporting the Khmer Rouge against the Vietnamese regime began investing in the (re)construction of the country’s political and legal institutions in particular. Yet, after two decades of internationally sponsored peacebuilding, the Cambodian human rights NGO Licadho concluded in their annual review for 2012 that: ‘The most important source of strife continued to be the unlawful seizure of land by state authorities, usually on behalf of well-connected business interests’.¹⁷

Moving stories — crimes past and present

By juxtaposing the ECCC and the Boeung Kak Lake eviction, this article seeks to highlight the paradoxes experienced by many of those on the receiving end of the liberal peace ideals. The tenacity of a core group of Boeung Kak residents led by a woman called Tep Vanny in protesting this eviction took both the World Bank

13 See, for instance, Ruth Hall, ‘Land grabbing in Africa: The new politics of food’, Future Agricultures, Policy Brief 041, 2011, <http://www.future-agricultures.org/publications/research-and-analysis/1427-land-grabbing-in-africa-and-the-new-politics-of-food/file> (accessed 17 Sept. 2015); ‘Uganda: Land disputes threaten northern peace’, IRIN, 9 Apr. 2012; <http://www.irinnews.org/report/95322/uganda-land-disputes-threaten-northern-peace>; <http://www.newtimes.co.rw/news/index.php?i=15409&a=68401> on Rwanda; ‘Timor Leste: Regulating land ownership “key to stability”’, IRIN, 29 Sept. 2011; <http://www.irinnews.org/report/93845/> (all accessed 27 Nov. 2013).

14 See Malaluan and Guttal, ‘Structural adjustment in the name of the poor’.

15 See, for example, Claire Provost and Paige McClanahan, ‘Sierra Leone: Local resistance grows as investors snap up land’, *The Guardian*, 11 Apr. 2012; <http://www.theguardian.com/global-development/poverty-matters/2012/apr/11/sierra-leone-local-resistance-land-deals> (accessed 28 Nov. 2013).

16 Minutes 113, Cabinet Council of Ministers, 23–24 June 1988, cited in Evan Gottesman, *Cambodia after the Khmer Rouge: Inside the politics of nation building* (New Haven: Yale University Press, 2003), p. 320.

17 ‘2012 in review: Land grabbing, the roots of strife’, *Licadho-cambodia.org*, 12 Feb. 2013, <http://www.licadho-cambodia.org/articles/20130212/133/index.html>, p. 1 (accessed 27 Nov 2013).

and the Cambodian government by surprise and attracted international attention. In 2013, although the lake was by now completely filled in, the protests continued. This happened to dovetail with an unexpected outcome of the national elections, which threatened to destabilise the absolute power monopoly that the Cambodian People's Party (CPP) had effectively maintained since 1997. By the end of 2013, dissatisfaction was also brewing among the country's garment factory workers — an estimated 400,000 young women — and they too began protesting to demand higher wages. The government responded by banning protests and using harsh crackdowns resulting in at least four deaths and many injuries.¹⁸ The fact that violence and intimidation are being used to silence people who peacefully demonstrate against an economic and political order they deem unjust belies the purported promises of the liberal peace and transitional justice. In today's economic climate, 'peace' is something the profiteers of weak nations frequently violently enforce and 'law' something they often employ to formalise their gains.

Justice in Cambodia

These recent developments in Cambodia coincided with a major transitional justice initiative, the trial of two remaining leaders of the Khmer Rouge regime in the hybrid tribunal in the ECCC. Since its inception in 2003, the ECCC has concluded the trial only of Case 001, of Kaing Guek Eav (aka Duch), the former director of S-21 Khmer Rouge prison, who received a life sentence in 2012. More than US \$200 million is reported to have been spent on this case alone.¹⁹ Of the four ageing defendants in Case 002, one (Ieng Tirith) was unable to stand for trial since she was diagnosed with Alzheimer's, while her husband, former Khmer Rouge Foreign Minister Ieng Sary, died in 2013. The first trial in Case 002 (Case 002/01) began on 21 November 2011 and, ironically, focused primarily on alleged crimes against humanity relating to the *forced movement of the population from Phnom Penh* and later from other regions of the country between 1975–1979. Only the Khmer Rouge Head of State Khieu Samphan and Brother Number Two Nuon Chea remained to hear their sentences on 7 August 2014 to life imprisonment.

Much has been written about the ECCC in relation to issues such as reconciliation and its broader legacy for the national judiciary and population at large.²⁰ Observers note, though, that 'there is little evidence that the ECCC is profoundly affecting the local judicial system. Although the Cambodian National Assembly passed a long-dormant anticorruption law in 2010, judicial corruption remains

18 See Luke Hunt et al., 'Phnom Penh's Freedom Park subdued following crackdown on anti-Hun Sen protestors', *ABC News*, 6 Jan. 2014; <http://www.abc.net.au/news/2014-01-06/an-phnom-penh27s-free-dom-park-subdued-following-protester-crac/5185984> (accessed 10 Jan. 2014).

19 Joel Brinkley, 'Justice squandered: Cambodia's Khmer Rouge tribunal', *World Affairs*, Sept./Oct. 2013; <http://www.worldaffairsjournal.org/article/justice-squandered-cambodia%E2%80%99s-khmer-rouge-tribunal> (accessed 19 June 2014).

20 Laura McGrew, 'Justice and reconciliation? Can the trials for the Khmer Rouge bring reconciliation and healing to Cambodia?', *NIAS Nytt* 3 (2006): 8–9; Michelle Staggs Kelsall, 'Symbolic, shambolic or simply *sui generis*? Reflections from the field on Cambodia's Extraordinary Chambers', *Law in Context* 27, 1 (2009): 154–78; Kheang Un, 'The Khmer Rouge Tribunal: A politically compromised search for justice', *Journal of Asian Studies* 72, 4 (2013): 783–92.

endemic ...'.²¹ Nor do Cambodians seem to believe that the ECCC will effect changes to their own justice system — when the NGO the Cambodian Human Rights and Development Association (ADHOC) interviewed participants in their ECCC outreach activities they noted that “ordinary” Cambodians ... are capable of discerning huge differences between the ECCC and Cambodian courts — but, realistically, do not expect any immediate impact on their local courts’.²² Victims of evictions, such as the residents of the Boeung Kak Lake area, see the ECCC as irrelevant to their justice needs and may even see it as a mechanism for upholding the political status quo.

