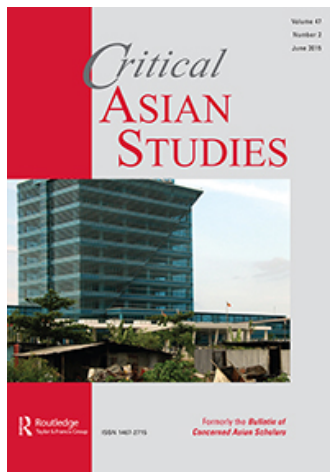


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### Cambodia's Unofficial Regime of Extraction: Illicit Logging in the Shadow of Transnational Governance and Investment

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## Cambodia's Unofficial Regime of Extraction: Illicit Logging in the Shadow of Transnational Governance and Investment

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**ABSTRACT:** Cambodia has recently demonstrated one of the highest rates of deforestation in the world. While scholars have long explored the drivers of tropical forest loss, the case of Cambodia offers particular insights into the role of the state where transnational governance and regional integration are increasingly the norm. Given the significant role logging rents play in Cambodia's post-conflict state formation, this article explores the contemporary regime and its ongoing codependent relationship with forested land. Insights are distilled from comparative analysis of illicit logging in two ethnographic case studies. Both involve foreign investments by state-owned companies – a Chinese-backed hydropower dam and Vietnamese-owned rubber concessions – and both are nestled in prominent conservation landscapes that are managed with international donor support. Together, the cases reveal how Cambodia's current timber extraction regime works through the use and abuse of legal mechanisms associated with forest conservation and foreign investment projects, and the mobilization of elite alliances that log both for private gain and in service of the ruling party's interests. By implication, the government's remarkable facilitation of transnational projects for conservation and development must be reappraised and ultimately seen as constitutive of a predatory and extractive regime that continues to rely heavily upon illicit logging revenues.

**Keywords:** Cambodia; logging; state formation; predation; extractive regime

### Introduction

*I, a Khmer. ...*<sup>1</sup>

*Making cakes without flour, boiling water without fire,*

*Scared of enemies, strong with Khmer people, cutting trees ...*

*Without thinking of tomorrow, praise the strong in order to fill my stomach.*

*I, a Khmer, riding a water buffalo's back, who wants to be rich ...*

*Fear of other races, [but] with no conscience, willing to shrink down the [nation's] territory,*

*To expand authority, even in a cage.*

The author of this poem, Mom Sonando, is a well-known Cambodian activist and radio presenter who has been imprisoned three times in the last decade for his outspoken political commentary.

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<sup>1</sup>Adapted from Sonando's poem at [http://sbk105.sakfm.com/pages/I\\_A\\_Khmer\\_in\\_Eng.htm](http://sbk105.sakfm.com/pages/I_A_Khmer_in_Eng.htm) (accessed 15 June 2013).

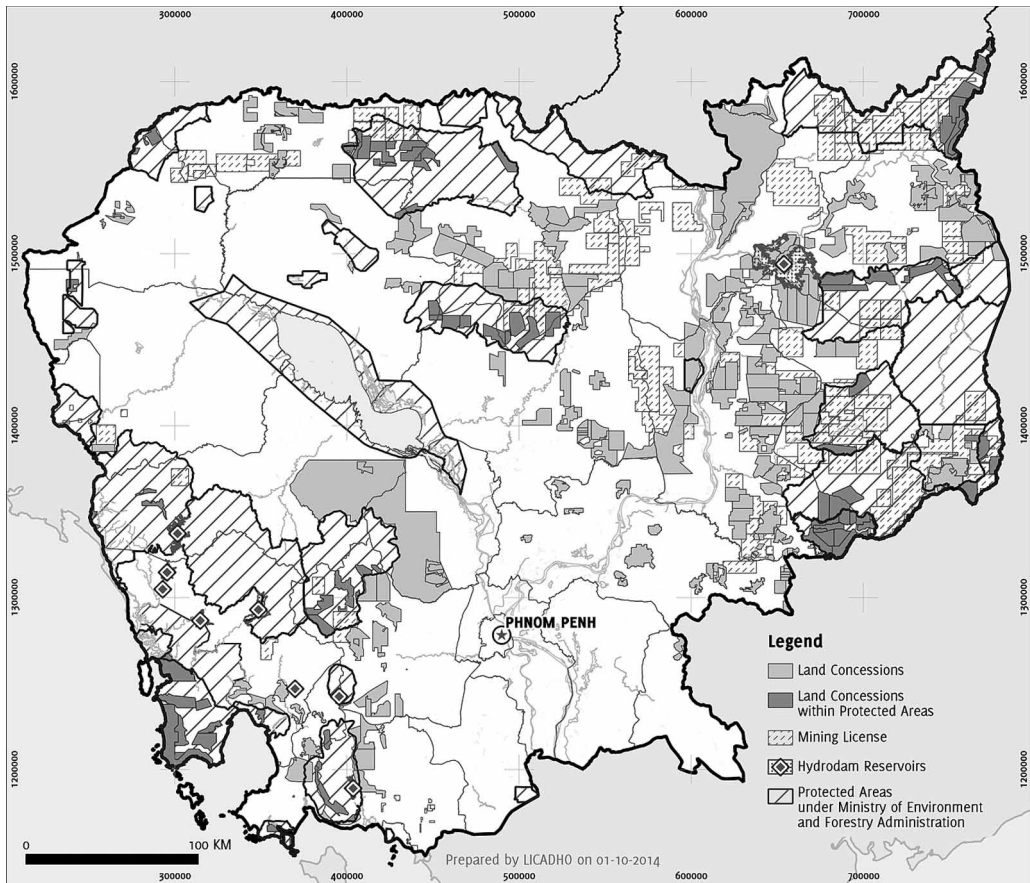


Figure 1. Map of concessions, dams, and conservation areas in Cambodia. (Credit: Concession and hydro-power dam datasets from LICADHO, Phnom Penh, 2014; protected areas dataset from the Royal Cambodian Government)

Rather than endorse this somewhat controversial poem, I instead draw attention to what it tells us about the contemporary Cambodian state and how it is being contested in popular politics. The key expression here is “making cakes without flour” (*twe num ot msaow*). This familiar Khmer phrase refers to the act of obtaining something without effort, often through the exploitation of others. In recent years this phrase has become a catchcry in Cambodia, uttered quietly by villagers and activists in reference to their leaders’ facilitation of dubious investments in dams, economic land concessions (ELCs), real estate, and other so-called development activities that are initiated without sufficient financing or transparent tender processes. The implication is that these projects, behind the scenes, involve lucrative monetary incentives derived from illicit or sub-legal activities.