This is also the position adopted by Duncan McCargo, who argues that while the ECCC is ostensibly trying perpetrators of mass crime, on another level, it is also a trial of the authoritarianism of Prime Minister Hun Sen and his regime by elements of the international community, but that the design and political dynamics of the Tribunal ‘mean that the major winner in all possible scenarios is the Cambodian government’.²³ On 1 February 2012, defence lawyers Michiel Pestman and Andrew Ianuzzi filed a complaint to the Office of the Royal Prosecutor stating that officials from the Royal Government of Cambodia had interfered with the course of justice at the ECCC. In particular, they alleged that Hun Sen and/or his alleged co-perpetrators had: ‘(i) publicly indicated that certain witnesses should not testify in Case 002; (ii) publicly opposed further investigation and proceedings in Cases 003 and 004; (iii) flouted ECCC summonses to appear for testimony in Case 002 without valid reason; and (iv) prevented ECCC letters inviting Norodom Sihanouk to testify in Case 002 from reaching the King Father’.²⁴ Significantly, the Office of the Royal Prosecutor responded to the charges against the prime minister by asserting that he ‘has an obligation to ensure political *stability*, peace, and the wellbeing of the Kingdom of Cambodia’,²⁵ which Brinkley contends ‘suggests that Hun Sen can do whatever he wants about the trial and say his actions are intended to assure “stability”’.²⁶

The context of Cambodia’s judiciary is complex. Following its complete destruction under the Khmer Rouge regime, it was restarted after the Vietnamese takeover in 1979, but as an institution that was subservient to the Party. After the withdrawal of the Vietnamese, the takeover by the United Nations Transitional Authority in Cambodia (UNTAC) and the holding of democratic elections in 1993, judicial independence was enshrined in the new constitution. However, practitioners have largely failed to uphold the constitutional mandate. Some cite problems such as the lack of material and human resources along with corruption and patronage as depriving

21 John D. Ciorciari and Anne Heindel, ‘Experiments in international criminal justice: Lessons from the Khmer Rouge Tribunal’, 4 June 2013; http://www.cambodiatribunal.org/wp-content/uploads/2013/08/commentary_13Fall.pdf, p. 70 (accessed 6 Mar. 2014).

22 Michaela Raab and Julian Poluda, ‘Justice for the survivors and for future generations’, ADHOC’s ECCC/ICC Justice Project, Dec. 2006–Mar. 2010, an evaluation; http://www.adhoc-cambodia.org/wp-content/uploads/2013/08/ADHOC_KRT_evaluation_RaabPoluda_final003201.pdf (accessed 16 June 2014).

23 Duncan McCargo, ‘Politics by other means? The virtual trials of the Khmer Rouge tribunal’, *International Affairs* 87, 3 (2011): 618.

24 Press release, Prakken D’Oliveira, 1 Feb. 2012; [http://www.prakkendoliveira.nl/user/file/120201_-_press_release_\(appeal_dismissal_cr._complaint\).pdf](http://www.prakkendoliveira.nl/user/file/120201_-_press_release_(appeal_dismissal_cr._complaint).pdf) (accessed 17 June 2014).

25 Ibid.; emphasis added.

26 Brinkley, ‘Justice squandered’.

the judiciary of independence.²⁷ Others question the idea that the problems have to do with a lack of resources or capacity and argue that the political elite makes conscious efforts to prevent the development of a rights-based approach to governance.²⁸ Cambodia has shown itself well able to draft and implement laws. The anti-adultery law that was passed by the National Assembly in 2007 is a case in point (whether it was to enshrine the sanctity of marriage or to harass the opposition party leader, who was believed to be involved in an extramarital affair, is a moot point).²⁹

Despite the training of lawyers and passing of laws, Cambodian reality enables the rich and powerful to buy legal immunity for themselves or members of their patronage networks (*kse*, lit. string). As Heng Sreang observes, “Those who have strong *kse* can have their disputes solved easily, either in the form of quick, direct compensation to a plaintiff, or in securing the “innocence” of a criminal.”³⁰ In relation to land, Springer observes that the law may simply be used to underwrite the dispossession that is benefiting not only Cambodian but also international plutocrats.³¹ In low profile cases, impoverished plaintiffs are often loath to resort to the court system where they know they will most likely have to pay bribes to underpaid officials in order to secure their help.³² The Cambodian Center for Human Rights (CCHR) recently observed that ‘More often than not, those who evade justice are well-connected individuals who are targeting those very people fighting for justice and human rights in Cambodia.’³³

Since the justice police, who are ostensibly responsible for executing court warrants and rulings, rely on the Ministry of the Interior for their salaries, promotion and demotion, they are generally unwilling to act against the interests of their superiors.³⁴ Similarly, the members of the Council of the Magistracy, whose role is to maintain the discipline of lawyers, are known to be loyal to the ruling CPP and to operate largely as an extension of its political arm. Human rights observers note that ‘in political cases evidence is not needed; just “advice” from the top is sufficient for making judgments’.³⁵

Licadho’s website includes numerous articles documenting the ways in which the legal system has been used to persecute land activists.³⁶ Similarly, ADHOC reports

27 Kheang Un, ‘The judicial system and democratization in post-conflict Cambodia’, in *Beyond democracy in Cambodia: Political reconstruction in a post-conflict society*, ed. Joakim Öjendal and Mona Lilja (Copenhagen: NIAS Press, 2009), p. 75.

28 Roger Henke and Kristina Chhim, ‘Donors, “Do no harm”, and the issue of justice in Cambodia’, *NIAS Nytt: Asia Insights* 3 (2006): 12–14.

29 Karen Knight, ‘Notions and practices of justice: The international and the local’, *Nias Nytt: Asia Insights* 3 (2006): 11.

30 Heng Sreang, ‘A short reflection on some obstacles to implementing “justice” within the context of the law in present-day Cambodia’, *NIAS Nytt: Asia Insights* 3 (2006): 20.

31 Springer, ‘Illegal evictions?’: 542.

32 Amnesty International, ‘Breaking the silence: Sexual violence in Cambodia’, 2010; available at <http://www.amnesty.org/en/documents/ASA23/001/2010/en/>.

33 ‘Rights group slams “rampant impunity” in Cambodia’, *Radio Free Asia*, 20 Nov. 2013; <http://www.rfa.org/english/news/cambodia/impunity-11202013182832.html> (accessed 7 Dec. 2013).

34 Kheang Un, ‘The judicial system and democratization’.

35 ADHOC, Licadho, and Human Rights Watch, ‘Impunity in Cambodia: How human rights offenders escape justice’, June 1999; <http://www.licadho-cambodia.org/reports/files/21Impunity%20in%20Cambodia.pdf> (accessed 14 Oct. 2014).