In this article, I argue that a prime example of “making cakes without flour” is the widespread initiation of land concessions and hydropower dams by the Cambodian government in forested regions of the country. ELCs now cover 2.3 million hectares of the country; mining concessions at least another 2 million hectares; and at least nine major hydropower dams are underway (Figure 1). These projects are all located in areas officially designated as state property, like the Forest Estate or the national parks system, and are typically forested. As a consequence they give rise

to a range of logging activities that combine legal, pseudo-legal, and illegal mechanisms for timber extraction. Logging begins with permits that are issued under government contracts for the removal of vegetation from future dam reservoirs and plantation sites. But these permits are often of dubious legality, having bypassed prohibitions on the conversion of natural forests.<sup>2</sup> Furthermore, they involve extensive illegal logging, as they allow laundering of high-value timber that has been logged selectively up to 100 kilometers away from the permitted forest clearing areas; provoking accusations that many projects are simply “timber laundries.”<sup>3</sup>

These forest conversion and logging activities have caused Cambodia to demonstrate one of the highest rates of forest loss in the world.<sup>4</sup> Recent figures show that between 2000 and 2012 Cambodia had the world’s third highest national deforestation rate, after Paraguay and Malaysia.<sup>5</sup> In this scourge, Cambodia’s conservation areas have been particularly affected. For example, over 70 percent of concessions awarded in 2012 overlap with areas slated for conservation.<sup>6</sup> The reason for this geographical bias is all too clear: protected areas harbor the greatest timber reserves in the country, and they are officially under state control, often appearing on government maps as empty or devoid of settlement.<sup>7</sup> Thus they are ripe for exploitation and predation. Cambodia’s major investment projects like dams and ELCs now reflect this geography of extraction, which in large part corresponds with opportunities to generate revenue from logging (as [Figure 1](#) shows). Thus, I argue that the timber shadow economy of Cambodia’s embrace of foreign investment is significant and that it is carefully controlled and maximized by the state apparatus in collaboration with powerful elites.

Rather than examining the full extent or magnitude of Cambodia’s timber shadow economy, my objective here is to illustrate how it works. In particular, I explore how it emerges from a combination of transnational environmental governance, manifested in the form of donor-backed conservation projects, and regional integration, as seen through investments made by state-owned companies from the so-called Greater Mekong Subregion (GMS).<sup>8</sup> I focus on two cases in remote forested areas: (1) a Chinese-backed hydropower dam in the Cardamom Mountains, and (2) a set of contiguous Vietnamese-backed ELCs in northeastern Cambodia. In both cases, I use ethnographic data to drill down into the phenomenon of “making cakes without flour,” revealing some of the inner workings and modalities of timber extraction in Cambodia today.

As analysis proceeds, the distinction between legal and illegal logging fast loses importance. Instead, I draw attention to what happens to the logging revenues: monies derived from the exploitation of public forests that appear systematically to evade formal taxation. Of interest here is how these illicit revenues are secured and generated using state power and authority, and who the beneficiaries of this system are. While corrupt and neo-patrimonial practices in land and forest management have been widely recognized in Cambodia,<sup>9</sup> I extend this analysis by exploring how state predation interacts with and feeds off transnational investments in concessions, infrastructure development, and nature conservation. In the following paragraphs I develop

<sup>2</sup>See 2001 Land Law, Art. 16, and Sub-Decree no.146 on Economic Land Concessions 2005, Article 4. Downloadable from Open Development Cambodia’s Law Compendium: see [http://www.opendevdevelopmentcambodia.net/laws\\_and\\_regulations/environment-land-and-nrm-laws/?post\\_type=law](http://www.opendevdevelopmentcambodia.net/laws_and_regulations/environment-land-and-nrm-laws/?post_type=law) (accessed 3 February 2015).

<sup>3</sup>Blomberg and Ana 2014; Boyle and May 2012.

<sup>4</sup>FAO 2010; Global Witness 2013; RGC 2010a.

<sup>5</sup>Hansen et al. 2013.

<sup>6</sup>ADHOC 2013.

<sup>7</sup>Of course these conservation areas are not empty, and their designation as state land remains contested.

<sup>8</sup>The GMS is an ADB initiative that has facilitated intra-regional cooperation and investment, see Tan 2014.

<sup>9</sup>Le Billon 2002; Un and So 2011; Cock 2010; Springer 2013.

a theoretical basis for this article, which articulates the intimate relationship between state formation and natural resource exploitation.

### The Political Ecology of State Formation

Scholars have long studied the relationship between states and resource extraction, often in contexts where natural resources are seen as a “curse” leading to despotism, corruption, conflict, and environmental decline.<sup>10</sup> In such settings, the field of political ecology offers critical insights into the role of the state. For example, studies of colonial and postcolonial forest management in Southeast Asia have illustrated the nature of state power in the region – particularly how it is elaborated and enacted in the face of contested resource ownership, often violently, and with contingent outcomes that depend upon local ecological and contextual factors.<sup>11</sup> In a similar vein, studies of failing and fragile states also identify the role of resource rents, which can either prolong or ease internal conflicts, as Philippe Le Billon describes in the Cambodian context.<sup>12</sup> Political ecology therefore tells us that state power and natural resource use form a “constantly shifting dialectic,” characterized by the continual emergence of new patterns and forms.<sup>13</sup>

These insights provide a starting point for my analysis, which focuses upon state formation and resource extraction in contemporary Cambodia, with implications for other similar contexts. Processes of state formation are vital to observe because they offer a “way in” for studying the state, which alone is a notoriously elusive and paradoxical object of analysis.<sup>14</sup> Thus, following Tuong Vu, a state’s institutional architecture, political culture, and power dynamics may all be explained, to a large extent, through analysis of how the state came into being.<sup>15</sup> An essential complement to this historical view is an anthropological approach, which can show how states continue to evolve and reproduce themselves, through ongoing or everyday “state-making practices,” both material and discursive.<sup>16</sup> In this view, states are not seen as coherent actors, but they have porous or fuzzy boundaries and are embedded in society through ongoing interactive processes.<sup>17</sup> This means that states in practice are often uneven and contingent;<sup>18</sup> and scholarship in political ecology tells us that this is particularly the case where struggles over natural resources prevail.<sup>19</sup>

Indeed, the ability to control resources and therefore to extract revenue from society, whether through legitimate or illegitimate means, is a defining feature of statehood.<sup>20</sup> When revenues are derived from formal taxation systems, at appropriate levels, then this is considered to be an indicator of state capacity, with the potential to induce public accountability.<sup>21</sup> However, revenue generation can also occur through the manipulation of rules and laws, to form an extractive apparatus that is synonymous with the state, but that fails to act in the public interest. This type of predatory or kleptocratic rule often involves the illegitimate or forceful use of state power.<sup>22</sup> To understand

<sup>10</sup>Collier 2007; Ascher 1999; Snyder 2006.

<sup>11</sup>Vandergeest and Peluso 1995; Bryant 1997; Peluso and Watts 2001.

<sup>12</sup>Le Billon 2000 and 2002.

<sup>13</sup>Blaikie and Brookfield 1987.

<sup>14</sup>Mitchell 1991; Levi 2002; Vu 2010.

<sup>15</sup>Vu 2010.

<sup>16</sup>Sharma and Gupta 2006; Sikor and Lund 2009.

<sup>17</sup>Migdal 2001.

<sup>18</sup>Slater 2010.

<sup>19</sup>Le Billon 2000; Peluso and Watts 2001.

<sup>20</sup>Levi 1988; Moore 2004.

<sup>21</sup>Moore 2004; Larsson 2013.

<sup>22</sup>Smart 1999; Levi 1988.



such states or regimes, Margaret Levi argues that we must examine their *rulers*, like party leaders or parliamentary figures, and how they devise rules for the maximization of revenue. This view bypasses conventional framings of corruption – which typically ask if government behavior is legal or illegal, or whether revenue ends up in public or private hands – to embrace the notion that in some “irregular states” these dualistic categories are simply two sides of the same coin.<sup>23</sup> That is, states and their leaders not only make use of the law to serve their interests, but they also play a deliberate role in producing and maintaining spaces of illegality, which give rise to a range of opportunities for illicit revenue generation.

Such irregular patterns of revenue generation can play out vividly in states that rely upon natural resources for their wealth. Here, Paul Gellert’s concept of the extractive regime is instructive.<sup>24</sup> Drawing from the case of Suharto’s Indonesia, he defines this regime type as a “socio-political formation that relies for its power and longevity on extraction of natural resource wealth as commodities [of global importance].”<sup>25</sup> States of this kind need not develop effective capacity. Rather, they can rely on the predatory use of resources “via a regime of domination, tempered by legitimation.”<sup>26</sup> This combination of domination, normally executed through repressive patrimonial politics, and legitimization, achieved through the performance of formal state practices, resonates strongly with the concept of neo-patrimonialism. That is, neo-patrimonial regimes are defined by the *coexistence* of patrimonial customs and patterns, such as patron-clientelism, with the structures and practices of rational-legal state institutions.<sup>27</sup> Thus, corruption in these contexts is not just a problem of traditional social norms or deviant behavior, but is a modern phenomenon, inherently linked to the existence of a state – as the Cambodian case reveals.<sup>28</sup>

The other notable feature of neo-patrimonial, extractive regimes is that they do not come into being without struggle or negotiation. Rather, they are a product of political accommodation – often born out of the need for rulers of nascent or transitional states to establish control, which is typically achieved through the brokering of informal deals over resources with powerful or potentially regime-threatening individuals.<sup>29</sup> This process of “elite accommodation” can lead to the establishment of what William Reno calls a “shadow state”: a rigidly organized but informal patronage system that facilitates rulers’ control over resources, while binding potential rivals into lucrative exchange relationships.<sup>30</sup> Cambodia’s regime has been likened to a shadow state, given the role illicit logging rents played during the period of post-conflict transition and modern-day state formation.<sup>31</sup> But, as I observe, the shadow state concept can fail to capture how illicit revenues are often interwoven with the *formal* practices and institutions of state making. Furthermore, it does not necessarily allow for the potential fluidity of informal hierarchies and the porous nature of state sovereignty in the context of transnational investments and donor-backed environmental governance. Before exploring these problems empirically, I provide a brief account of state formation in Cambodia and the role of natural resources in this process.

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<sup>23</sup>Heyman and Smart 1999; Anders and Nuijten 2007; Aspinall and van Klinken 2011.

<sup>24</sup>Gellert 2010.

<sup>25</sup>Ibid., 32.

<sup>26</sup>Ibid., 33.

<sup>27</sup>Erdmann and Engel 2007; Bratton and van de Walle 1997.

<sup>28</sup>Heder 2007; Un and So 2011.

<sup>29</sup>Sidel 1989; Reno 1999.

<sup>30</sup>Reno 1999.

<sup>31</sup>Le Billon and Springer 2007; Le Billon 2000.

### The Cambodian State and its Relationship with Natural Resources

Post-conflict Cambodia has relied heavily on the exploitation of natural resources, including forests, fisheries, and now land.<sup>32</sup> Very little of this has been sustainable. Indeed, over the last two decades Prime Minister Hun Sen's regime has provoked international outrage for its mismanagement of timber concessions, up until their ban in 2001; and subsequently for rampant land grabbing and illegal logging.<sup>33</sup> Critics mainly address the regime's use of state power to appropriate commonly held natural resources, often for elite accumulation at the expense of poor rural villagers.<sup>34</sup> Others focus on the country's "systemic and hierarchically controlled" form of corruption, especially in relation to the administration of land.<sup>35</sup> Widely accepted governance metrics reflect this state of affairs: Transparency International ranks Cambodia as the most corrupt country in Southeast Asia,<sup>36</sup> and the country scores lowest regionally against conventional measures of state capacity.<sup>37</sup> These results point to irregularities in the Cambodian state, which I explain below.

#### Post-Conflict State Formation

The Cambodian state had to be rebuilt following the fall of the Khmer Rouge. At this chaotic time, Hun Sen and Chea Sim assumed leadership roles that enabled them to participate directly in the rebuilding of the state apparatus. This meant that state formation during the transition to peace and democracy favored these men, their party, and the interests of their loyal clients.<sup>38</sup> Tellingly, the ruling Cambodian People's Party (CPP) has survived since then with its leadership essentially intact to become the "dominant party" in a regime now widely recognized as neo-patrimonial and authoritarian.<sup>39</sup>

At least some of the CPP's dominance can be attributed to its socialist origins. The party was formed initially as the People's Revolutionary Party of Kampuchea, which governed Cambodia as a single-party socialist state, under the decade-long Vietnamese occupation (1979–1989). Starting from scratch in the early 1980s, with civil war persisting in the background, the state's building blocks were installed: centralized planning and administrative control, a constitution, and a taxation system.<sup>40</sup> The nascent state also established tight surveillance and social control mechanisms at the village level that aimed to prevent the establishment of antigovernment resistance.<sup>41</sup> Many of these socialist-authoritarian characteristics have persisted through post-1993 democratization and decentralization, providing the basis for ongoing CPP control.<sup>42</sup>

The 1980s era also fostered the (re)establishment and normalization of Cambodia's patronage-based and hierarchical political culture. In part, this resulted from pragmatic attempts to broker an end to the civil war, through the nurturing of a CPP-backed elite or "ruling class."<sup>43</sup>

<sup>32</sup>Milne, Pak, and Sullivan 2015.