36 <http://www.licadho-cambodia.org/>.

that there has been an increasing use of violence by the authorities to quell local unrest and that the weaker parties lack access to redress since the courts tend to favour the wealthy and well-connected over the poor.³⁷ Indeed, as Springer details, by validating unscrupulous activity the courts explicitly *make* it legal.³⁸ It is against this background that the purported objectives of the ECCC hybrid tribunal to not only ‘bring to trial senior leaders and those most responsible for crimes committed during ... the Khmer Rouge regime, which lasted from 17 April 1975 to 6 January 1979’, but, more broadly, to end impunity and strengthen the rule of law should be seen.³⁹

The new conflicts: Property becomes private

In pre-colonial Cambodia all land was inalienable crown property in which peasant farmers had usufruct rights. After the French protectorate was established in 1863, the French attempted to introduce a system of land titling through a land act in 1884, but stalled its full implementation until 1912, after the coronation of the pliable King Sisowath. The notion of private ownership was reinforced in 1920 with the adoption of the Civil Code, which stated that ‘ownership is the law that permits the use of properties of one’s own without any prohibitions by the law’.⁴⁰ This system persisted after independence in 1953. Many farmers’ relationship to their land was disrupted between 1970–1975, when the US war with Vietnam bled into Cambodia and American bombing sorties began targeting Cambodian regions along its border with Vietnam.

The Khmer Rouge took power in April 1975 and abolished all forms of private property. In the following four years, their programme of radical collectivisation resulted in the deaths of some one in five Cambodians through starvation, overwork, disease or execution. The regime also demolished former institutions: schools, hospitals, Buddhism and the legal system. Influential religious figures and professionals such as lawyers and judges were targeted for particularly harsh treatment or even execution. When the Vietnamese invaded and wrested power from the Khmer Rouge in 1979, they found a country in ruins. The Vietnamese then established the People’s Republic of Kampuchea (PRK), which continued to battle against the Khmer Rouge, who nevertheless were recognised and supported by the West as Cambodia’s legitimate government throughout the 1980s.

The Vietnamese did not at first renounce the collective farming system nor did they permit Cambodians to begin returning to their former homes in the cities; instead their own high-ranking officials were allowed to take their pick of the

37 ADHOC, ‘A turning point? Land, housing and natural resources rights in Cambodia in 2012’, <http://www.adhoc-cambodia.org/?p=2849> (accessed 27 Nov. 2013).

38 Springer, ‘Illegal evictions?’, 542.

39 ‘ECCC at a glance’, Apr. 2014; http://www.eccc.gov.kh/sites/default/files/ECCC%20at%20a%20Glance%20-%20EN%20-%20April%202014_FINAL.pdf (accessed 12 Oct. 2014); ‘An introduction to the Khmer Rouge Trials’, Public Affairs Section, ECCC, 4th ed.; [http://www.eccc.gov.kh/sites/default/files/publications/ECCCBooklet4ed\(Eng\).pdf](http://www.eccc.gov.kh/sites/default/files/publications/ECCCBooklet4ed(Eng).pdf).

40 Article 644, cited in Hel Chamroeun, ‘Introduction to the Land Law of Cambodia’, in *Introduction to Cambodian Law*, ed. Hor Peng, Kong Phallack and Jörg Menzel (Phnom Penh: Konrad-Adenauer-Stiftung, 2012), p. 316.

prime urban real estate for themselves.⁴¹ Land and natural resources were declared the property of the state.⁴² By the mid-1980s, the Vietnamese were adopting various pragmatic policies, including the de-collectivisation of land, which was now to be redistributed to villagers by local officials. In the absence of any formal or legal framework, this was done somewhat haphazardly and was affected by the favouritism inherent in patron–client relationships.⁴³

Hun Sen was appointed premier of the Vietnamese-controlled PRK in 1985 and was able to establish nationwide patronage networks throughout the 1980s. By this time, opposition had consolidated in refugee camps on the Thai border where the Khmer Rouge, Prince Sihanouk's FUNCINPEC party and the Khmer People's National Liberation Front joined ranks in 1982 against the new Phnom Penh government.

In 1989, the PRK government embarked on a shift away from communism towards a free market economy. The country's name was changed to the State of Cambodia (SOC) and the name of the governing party, to the Cambodian People's Party (CPP), with Hun Sen as, at first, deputy prime minister, then prime minister. The ending of the Cold War and cessation of Soviet support to Vietnam saw the Vietnamese withdraw from Cambodia at the end of the 1980s. The CPP then agreed to sign the peace agreements in Paris in 1991 with their Khmer Rouge opponents and other competing political groupings.

In the early 1990s, a system of land titling was begun for those currently occupying property, thus effectively depriving more than a quarter of a million Cambodian refugees of a right to reclaim their property upon return.⁴⁴ In 1995, the Cambodian government requested international assistance to continue the titling programme and support was then provided primarily by the World Bank. Robin Biddulph has shown how powerful actors in Cambodia then used their influence to ensure that titling was only implemented in rice-growing areas, which were of little economic interest to investors and where tenure was already secure. They diverted the titling intervention away from economically interesting, resource-rich areas where local inhabitants were insecure in their tenure.⁴⁵ Springer notes that, 'instead of mitigating land conflict, this approach has significantly increased the vulnerability of Cambodians to landlessness by intensifying the need for written certification to prove "ownership"'.⁴⁶ Bribes and networks were often necessary to secure title and many poorer, less well-connected people soon found themselves deprived of any claim to their land, pressured into making distress sales to wealthy speculators, or victims of violent land grabs. Rapid

41 Rhodri C. Williams, 'Title through possession or position? Respect for housing, land, and property rights in Cambodia', in *Land and post-conflict peacebuilding*, ed. John Unruh and Rhodri C. Williams (London: Earthscan, 2013), p. 417.

42 Ibid.

43 Cambodian Center for Human Rights (CCHR), 'Cambodia: Land in conflict. An overview of the land situation', Phnom Penh, Dec. 2013, p. 2; available at: <http://www.cchrcambodia.org/admin/media/report/report/english/CCHR%20Report%20%20Cambodia%20Land%20in%20Conflict%20An%20Overview%20of%20the%20Land%20Situation%20ENG.pdf> (accessed 11 Sept. 2015).

44 Williams, 'Title through possession or position?', p. 418.

45 Robin Biddulph, 'Geographies of evasion: The development industry and property rights interventions in early 21st century Cambodia', Ph.D. diss., Gothenburg University, 2010.

46 Springer, 'Illegal evictions?': 522.

population growth also meant that the demand for agricultural land outstripped the available supply.⁴⁷ This all helped create a new class of landless poor, some of whom migrated to urban slums where they formed mosaic communities of people from different regions and backgrounds, thrown together by circumstance and by the need to eke out a living.

The 1991 peace agreements had also stipulated that UNTAC would organise democratic elections and repatriate the Cambodian refugees who had been living in the Thai border camps. Some 360,000 Cambodians were repatriated to the country in 1991 although their access to land was often blocked by local officials and the land law that the government passed in 1992 explicitly stated that the state would no longer recognise any property right existing prior to 1979.⁴⁸ This meant that the CPP was able to deprive a large number of political opponents access to property and instead to award it to loyal functionaries or use it to co-opt opponents and thereby further consolidate their own power. Property thus became a major political instrument in post-conflict Cambodia.⁴⁹

Rhetoric and reality

Today's elite includes members of the Khmer Rouge movement. Some of them were no doubt perpetrators of past crimes yet they enjoy government protection and are not currently in line for trial.⁵⁰ Instead, these former communists are now among those who have been ushering in an era of rampant neoliberalism.