<sup>33</sup>Subedi 2012; Global Witness 2013; Neef, Touch and Chiengthong 2013.

<sup>34</sup>Neef, Touch and Chiengthong 2013; Brinkley 2011.

<sup>35</sup>Un and So 2011.

<sup>36</sup>Following the Corruption Perceptions Index, see article Khoun 2013.

<sup>37</sup>Larsson 2013.

<sup>38</sup>Gottesman 2003.

<sup>39</sup>Pak 2011; Cock 2010; Roberts 2002; Heder 2005; Un and So 2011.

<sup>40</sup>St John 1995.

<sup>41</sup>Ibid.; Gottesman 2003.

<sup>42</sup>Hughes 2006; Öjendal and Sedara 2006; Pak 2011.

<sup>43</sup>Gottesman 2003; Cock 2010. Note that Cock uses "ruling class" to refer to those holding government positions.



The demands and interests of this incumbent elite were also preserved through Cambodia's transition to multiparty democracy.<sup>44</sup> This was achieved under the leadership of Hun Sen, who maintained control through violence against non-CPP opponents, bargaining with potentially threatening political factions, and gift giving in exchange for loyalty.<sup>45</sup> Fundamentally, the success of these strategies hinged upon the CPP's control over the state apparatus through patron-client relationships.<sup>46</sup> Early interpretations of this system see "political leaders ... at the top of a pyramidal structure of relationships" in which "the wide base supports the narrow elite and the elite rewards the support base."<sup>47</sup> Leaders therefore provided resources and protection to those who offered them political loyalty. This made it exceedingly difficult for opposition parties to gain influence over key state functions, like the military, or to build a support base among already-politicized civil servants.<sup>48</sup>

### *The Contemporary Regime*

The role played by patronage norms and elite interests in shaping Cambodia's transition has led to a distinctly neo-patrimonial regime that Andrew Cock aptly describes as a "hybrid of largely rhetorical and symbolic acquiescence to democratic norms, built on the foundation of a patrimonial and highly predatory state structure."<sup>49</sup> In practice, this means that the CPP deploys personalized relationships and patronage exchanges throughout the state bureaucracy, as well as among elites and the voting populace.<sup>50</sup> This is achieved especially through the "allocation of resources, government positions and lucrative business licenses to key segments of the political, military and business elite."<sup>51</sup> In return, beneficiaries of this system are required to make contributions back to the party.

Notably, this party-driven patronage system has become increasingly formalized over the last decade of stability and growth. For example, the official title of *Oknya*, which translates roughly as "tycoon," is now bestowed upon those who make a donation to the government of over US \$100,000.<sup>52</sup> Rather like a political dowry or "elite pact,"<sup>53</sup> this regulated gift signals a lifelong marriage to the party, entailing privileges, favors, and obligations. Similarly, the CPP's Party Working Group has evolved into a formal mechanism for political patronage that is embedded within the state apparatus.<sup>54</sup> All public servants are required to make regular contributions to the group, which in turn provides "off-budget finance" for politically motivated development projects, including the construction of schools, wells, roads, and other facilities.<sup>55</sup> All of these gifts are in the name of Hun Sen or his associates, and together they constitute the party's "mass patronage" portfolio – typically deployed during election campaigns, and often far greater in value than any public services delivered through formal government budgets.<sup>56</sup> I highlight this profligate use of off-budget finance because is not unique to Cambodia: rather, it may be associated with

<sup>44</sup>Cock 2010; Roberts 2002.

<sup>45</sup>Roberts 2002.

<sup>46</sup>Ibid.; Cock 2010; Hughes 2003.

<sup>47</sup>Roberts 2002, 525.

<sup>48</sup>Hughes 2003; Gottesman 2004.

<sup>49</sup>Cock 2010, 243. See Heder 2007 on the performance of the formal state.

<sup>50</sup>Craig and Pak 2011; Un and So 2011; Hughes 2003.

<sup>51</sup>Un and So 2011, 294.

<sup>52</sup>All dollar figures hereafter are US dollars.

<sup>53</sup>Verver and Dahles 2014.

<sup>54</sup>Milne, Pak, and Sullivan 2015; Craig and Pak 2011.

<sup>55</sup>Milne, Pak, and Sullivan 2015.

<sup>56</sup>Craig and Pak 2011; Milne, Pak, and Sullivan 2015.

extractive regimes, such as Suharto's Indonesia, which are said to maintain a unique combination of state predation and developmentalist gift giving in order to perpetuate themselves.<sup>57</sup>

Another characteristic of Cambodia's contemporary regime is the role of international actors. After the United Nations-backed transition of the 1990s, and in light of the ongoing presence of donor agencies and international non-governmental organizations (NGOs), observers have noted Cambodia's heavy dependence on aid.<sup>58</sup> Yet the government has maintained significant autonomy in the face of normative international pressures – or, a remarkable capacity to maintain the façade of reform while pursuing its own agenda, as noted in the land and forestry sectors,<sup>59</sup> as well as in relation to electoral reform.<sup>60</sup> Alongside this recalcitrance, the government has also embraced less stringent aid and support from China, especially for the development of infrastructure.<sup>61</sup> Foreign investment too has been welcomed, especially in the form of agricultural and mining concessions: an opportunity that Cambodia's resource-hungry neighbors have jumped on with zeal.<sup>62</sup> Thus the Cambodian state exhibits a transnational dimension, which emerges further in the case studies.

### *On the Role of Natural Resources*

Natural resources and especially forests have played, and continue to play, a fundamental role in Cambodia's state formation. Indeed, it is widely acknowledged that the 1990s logging era was foundational to the country's transition to peace and in the formation of the CPP-backed regime.<sup>63</sup> At this time, the struggle to achieve stability was aided by informal distribution of timber rents, which facilitated the processes of elite accommodation and CPP alliance-building. This enabled provincial strongmen to operate like warlords, controlling logging in order to finance their personal wealth and maintain their troops.<sup>64</sup> As a result, only 5 percent of the country's timber export revenue from 1991–1998, estimated to exceed \$2.5 billion, was captured by central government.<sup>65</sup> But, such "warlordism" is not necessarily antithetical to state formation.<sup>66</sup> By the late 1990s conditions were in place for regime consolidation, which saw provincial strongmen ending up as CPP-backed state officials. This integrative process also meant that the division of spoils from logging could increasingly be achieved through formal legal mechanisms, using state authority, rather than through informal deals.

Thus, and rather ironically, the formalization of forest exploitation initially took place through a series of logging bans instigated by Hun Sen. Cleverly, he used military crackdowns on so-called anarchic logging to remove the small players from the game.<sup>67</sup> This territorializing effort was soon followed by the installation of a new and centrally controlled logging concession system, with assistance from the World Bank.<sup>68</sup> Following conventional state-building logics, the idea here was to consolidate central government control over forests and resource rents. But this proved difficult to implement, as concessionaires scrambled to get what they could while

<sup>57</sup>Gellert 2010; Ascher 1998. Ascher notes that off-budget spending falls outside of the central budget and is often funded by donations or "informal taxes" on natural resource exploitation.

<sup>58</sup>Hughes 2003; So 2010; Blunt and Turner 2005.

<sup>59</sup>Cock 2010; Milne 2013.

<sup>60</sup>Hughes 2003; Heder 2007.

<sup>61</sup>Sullivan 2011.

<sup>62</sup>Global Witness 2013.

<sup>63</sup>Le Billon 2002.

<sup>64</sup>Le Billon and Springer 2007.

<sup>65</sup>Ibid.

<sup>66</sup>Sidel 1989.

<sup>67</sup>Global Witness 2002.

<sup>68</sup>Neak 2007; Le Billon 2002.

enforcement of their permits was weak. International outcry ensued, and this eventually prompted Hun Sen to suspend all logging concessions in late 2001.

Since then, other modalities of timber extraction have emerged, which are chiefly illicit. For example, government officials in forestry and conservation appear systematically to use their role to “tax the law” and extract unofficial rents from logging.<sup>69</sup> Most proceeds from this are for personal benefit, or are used to finance office running costs, while a “due portion” must be allocated in patronage payments up the chain to one’s superiors and to the party itself.<sup>70</sup> The rules of this informal taxation system, although ostensibly illegal and hidden, are well known among those initiated into the everyday practices of the state. For low-level officials this is often simply a matter of survival, given that their government salaries are insufficient to cover living costs. But the implicit assumption of such under-financing is that officials entrusted to protect the state’s natural resources are also entitled to “feed off” them.<sup>71</sup> Keeping peripheral staff well-resourced in this way is key to securing their loyalty and is hence fundamental to state formation.

Finally, apart from petty corruption, Cambodia’s contemporary extractive regime also relies upon ongoing state territorialization and predation. For example, since the suspension of commercial logging in 2001, forested land has been subject to the advancement of state control through the declaration of conservation areas, covering over 20 percent of the country’s surface area,<sup>72</sup> and reinforcement of state public land through the 2001 Land Law and the 2002 Forest Law, which effectively render natural forests and unregistered farmland into government property.<sup>73</sup> For this reason, official statements on forest cover have become political and territorial in nature, with the government now claiming nearly 60 percent of the country to be naturally forested or Forest Estate.<sup>74</sup> These legal maneuvers have allowed the state to re-privatize or capitalize public land by allocating concessions that now cover 24 percent of the country’s land area.<sup>75</sup> In turn, these enclosures have activated various mechanisms for logging, as I reveal below.

### **Cambodia’s Contemporary Regime of Extraction: Insights from Two Logging Operations**

As indicated, large-scale logging and deforestation continues in Cambodia, despite the 2001 ban on timber concessions. After a hiatus of about five years, during which time the international conservation movement boasted significant advances in protecting Cambodia’s “vast forest wildernesses,”<sup>76</sup> timber extraction soon resumed. This time it emerged under different guises, exploiting a range of special permits, contracts, and licenses associated with projects like ELCs and hydropower dams. These new logging mechanisms, administered chiefly by the Forestry Administration, permit pseudo-legal timber extraction, saw-milling, and wood transportation. But they also allow for the laundering of illegally harvested timber in equal, if not

<sup>69</sup>Cock 2010; Paley 2015; Milne, Pak, and Sullivan 2015. The expression “taxing the law” refers to the use of legal authority to extract bribes; it comes from Ret’d Col. David Mead (personal communication 2001).

<sup>70</sup>Cock 2010; Paley 2015.

<sup>71</sup>Roberts 2002; Vickery 1984. Both authors note how state employment became a guarantor of reliable remuneration in this way.

<sup>72</sup>ICEM 2003.

<sup>73</sup>Springer 2013; see also Land Law and Forestry Law, downloadable from Open Development Cambodia’s Law Compendium: see [http://www.opendevdevelopmentcambodia.net/laws\\_and\\_regulations/environment-land-and-nrm-laws/?post\\_type=law](http://www.opendevdevelopmentcambodia.net/laws_and_regulations/environment-land-and-nrm-laws/?post_type=law) (accessed 3 February 2015).

<sup>74</sup>RGC 2010b.

<sup>75</sup>Statistics on land area are listed in the Trading Economics database, 2015. <http://www.tradingeconomics.com/cambodia/land-area-sq-km-wb-data.html> (accessed 13 December 2014).

<sup>76</sup>Revkin 2002.

greater, proportions. Focusing on two exemplary cases, I explain how this new regime of extraction works in the shadow of transnational investments and what this implies for state formation.

An important feature of the two cases is that they are located in areas gazetted for biodiversity and forest conservation. Both include a combination of Protected Forest under Forestry Administration jurisdiction, and Wildlife Sanctuaries managed by the Ministry of Environment. These forested landscapes, each about 1 million hectares in size, are also sites of long-term international conservation projects. Each site is administered by one conservation NGO operating under a Memorandum of Understanding (MoU) with the Forestry Administration. These MoUs define the roles and responsibilities of each party: in general government staff are responsible for law enforcement, while NGO staff act as advisors and interface with donors. I emphasize the overlay between logging and conservation because, as Ian Baird notes with respect to Virachey National Park, protected areas are key sites of state making and territoriality.<sup>77</sup> That is, state control over resource use is asserted through conservation activities such as forest mapping, boundary demarcation, law enforcement, and patrols by uniformed park rangers.<sup>78</sup> In Cambodia such government functions are typically enacted with NGO support, as there is little or no formal government budget for conservation fieldwork. Yet the landscapes in question harbor some of the most valuable remaining timber reserves in the country, making them sites of intense government interest. In this light, one might say that the global conservation movement has generously, although perhaps unwittingly, financed the CPP regime's territorial prerogatives since the early 2000s.<sup>79</sup>