In the early 1990s, the official discourse framed urban squatters as 'anarchists' and reasoned that forced eviction was the only solution to the problem. Between 1990 and 1996 housing rights organisations reported that at least 29 evictions had been carried out, affecting more than 4,000 families.⁵¹ In the late 1990s, under pressure from NGOs and civil rights groups, the tone was softened and these groups became known as the 'urban poor' and the government began designing resettlement schemes on the outskirts of the city and the upgrading of some slum areas. In 2001, the Land Law was amended, also ostensibly to strengthen the legal status of these vulnerable people. The Cambodian Constitution and the Land Law of 2001 supposedly protect citizens' rights in a number of ways.⁵² Those who have lived peacefully on land for five years or more prior to the passing of the 2001 Land Law are entitled to legal possession. Although the government is legally entitled to claim private land for public interests, it is also bound to pay 'fair and just' compensation in advance of any expropriation. Article 15 states that 'The following property falls within the public property of the State and public legal entities — Any property that has a natural origin, such as forests, courses of navigable or floatable water, natural lakes, banks of

47 Robin Biddulph, 'Where has all the land gone?', in *Making the poor more visible*, Landlessness and Development Research Report no. 4 (Phnom Penh: Oxfam GB, 2000).

48 Land Law 1992, Article 1; available at <http://www.refworld.org/docid/3ae6b567c.html> (accessed 11 Sept. 2015).

49 Williams, 'Title through possession or position?', p. 419.

50 Hun Sen has repeatedly warned that if more Khmer Rouge era leaders are to be prosecuted, civil war may result.

51 See Paul Rabé, 'From "squatters" to citizens? Slum dwellers, developers, land sharing and power in Phnom Penh, Cambodia', Ph.D. diss., University of Southern California, Los Angeles, p. 93.

52 See Hel Chamroeun, 'Introduction to the Land Law of Cambodia'.

navigable and floatable rivers and seashores'.⁵³ Articles 16 and 18 of sub-decree 129 ANK/BK on Rules and Procedures on Reclassification of Public State Properties and Public Entities states that the leasing of public state property must: i) not exceed 15 years, and ii) must not damage the property or change its function in providing public services.⁵⁴

However, the 'public transcript' of a softened discourse and improvement in the law have had little effect on the 'hidden transcript' — the unofficial practices by which individuals or groups have secured control of the commodification process.⁵⁵ Throughout the 1990s and early 2000s, Phnom Penh witnessed a meteoric rise in property prices and, despite the rhetoric, evictions have shown no sign of abating. State actors continue to use unofficial practices to gain control of markets and material rewards and thus augment their power. Between 1990 and 2008, some 133,000 people — around 10 per cent of the city's population — are believed to have been evicted from their homes in the city.⁵⁶

Paul Rabé has argued that benevolent promises by the government to provide free housing for the urban poor are doomed to fail in the context of today's buoyant property market and perverse economic incentives.⁵⁷ He describes how the Phnom Penh Urban Poverty Reduction Project — a partnership between UN-Habitat and the Municipality of Phnom Penh drawn up in 2003 — was frequently undermined by undeclared resistance tactics:

when [UN] Project advisors were sitting down with community leaders to plan the housing allocation procedures for the new community housing units in their settlements, many of the same leaders were *secretly* already buying out community members, to increase their control of the names on the list, which could then be resold to outsiders or other community members ...

While advisors of the Phnom Penh Urban Poverty Reduction Project were engaged in participatory planning of technical designs and procedures of the land sharing projects, as part of a joint process with groups of community residents and leaders and representatives of commercial developers and local authorities, a separate top-down process was underway between senior officials of the Municipality and developers that would ultimately determine the *real* project designs.⁵⁸

Licadho reported in 2014 that land conflicts have remained the single most contentious issue in Cambodia in the past decade with conflicts not only over urban land, but also over 2.2 million ha of economic land concessions (ELCs) being granted to large companies.⁵⁹ Together with land grabs, Licadho's investigations show, these

53 See http://www.cambodiainvestment.gov.kh/land-law_010430.html (accessed 29 Sept. 2015).

54 CCHR, 'Cambodia: Land in conflict', pp. 13–14.

55 See Philippe Le Billon and Simon Springer, 'Between war and peace: Violence and accommodation in the Cambodian logging sector', in *Extreme conflict and tropical forests*, ed. Wil de Jong, Donovan Deanna and Abe Ken-ichi (Dordrecht: Springer, 2007), p. 19.

56 Harold R. Kerbo, *The persistence of Cambodian poverty: From the Killing Fields to today* (Jefferson, NC: McFarland, 2011), p. 118.

57 Rabé, 'From "squatters" to citizens?'

58 *Ibid.*, pp. 429–30. Emphases added.

59 'Year 2013 in review: Land, a country in crisis', *Licadho*, 21 Mar. 2014; <http://www.licadho-cambodia.org/articles/20140321/142/index.html> (accessed 4 Apr. 2014).

ELCs have affected more than 420,000 people since 2003. A report published by Global Witness in 2007 demonstrated that the elite's control of resources also included its domination of the illegal logging industry, which threatens to destroy one of the country's greatest assets and deprive rural dwellers and indigenous minorities of access to the forest products upon which they have depended for generations.⁶⁰ Some say that 'Hun Sen and his ruling Cambodian People's Party (CPP) have, in effect, put the country up for sale'.⁶¹

The land concessions that are being offered today are usually for 99 years and the deals are shrouded in secrecy.⁶² Between 2003 and 2008, in the regions in which the NGO Licadho maintains a presence alone, almost 54,000 families (an estimated quarter of a million people) were recorded as falling 'victim to land-related human rights abuses, including land-grabbing, forced evictions and destruction of property'.⁶³ All over the country, citizens are facing eviction by legally-immune speculators⁶⁴ who have signed agreements without transparency.⁶⁵ There are daily newspaper reports of villagers being forced from their homes by armed personnel with little or no compensation or negotiation and often with nowhere to go.