### Research Methods

Both case studies are the product of personal experience. I encountered them accidentally while working as an advisor and researcher on community-based conservation in the two project areas, from 2010 to 2014. This is often the way with research into the illicit realm: it is frequently unintentional at the outset, as one observes supposedly hidden phenomena alongside one's primary research subject.<sup>80</sup> Over the course of my normal work on community-based conservation, I soon found it impossible to ignore the presence and effects of illegal logging operations. It was the subject of relentless discussion among villagers and project staff, and it profoundly shaped social dynamics and relationships among all actors in contact with the conservation projects. For those who opposed the logging or simply refused to become involved, there were experiences of frustration, intimidation, and fear.<sup>81</sup> But for most others, they found themselves entangled in a sticky web of patronage relations, resource flows, and violently enforced complicity – all of which emerged from the state-sanctioned yet highly secretive logging operations. Given the sensitivity of the subject, and the personal risks that many people took to gather and disclose data, I have tried hard to conceal the identities of my sources.

Observing these dynamics, I was struck by how similar the two cases of logging were, even though they were on opposite sides of the country. For example, project staff and villagers

<sup>77</sup>Baird 2009.

<sup>78</sup>Vandergeest and Peluso 1995.

<sup>79</sup>Milne, Pak, and Sullivan 2015; Singh 2014.

<sup>80</sup>Blundo 2007.

<sup>81</sup>Describing how project staff and villagers were ostracized, disciplined, and threatened by those involved in the logging is beyond the scope of this article. This was a daily concern. Responsible for the intimidation were government officials, armed forces, police, powerful businessmen, and employees working for the logging and company operations. The means they used included gossip, death threats, phone calls, and advice about "safety" and "danger."

displayed common cultural protocols for sharing knowledge about the secret yet openly-discussed-and-known phenomenon of illegal logging. Those who were anti-logging shared information readily, but only behind closed doors and with trusted others, for fear of retribution. The two cases also shared remarkably similar institutional architectures: both were mediated by the Forestry Administration and were located within its territory; both involved foreign state-owned companies pursuing major investments in forested areas; both engaged Cambodian-run logging companies, with close connections to the state. To explore these patterns further, I conducted follow-up interviews and gathered material from English-language newspapers. My research focus was on the Cambodian-run logging operations at each site: of interest because they are hidden but semiofficial entities that are thoroughly intermeshed with the state and its revenue generation projects.

### *Case 1: Logging around a Chinese-built Dam*

Deep in the Cardamom Mountains of southwest Cambodia, nestled between two heavily forested and sparsely populated conservation areas, is O'Som commune. Until 2008, this remote community comprised mainly of local indigenous people whose livelihoods consisted of shifting cultivation for subsistence purposes and collection of valuable non-timber forest products such as cardamom (*kravanh*) and various resins. The transformation of this remote locale began in 2009, as construction of a 120 megawatt hydropower dam began in the nearby Atay River (Figure 2). This dam, known as the Stung Atay Dam, was the first to be initiated in the Cardamom Mountains, but there are now three more under construction and others proposed in the area.<sup>82</sup> These dams are planned, financed, and operationalized through a “complex interplay of entrepreneurial initiative” on the part of Chinese State Owned Enterprises (SOE), their public financiers in China, and high-level officials in Cambodia.<sup>83</sup> All are commissioned through Build Operate Transfer (BOT) contracts with the Chinese SOEs, which are negotiated behind closed doors: some appear to have the potential to be highly profitable for the SOEs involved, but others struggle to demonstrate a clear business case.<sup>84</sup> Furthermore, in the government's haste to facilitate foreign investment, environmental impact assessments appear to have been conducted for symbolic purposes only, for example, to gain a “rubber stamp,” having paid the necessary “fees” to the Ministry of Environment, without any expectation of further regulation or field verification.<sup>85</sup>

In O'Som, the company holding the BOT contract is the China Yunnan Corporation for International Techno-Economic Cooperation (CYC).<sup>86</sup> CYC was chosen by Cambodia's Council of Ministers to develop the dam in early 2007, without any public consultation or tender process. Under the direct control of the Yunnan provincial government, the company is said to be relatively small compared to other Chinese SOEs. But its geographical reach is significant because the company specializes in the brokering of infrastructure contracts overseas, especially for the delivery of Chinese development loans and the international transfer of Chinese workers.<sup>87</sup>

<sup>82</sup>These include the Stung Tatay dam, the upper and lower Roussey Chrum dams, and the Stung Areng dam. All are within or very close to the Central Cardamoms Protected Forest.

<sup>83</sup>Middleton 2008.

<sup>84</sup>Pye 2014.

<sup>85</sup>Interview with a high-level official, Phnom Penh, 2013.

<sup>86</sup>Another Yunnan SOE, closely but ambiguously connected to CYC, has the contract to build transmission lines in Pursat Province, linking the Atay Dam to the national grid. See, for example: Xinhua News Agency 2007.

<sup>87</sup>Middleton 2008. The fact that the company is from Yunnan is notable because this province is part of the GMS. Investment relationships that underpin dam contracts often emerge from GMS events like workshops and trade fairs.