CCHR reported in 2013 that disputes between citizens and concessionaires continue to intensify.⁶⁶ The report, showing a possibly naïve belief in the benignity of formalisation and law, argues that the situation arises out of the way the powerful take advantage of the widespread lack of land titles among the population and show a complete disregard for the law or its implementation. CCHR's land reform project coordinator Vann Sopheth is quoted as saying at a conference on land disputes that 'The worst is the political interference in the judicial system — that means the courts can't provide justice to victims of land disputes'.⁶⁷ The story of Hoy Mai illustrates how the justice system may in fact help entrench impunity by criminalising and intimidating those who get in the way of the powerful:

Hoy Mai's family and 118 other households in Bos village, Oddar Meanchey province, were forcibly evicted in October 2009 as part of an ELC granted to *Angkor Sugar Company*. Their homes were burnt down and they lost all their belongings and farmland.

60 Global Witness, *Cambodia's family trees: Illegal logging and the stripping of public assets by Cambodia's elite*, Washington D.C., 2007; <https://www.globalwitness.org/reports/cambodias-family-trees/>.

61 Adrian Levy and Cathy Scott-Clark, 'Country for sale', *The Guardian*, 26 Apr. 2008.

62 By the end of 2013, Cambodia had also reportedly received some US\$2.89 billion in the form of grants and loans from China (<http://www.globaltimes.cn/content/824919.shtml#Uz-QJVeyrDk> [accessed 5 Apr. 2014]). Some Cambodian academics have expressed grave concern to me about the consequences if Cambodia cannot repay. One described this as China throwing money in the river to muddy the water so the Cambodians cannot see when China takes the fish.

63 Licadho, 'Land grabbing and poverty in Cambodia: The myth of development', 2009, p. 5; <http://www.licadho-cambodia.org/reports.php?perm=134> (accessed 7 Sept. 2015).

64 Le Billon and Springer, 'Between war and peace'.

65 Suriya P. Subedi, *Report of the Special Rapporteur on the situation of human rights in Cambodia*, 16 July 2012, A/HRC/21/63, Office of the High Commissioner for Human Rights, UN Human Rights Council 21st Session, Agenda item 10.

66 CCHR, 'Cambodia: Land in conflict'.

67 Rachel Vandenbrink, Radio Free Asia, 'New study sees "no end in sight" to Cambodia's land conflicts'; <http://www.rfa.org/english/news/cambodia/land-disputes-12122013192058.html> (accessed 1 Apr. 2014).

Despite promises that she would receive another plot of land, she received neither land nor compensation, leaving her and her children homeless and destitute. Hoy Mai, at the time five months pregnant, was charged with violation of the Forestry law and jailed for eight months after trying to appeal to the authorities in Phnom Penh.

She went into labor in the prison where she was forced to stay for three days and two nights until she was taken to the hospital. Only a few hours after she gave birth to her baby she was taken back to jail. For two months, she nursed her son in the prison with terrible sanitary conditions and sharing the cell with seven other women. Eight months after her detention, Mai was brought before a judge. Instead of a fair trial the court told Mai that she would be released only when she signed an agreement to withdraw all claims to her land in Bos village and accepted replacement land.⁶⁸

A special case: Boeung Kak Lake, Phnom Penh

Until 2013, close to the heart of Phnom Penh there was a lake of some 1 sq km. It served as a natural reservoir into which excess water could drain during the rainy season. In the 1960s, the area was used as a park by residents of the city. After the Pol Pot era, it was again used as a park. During the 1980s, communities began to settle along its banks to live off fishing and cultivation. During the 1990s, migrants began coming in from rural areas and settling around the lake where land was still affordable. Most of the 4,000 or so families who were living there by the 2000s had bought their property from military and government officials who had occupied the lakefront area after the privatisation of land in 1989. It then became a popular area for backpackers who were attracted by the cheap guesthouses and lakefront restaurants.

In 2002, the World Bank designed a Land Management and Administration Project (LMAP) to support Cambodia's Ministry of Land Management, Urban Planning and Construction (MLMUPC) in policymaking and administration, and to support the issuance of first-time land titles and land registration. The project was ostensibly designed to improve tenure security for the poor and thereby reduce land conflicts. However, as noted above, by 2010 it had become clear that many vulnerable households had been excluded from the titling system and that land grabbing and evictions had instead escalated over the past decade. Many families had thus been flung into abject poverty or resettled in inadequately serviced sites far from their sources of livelihood in the city.

Boeung Kak Lake is a prime example of this kind of 'geography of evasion';⁶⁹ residents of the area were officially slated for inclusion in the LMAP, but in reality found themselves excluded when their claims were simply not processed.⁷⁰ Many were subsequently evicted. Just as Rabé concluded in his study of slum dwellers and developers in Phnom Penh, the battle for living space takes the form of an 'elaborate charade' in which the dominant actors are the developers and local authorities.⁷¹

68 CCHR, 'Cambodia: Land in conflict', p. 35.

69 Biddulph, 'Geographies of evasion'.

70 See Bridges Across Borders Cambodia for a synopsis of the story: <http://babcbombodia.org/developmentwatch/lmap/> (accessed 15 Oct. 2014).

71 Rabé, 'From "squatters" to citizens?', p. 414.

World Bank and the new strongmen

On 4 September 2009, the Geneva-based INGO, the Centre on Housing Rights and Evictions (COHRE), submitted a request on behalf of the Boeung Kak Lake community to the World Bank to inspect irregularities carried out under LMAP. It noted that in 2006, the Boeung Kak Lake area was announced as an adjudication zone for systematic land registration under LMAP. This was publicised at the local pagoda. However, when residents requested that their land be investigated, their requests were denied on the grounds that they were living in a 'development zone'. This departed from the legal procedure agreed to by the Cambodian government, according to which full investigation must be conducted in an adjudication area and competing claims must be resolved through this process or referred to the Cadastral commission for resolution.

In response to COHRE's request, the World Bank acknowledged significant shortcomings in LMAP's implementation and supervision. The Bank made a commitment to work with the Cambodian government to address the harms suffered by the residents. In July 2008, World Bank staff visited the area and were made aware of the pending eviction, but no remedial action was taken. In January 2011, the rights organisations met with World Bank staff to discuss progress and were told that the Cambodian government was opposed to any further World Bank involvement in the issue. The Bank claimed that without the willing participation of the government, it was impossible to rectify the situation.

In August 2011, the Bank instead said it would block all further loans to Cambodia until the dispute was resolved,⁷² although observers commented that with the influx of investments from Chinese firms Cambodia is far less reliant on the benevolence of the World Bank.⁷³ However, locals have also continued to protest and make themselves visible in the media and a thorn in the side of the government. In an unprecedented show of leniency the Municipality then conceded to reserve 12.44 ha of land for certain residents to construct their own houses on, but when it transpired that many households had been arbitrarily excluded from the concession, a free-for-all land grab ensued, with excavators ripping down homes as residents tried to rescue their belongings.

Secret 'sales'

The fate of Boeung Kak Lake had been sealed behind the scenes in January 2007 when, without any investigation of competing claims, a 99-year lease agreement had been signed between the Municipality of Phnom Penh and Shukaku Inc., a private development company headed by CPP Senator and Sino-Khmer businessman Lao Meng Khin, on the 133 ha area of the lake and its surroundings for the building of luxury villas, hotels and shopping malls. This left the Boeung Kak Lake residents labelled as illegal squatters on state land. Locals told me that they had voted for the ruling CPP party in the previous election in part because they had been promised

72 In September 2014 it was announced that the World Bank was considering resuming loans to the government despite the lack of settlement of the Boeung Kak Lake dispute. See Mech Rara, 'Land communities take on World Bank', *Cambodia Daily*, 19 Sept. 2014.

73 BBC News Asia-Pacific, 'World Bank blocks loans amid Boeung Kak row', 9 Aug. 2011; <http://www.bbc.co.uk/news/world-asia-pacific-14457573> (accessed 14 Oct. 2014).

that the party would protect their rights to the land and now they felt cheated and betrayed. This is in keeping with Biddulph's observation that state authorities often permit the 'temporary but insecure settlement of land until a suitable opportunity for disposing of it profitably arises'.⁷⁴

In 2008, in the midst of all the uncertainty, developers had already begun filling in the lake with sand dredged up from the Mekong. Numerous photographs and video clips can be found on the Internet showing houses becoming inundated with sand or water while residents grasp the belongings they can as they flee. Today, the lake is completely filled.

In 2009, 150 households were issued with formal eviction notices and given one week to accept one of three compensation options: US\$8,500,⁷⁵ a flat at Damnak Troyeung (20 km from the city), or temporary relocation to Trapeang Anchanh for four years while permanent housing would supposedly be constructed in Boeung Kak. The outcomes of other resettlement schemes around Phnom Penh give residents of Boeung Kak reason for alarm; although dwellers have been promised alternative accommodation, allegations of corruption in the allocation of apartments have been rife and only a few of the eligible families are reported to have received the properties to which they were supposedly entitled. Also, relocation sites are seldom attractive. Trapeang Anchanh is already home to hundreds of people who have been forcibly evicted from their homes in the city. It is 20 km from the city and transport costs are prohibitive for most to commute to former workplaces in the city. In 2009, Amnesty International reported that basic services such as water and sanitation were inadequate and that the authorities had not built any shelters on the land for those who were to be imminently evicted from a centrally located area.⁷⁶

The negotiation of the deal between the government and Shukaku did not follow the legal requirement for open tender or transparency. The connection between Shukaku and Chinese investors was apparently unearthed by an intern at an NGO who stumbled upon it while googling the Chinese media⁷⁷ and it was not made public in Cambodia until 6 January 2011, when the *Phnom Penh Post* published the following,

In a letter dated November 12 of last year and obtained yesterday, Kep Chuktema [Mayor of Phnom Penh] wrote to Hun Sen to inform him that Shukaku had established a partnership with China's Inner Mongolia Erdos Hung Jun Investment Company ... Hun Sen initialled the letter on November 27 along with a brief, handwritten notation reading: 'agree to the offer'.⁷⁸

74 Biddulph, 'Geographies of evasion', p. 214.

75 Internet property sites show land in Boeung Kak Lake area varying widely in price, but plots of around 500 sq m are available from anything between US\$500,000–\$1,300,000.

76 Amnesty International, Public Statement, 15 July 2009, 'Cambodia's government must intervene to stop forced eviction', AI Index: ASA 23/015/2009.

77 Sebastian Strangio and May Titthara, 'Chinese linked to filling of Lake Boeung Kak project', *Cambodia Tonight blogspot*, 30 Jan. 2010; <http://cambodiatonight.blogspot.com/2010/01/chinese-linked-to-filling-of-lake.html> (accessed 18 June 2014). See also 'Roundup: Chinese Yunnan province expands economic cooperation with Cambodia', *People's Daily*, 8 Apr. 2007; http://english.peopledaily.com.cn/200704/08/eng20070408_364615.html (accessed 18 June 2014).

78 Khouth Sophak Chakrya and James O'Toole, 'Chinese lakeside link confirmed', *Phnom Penh Post*, 6 Jan. 2011.

Following this revelation, on 17 January 2011, women from Boeung Kak bypassed their own government and took their protest directly to the Chinese embassy, but they were chased away by the security guards.⁷⁹

The lakeside 'community'

Like other, similar urban settlements, the Boeung Kak Lake area has housed people from all over the country who have lived there for different lengths of time and subsisted through different occupations, including fishing, running guesthouses and restaurants, working in the police or military, civil service and business. Many houses include a small shopfront selling groceries or medicines. Housing has ranged from dilapidated wooden shacks with corrugated iron roofs by the water's edge to two-storey well-appointed concrete houses with three or four bedrooms on substantial plots of land. All residents were originally offered the standard compensation of US \$8,500 for this prime piece of real estate. When I visited the area in early 2011, half of the families in the area had already left, but those with larger properties and a heavier investment in the area were resisting vigorously.

Some of the locals that I stopped to ask about the area were uneasy about talking to me. A middle-aged woman who was dusting off packets of crackers to sell in her small grocery shop seemed reticent to talk about why her neighbour's house had been demolished. Avoiding eye contact, she muttered that she did not know what connections those people had to the authorities or how they had been persuaded to go. In other areas of the country, I have heard how better-connected individuals have been able to secure 'special' compensation for their property. Stories like this are plentiful and they tend to atomise households, stoke suspicion and weaken feelings of solidarity and trust among members of threatened communities. This process of dismantling was also visible in the landscape as single houses were picked out from a terraced row and reduced to rubble, leaving their neighbours looking bereft and unstable (Fig. 1) — a visual metaphor of how the community itself was being dismantled, piece by piece.

After a couple of futile attempts to engage locals in conversation, my interpreter and I happened upon a knot of people sitting on a wooden bedstead outside a dusty, worn pharmacy shopfront. There were two women in their forties, some teenagers and a man who looked to be a little older. One of the women was the owner of the shop and the others were neighbours. They seemed eager to talk and they welcomed us to sit down with them. As they began lamenting what was happening to their neighbourhood, a gleaming landcruiser with darkened windows rumbled past us along the pitted gravel road, slowing as it passed so that the invisible eyes inside could make out who was talking to the foreigner. The people explained in hushed voices that these were private security guards making one of their regular patrols for Shukaku. They said these guards were more aggressive and ruthless than the police in suppressing protests and that they had beaten several of the local men. They advised me to contact two women who were acting as community representatives;

79 Andrew Higgins, 'Land disputes in Cambodia focus ire on Chinese investors', *Washington Post*, 25 Sept. 2012, http://www.washingtonpost.com/world/asia_pacific/land-disputes-in-cambodia-focus-ire-on-chinese-investors/2012/09/24/1e64dce6-fd9c-11e1-98c6-ec0a0a93f8eb_story.html (accessed 15 Oct. 2014).