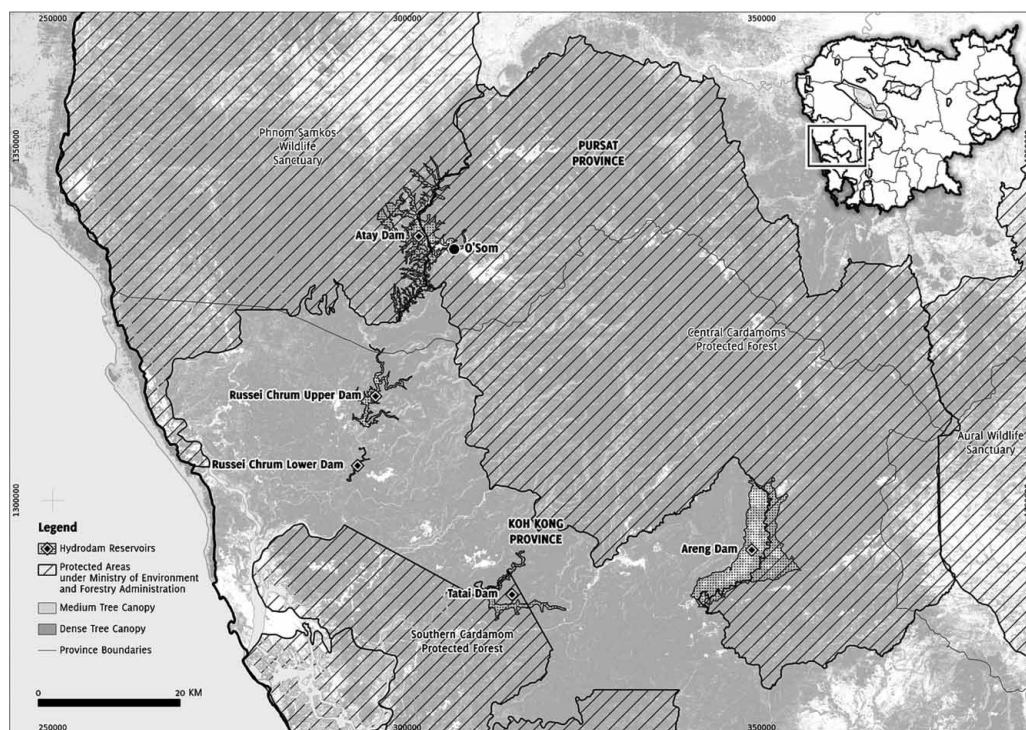


Figure 2. Conservation areas, forest cover, and hydropower dam reservoirs in Cardamom Mountains. (Credit: Hydropower dam data from LICADHO, Phnom Penh, 2015; conservation area data from the Royal Cambodian Government; forest cover data from Hansen et al. 2013)

Construction commenced in 2009, and in spite of a partial blowout of the dam wall in late 2012, which swept away and killed at least three laborers, the project was completed without fanfare in late 2013.<sup>88</sup> Chinese workers have been engaged throughout the construction process, although very little is known about their living and working arrangements. My inquiries in O'Som revealed that they maintain an enclave away from the village: members of the public could not enter their offices or living quarters; there was little interaction between Chinese and local villagers; and Khmer-Chinese translators were relied upon for essential communications (Figure 3). The estimated cost of the dam was \$255 million, and it is thought that some finance was acquired from the China Development Bank to pursue the project. This "policy bank" is an official overseas lending arm of the Chinese central government.<sup>89</sup>

According to Cambodian officials, a technical requirement of dam construction is that the soon-to-be-flooded reservoir should be cleared of all vegetation. Their rationale is that unrecovered debris could disrupt water flows, and rotting vegetation is undesirable because it releases methane and can cause eutrophication. In addition, they argue that valuable timber

<sup>88</sup>See "Dam Finished End 2013." Blog. *Constructing Cambodia: Following Cambodia's infrastructure development*, 12 January. <http://constructingcambodia.wordpress.com/category/construction-complete/stung-atay-hydropower-dam/> (accessed March 2014).

<sup>89</sup>Middleton 2008.



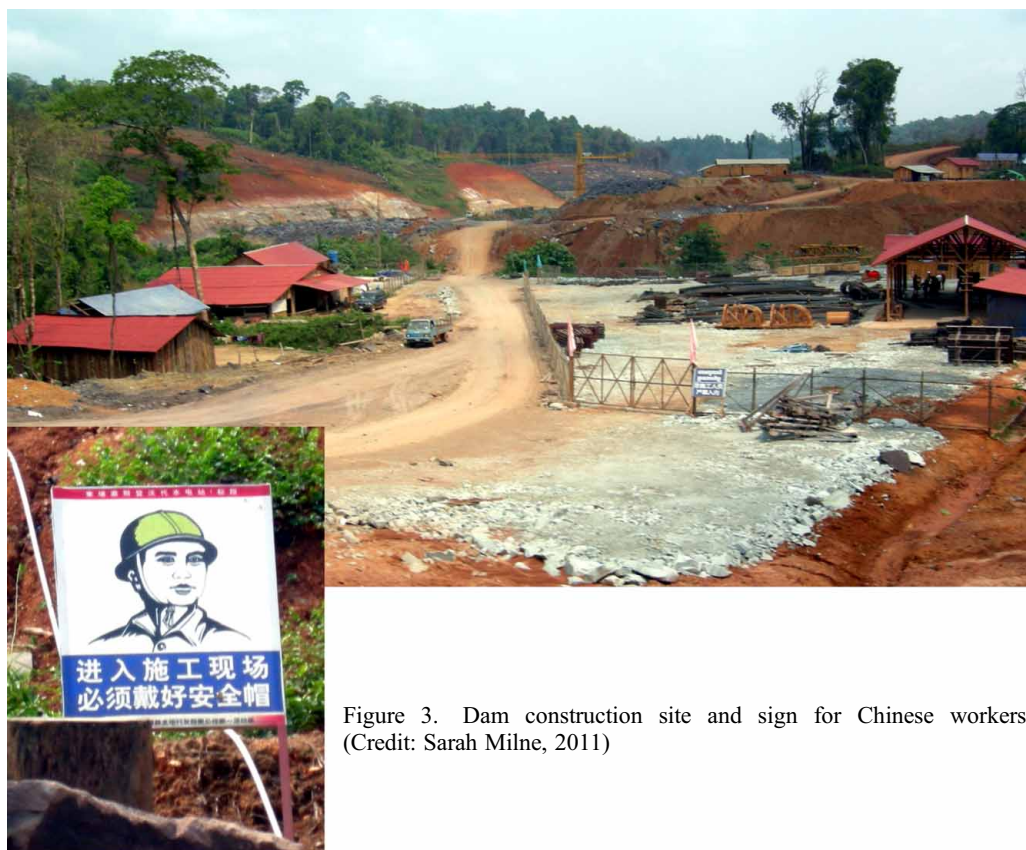


Figure 3. Dam construction site and sign for Chinese workers. (Credit: Sarah Milne, 2011)

should not be wasted by being left underwater. Therefore, alongside dam construction, a separate contract must be issued for the work of clearing the future reservoir area. In O'Som, this was awarded to the Cambodian MDS Import-Export Company, owned by the now famous *Oknya Try Pheap*.<sup>90</sup> The reservoir area was calculated to be 4179 hectares, according to the government sub-decree on the dam, and it overlaid a heavily forested area. On a map, the future reservoir shape was said to look “like a spider” with anticipated flooding contained inside the deep river valley and its multiple tributaries (Figure 2). For this reason, I was told in 2011 by evasive officials: “It is impossible to control the reservoir-clearing activities. ... We cannot see the boundary.”