Figure 1. Remaining terraced house, Boeung Kak Lake (author's photograph, 2011)

they would be able to explain the situation and show me relevant photos and documents.

Because of their generally lower level of education, poorer access to powerful networks and ignorance of their rights, women — particularly female household heads — are often the weakest parties in land conflicts.⁸⁰ But because they may also stand to lose the most, they can be the most visible and vocal defenders of their land in heated and often violent disputes with extremely powerful people. When I asked residents of Boeung Kak why it was women who had come forward to defend the area I was told that the police and security guards are less likely to arrest or beat a woman than a man. This may be so, although women are by no means immune — an illiterate mother of seven, who was acting as representative of villagers in a land dispute in 2010 over an area of 300 ha that covered seven villages, was arrested on 9 August 2010. On 21 April 2011, eleven female protestors from Boeung Kak, including two children aged 11 and 12, were arrested in Phnom Penh. They were later released after reportedly signing statements confessing that they had used violence.

Ironically, some of the women's husbands were civil servants who were working for the very government that was now trying to destroy their homes. Fearing the loss of protection that these fragile links to the authorities might afford, the men were reluctant to join the protests with their wives. One man explained that although he supported what the women were doing, he did not want to jeopardise his relationship

80 In the new political economy, despite some provisos in Cambodian land law, formal land title is the only sure form of protection for landowners. A first phase of systematic land titling was conducted by the Ministry of Land Management, Urban Construction and Planning between 2002 and 2007. Progress has been slow and less than 30 per cent of Cambodians today have such titles.

with his employers and thereby also the security of his household. One woman, a mother of two young children, explained that her husband was a soldier and was fighting at the border at Preah Vihear in the clashes with Thailand. She wept as she explained the bitter irony of his risking his life for the country while she was risking hers trying to protect their home from its leaders. The story of Yorm Bopha, below, illustrates how the gendering of land disputes may also play out in divisive ways within intimate relationships.

I spent several days visiting one of the self-appointed community leaders in her home.⁸¹ The two-storey concrete house stood on a plot of land around 600 sq m in size. There was a well-kept car standing to one side of it. Another community leader joined us on each occasion and other women dropped in and out during our conversations — sometimes to thumb-print petitions or to join in the conversation. Each time I arrived at the house, the leader's husband would greet us and twice she was not home when we arrived so he talked animatedly about the evictions until she came and then he left her to take over the discussion.

One of the women said resignedly in Khmer, 'development is for the company, not for the people' and another enjoined, 'development is for the rich'. Another woman explained that the Cambodian NGO staff sometimes advise the Boeung Kak residents to accept that 'the big eat the small and the small eat the smaller' and one of the leaders kept repeating in a choked voice, 'This government is not good. They don't protect the people', poignantly concluding that, 'Khmer are still killing Khmer, it's the same as before'. This analogy between life under the Khmer Rouge and life under the contemporary state was also evidently a recurring and unprompted refrain from those Springer interviewed in 2006–2007 about violence in 'post-conflict' Cambodia, and Springer states that 'The difference is that whereas Pol Pot's policies targeted affluent and educated Cambodians ... Hun Sen's regime targets the poor who have little recourse to resist eviction, whether through legal means or otherwise'.⁸² Both communist and neoliberal regimes, he concludes, produce *homo sacer* — human life that does not count.⁸³

This attitude is echoed in statements made by Cambodian human rights activists, such as Nily Pilorge, director of Licadho, who has been quoted as saying that

Everyone claims Cambodia has come through the period of barbarism, but the sadism is still bubbling beneath the surface. Extreme violence, greed and disregard for the most basic human rights — of giving people a place to live — are still with us daily. The methods of the past are being used to dictate our future.⁸⁴

81 Some fifteen aspiring community representatives were given training by the NGO Bridges Across Borders. Local leadership, solidarity and collective organisation in such slum areas is often spurred by NGOs. See Rabé, 'From "squatters" to citizens?'

82 Simon Springer, 'Violent accumulation: A postanarchist critique of property, dispossession, and the state of exception in neoliberalizing Cambodia', *Annals of the Association of American Geographers* 103, 3 (2013): 616.

83 Springer, 'Illegal evictions?', p. 521; See also James Crotty, 'Structural contradictions of the global neoliberal regime', paper presented at 'Neoliberalism: Theory and Practice', Allied Social Science Association Meeting, 7–9 Jan. 2000, Boston. Available at <http://people.umass.edu/crotty/assa-final-jan00.pdf> (accessed 16 Oct. 2014).

84 Levy and Scott-Clark, 'Country for sale'.

As in the past in Cambodia, in today's predatory economic climate protection is afforded not by the state but one's network of personal relations.

Although the women gathered at their representative's home at first appeared to be close-knit, they did not take each other's loyalty for granted. One community representative commented unabashedly in front of the others that you can never know when someone may go over to the 'other side', to work in favour of the authorities and clandestinely spy on friends. I subsequently heard that one of the community leaders I interviewed, who played a leading role in the protests and who had vehemently criticised the government, indeed shifted loyalty and began working with the Municipality. The lack of solidarity in ad hoc communities of this kind works to the advantage of those who seek to disband them.

The political or the personal? Yorm Bopha and Tep Vanny

In May 2012 thirteen women were arrested and then imprisoned after peacefully protesting about the Boeung Kak Lake evictions. A 30-year-old mother from the community called Yorm Bopha then began campaigning for their release and in September she was arrested for allegedly assaulting a person for stealing. Three months later, she was convicted of 'intentional violence with aggravating circumstances' and sentenced to three years imprisonment (later commuted to two years). On 22 November 2013, after an international outcry by organisations such as Amnesty International, Yorm Bopha was released on bail. Shortly after her release, it was reported that Yorm Bopha had been locked inside her home by her husband, Luos Sokhorn, and that she had been heard screaming; but when neighbours gathered, they were unable to enter the house. Housing Rights Task Force director Sia Phearum is quoted as having told reporters that '[Mr. Sokhorn] has become very close with local authorities and we were worried that this was a tactic of theirs to provoke violence in the community so that they could make arrests and suppress future protests' and that there were concerns over local authorities employing this kind of 'dirty tactic' to silence Yorm Bopha and others.⁸⁵ In the same media report, Yorm Bopha's husband is quoted as saying that he wanted his wife to retire from her activism and that if [fellow activist Tep Vanny] 'comes to try and take my wife to the protest again, I will hit her and lock her inside every time'.⁸⁶

Such stories show how conflicting interests over property in Cambodian society may be driven off-stage into the unofficial, domestic realm of personal relationships. This masks them from the international radar and delegitimises them as political events. The experiences of the many people like Yorm Bopha and Tep Vanny, who are subjected to arbitrary justice as they battle for political space and property rights, inevitably colour the meaning that a foreign justice intervention such as the ECCC may hold.

85 Sek Odom and Matt Blomberg, 'Husband locks anti-eviction activist Yorm Bopha in house', *Cambodia Daily*, 15 Jan. 2014; <http://www.cambodiadaily.com/archives/husband-locks-anti-eviction-activist-yorm-bopha-in-house-50584/> (accessed 19 June 2014).

86 Tep Vanny has become the face of Boeung Kak Lake activism. She has led numerous protests and has been both beaten and imprisoned by the authorities. In March 2013 she was awarded a Human Rights award at the 'Movies that Matter Film Festival' in The Hague.

The ECCC — capitalising on crimes?

Neither the government nor the ECCC provide material reparations for those who suffered losses as a consequence of the Khmer Rouge regime. Some enterprising individuals have nonetheless managed to make use of the publicity that the ECCC has gained to achieve a kind of material redress. On 12 February 2012, an artist named Bou Meng, one of the few survivors of the infamous S-21 prison who acted as a Civil Party in Case 001, held a large housewarming party. This was to celebrate the completion of his new concrete home, which he had funded with US\$30,000 of the money he had made by selling his autobiographical account of surviving S-21 to foreign tourists. His neighbour, a 65-year-old woman who lost most of her family under the Khmer Rouge regime and now lives in a simple wood and bamboo home, is quoted as saying: ‘I don’t know anything about a Khmer Rouge court. All I know is that lots of foreigners come to visit Bou Meng and make him rich’.⁸⁷ Like others who have testified at the ECCC, Bou Meng says he had hoped that giving testimony and seeing his persecutor convicted would free him from the restless ghosts that haunt his mind.⁸⁸ However, the imputed psychological benefits notwithstanding, testifying at the trials is having no material effect on the continuing inequalities and injustices that many Cambodians still suffer.

When I asked one Boeung Kak resident about the ECCC, she laughed dismissively and said that today’s leaders had taken power from Pol Pot to run the same system as before — they were only interested in securing their own power, she said. Another resident spoke acerbically, in English, of the ECCC as ‘Pol Pot *business*’ — a way for the leaders’ cronies to make money out of the past, she explained.

The interpreter who helped me during my visits to Boeung Kak Lake, a man in his late twenties, had recently returned from Anlong Veng in northern Cambodia, the final stronghold of the Khmer Rouge until 1998. He told me that people there expressed sadness about their leaders being tried in the ECCC and still spoke warmly of Ta Mok, the Khmer Rouge leader known as ‘the Butcher’ for his behaviour during the Khmer Rouge period — indeed, people in the area often still speak highly of him.⁸⁹ Ta Mok was arrested in 1998 and scheduled for trial for crimes against humanity but died of natural causes in 2006, before he could be tried. Prompted by our visits to Boeung Kak Lake, my interpreter suggested that today’s leaders may be laughing about their compatriots being on trial while they themselves are free to perpetrate some of the ‘same crimes as the Khmer Rouge’.

Direct experience of power dynamics in today’s Cambodia and of the clandestine strategies that determine outcomes may be priming many Cambodians in their interpretation of ECCC theatrics — if, indeed, those who are struggling for land security today are interested in the trials at all. The court tries to present an outward visage of a professionally run, model justice procedure. However, the fact that so many Cambodians know that *real* outcomes are determined by evasion tactics and hidden agendas (in which many foreign stakeholders are complicit) that circumvent the

87 Bridget di Certo and May Titthara, ‘S-21 survivor plays host’, *Phnom Penh Post*, 13 Feb. 2012.

88 Seth Mydans, ‘Survivors shed light on dark days of Khmer Rouge’, *New York Times*, 16 May 2009, http://www.nytimes.com/2009/05/17/world/asia/17cambo.html?_r=0 (accessed 19 June 2014).

89 See, for example, Tallyn Gray, ‘Justice and transition in Cambodia 1979–2014: Process, meaning and narrative’, Ph.D. diss., University of Westminster, London, p. 98.

donors' purported objectives may well be making many Cambodians read the ECCC as yet another elaborate show.

Conclusions

I have presented the material discussed here in order to put a spotlight on the duplicitous nature of the liberal peace model that undergirds Western peacebuilding interventions. On the one hand, the model focuses on the strengthening of democratic institutions, justice and human rights, but on the other, it demands economic liberalisation in countries that are recovering from conflict and that lack effective safety nets for their poor. This latter demand, I contend, mitigates against the establishment of fair institutions and respect for individual rights.

The material discussed in this article suggests that as long as the international community buttresses a political economy that incentivises elites to use land and resources as political instruments in their pursuit of absolute power, then foreign justice interventions such as the ECCC, regardless of their stated humanitarian ambitions, are unlikely to have a positive impact on how impunity and injustice are experienced by locals in a country like Cambodia. Unless the root causes of not only past but also present conflicts and injustices are addressed, I suggest that so-called transitional interventions may accompany a period of enforced stability, but are unlikely to facilitate a transition into an era experienced as peaceful and just by ordinary people. Instead, the liberalisation of the market in shattered societies may be generating the causes of new conflicts that may ultimately undermine peace — a conclusion that appears to be supported by the unprecedented series of protests that erupted in Cambodia in the wake of the 2013 national elections.⁹⁰

Like numerous other evictions, those described here at Boeung Kak Lake have taken place at the same time as the ECCC tribunal was trying the leaders of the Khmer Rouge regime for, among other things, the forced movement of the population. The irony of this is not lost on those who are losing the battle for their homes. One recent evaluation of the ECCC argued that it was the hybrid structure of the court that 'put the U.N. and the donors in a weak position to be able to exercise discipline over the efficiency of the process over issues such as political interference'.⁹¹ However, given the United Nations' and donor countries' own support of the Khmer Rouge throughout the 1980s, the politics of these trials are far from pure. More immediately, given the interests of the international and national elites in peace for the purposes of securing markets, the question remains as to what meaning any form of war crimes tribunal would hold for those Cambodians who continue to experience injustices today.

It would seem that as long as it pays in the global marketplace for elites in fractured societies to try to enforce stability by monopolising resources and menacing populations, the implementation of a transitional justice process is unlikely to effectuate a legacy of justice and peace that is meaningful for ordinary people.

90 'Cambodian military and demonstrators clash during violent protest', Reuters, 28 Jan. 2014; <http://www.nydailynews.com/news/world/cambodian-protests-turn-violent-article-1.1593670> (accessed 7 July 2014).

91 John Ciorciari, quoted in Lauren Crothers, 'Much to learn from ECCC failures, author says', *Cambodia Daily*, 3 July 2014; <https://www.cambodiadaily.com/archives/much-to-learn-from-eccc-flaws-author-says-63074> (accessed 7 Sept. 2015).