Thus, almost inevitably, timber extraction was not confined to the reservoir area. By 2010 it extended across the northern sections of the two conservation areas. Forestry Administration officials denied this, but it was clear to all onlookers that the reservoir-clearing contract was being used as a mechanism for illegal logging and timber laundering. According to villagers and NGO staff in the area, MDS's logging operation penetrated deep into the Central Cardamoms Protected Forest and the Phnom Samkos Wildlife Sanctuary, covering an area of approximately 200,000 hectares (Figure 2). Logging focused on the extraction of rosewood (genus *Dalbergia*,

<sup>90</sup>In 2013, Try Pheap rose to prominence across Cambodia for his logging exploits. He is now a household name. This was not the case in 2009 when his operations began in O'Som.

called *kronyung* in Khmer),<sup>91</sup> an activity that is strictly illegal throughout Cambodia. The company hired local villagers and imported poor laborers from other provinces to extract the rosewood. Often villagers were paid a fee (\$2.50–\$10) for locating a tree in the forest; then logging “gangs” would cut and remove it, using oxcarts to deliver the prized timber to middlemen on the roadside. The middlemen, of whom there were about five well-known individuals, then used trucks, trailers, and cars to transport the timber from O’Som to the MDS compound on the national highway north of the mountains for subsequent trafficking to Vietnam. The company also hired military police to facilitate and protect the timber movements, especially in more remote areas. The distinctive feature of this trade was that all of the rosewood was extracted for and owned by MDS: the company operated a checkpoint on the O’Som road, the only road out of the forest, and thus it enforced its government-awarded monopoly by preventing any rosewood flows that were not its own. They achieved this through purchasing and/or confiscation of others’ timber, as well as through widespread intimidation to prevent would-be loggers. Forestry officials later told me that MDS’s timber rights in the Cardamom Mountains included “everything in Pursat Province.” This territorial demarcation was important because another logging group associated with dam construction in the southern part of the range, Timber Green, had the rights to log all of Koh Kong Province for its rosewood (see [Figure 2](#) for provincial boundaries).<sup>92</sup>

By 2010–2011 the rosewood extraction had reached fever pitch, like a gold rush, with an influx of migrant laborers and five to ten fully loaded trucks leaving O’Som every day. At this point, it was rumored that the Chinese company complained to the government that MDS was not performing its reservoir-clearing duties, due to its preoccupation with illegal rosewood logging. Given the profits involved, this is not surprising. Demand for rosewood was peaking, with epidemic logging active in every last corner of mainland Southeast Asia where the timber could be found.<sup>93</sup> This was being driven by elite and middle-class desires, mainly Chinese, for rosewood furniture and ornaments, which are considered to be lucky and of high status.<sup>94</sup> A high-end furniture set can fetch hundreds of thousands of dollars in China, and this translated into rosewood prices of \$5000–8000 per cubic meter at the “forest gate” in O’Som.<sup>95</sup> Furthermore, by the time MDS had trafficked the rosewood to the Vietnamese border—using a police-protected and Forestry Administration-facilitated fleet of Lexus, Land Cruiser, and Range Rover four-wheel drive vehicles—the price per cubic meter was marked up by five times.<sup>96</sup> Conservative estimates of the revenue that MDS would have extracted from O’Som over the period 2009–2012 suggest amounts well over \$220 million,<sup>97</sup> and this does not include additional profits obtained by MDS for smuggling the timber to the Vietnamese border. These days the rosewood boom in O’Som is finished. Local villagers remain poor and now busy themselves digging out the remaining stumps and roots of harvested trees to sell by the kilogram to middlemen.<sup>98</sup>

<sup>91</sup>Two species of rosewood grow in Cambodia: Thailand rosewood (*D. cochinchinensis*) and Burmese rosewood (*D. bariensis*). Both are strictly protected under the Cambodian Forestry Law.

<sup>92</sup>Boyle and May 2011.

<sup>93</sup>EIA 2012; Singh 2014; To, Mahanty, and Dressler 2014.

<sup>94</sup>EIA 2012.

<sup>95</sup>See EIA 2012 on furniture prices and interviews with key informants on local rosewood prices in 2011.

<sup>96</sup>Taing 2011. Five years on, now that Try Pheap has secured a domestic timber transportation license, larger trucks are used to transport the rosewood.

<sup>97</sup>This sum derives from two independent sources: (1) a leaked NGO report that calculated the amount of rosewood removed from the O’Som area based upon vegetation mapping and estimates of the density of rosewood for each forest type; and (2) data from informants on the number and size of trucks passing the O’Som checkpoints every day during the period of logging.

<sup>98</sup>From two interviews: with a consultant who visited the area in late 2013, and a doctoral student conducting research there in early 2014.

So, we must ask, where did all the money go? This question requires careful consideration, because MDS, like so many companies operating in Cambodia, is by no means conventional in the Western sense. That is, there are no transparent accounting practices, there are no shareholders to report to, and there are many hidden costs and benefits associated with the company's relationship with the state and its rulers. Indeed, the further one delves, the harder it becomes to separate out the company from the state. Much of this hinges upon the company's owner, *Oknya* Try Pheap, who is said to be the "god-brother" of Hun Sen's wife, and "one of the staff" of Hun Sen himself.<sup>99</sup> This does not necessarily mean that he is a state official or even a formal member of the ruling party, but it implies that he works with Hun Sen in a patrimonial relationship, generating funds to support the regime in return for a range of privileges and concessions, including access to land and timber. In this endeavor, Try Pheap is now identified as "one of the biggest money-earners for the CPP."<sup>100</sup> For example, he is said to pay \$1 million per month to Hun Sen's family as a "tax" on his lucrative timber trade business from Cambodia to Vietnam and China.<sup>101</sup> Thus, as one government official explained to me, his activities involve "everyone's bowl of rice": he is "untouchable" because of his high-level connections and because no one is willing to bite the hand that feeds.<sup>102</sup>

Beyond Try Pheap's standing with the prime minister, however, the case of O'Som also illustrates how symbiotic and multifaceted relationships exist between the *oknya* and the state at lower levels of administration. The Forestry Administration especially was involved in Try Pheap's timber extraction activities, in a variety of ways. First, the authority of the park rangers within the protected forest meant that they became actively engaged in creating and enforcing MDS's monopoly over the timber in the conservation area. For example, any locally organized groups that wanted to cut rosewood independently for themselves would be promptly arrested. The Forestry Administration would then confiscate the supposedly illegal timber and sell it to MDS. Everyone was forced to sell to the company, and would-be independent loggers soon fell into step. Second, in return for enforcing MDS's timber rights, park rangers received a range of benefits. Most conspicuously, the ranger post leveraged bribes from every rosewood truck that left O'Som. Although relatively small, the bribes were standardized and recorded systematically in a notebook at the ranger station. Each truck driver or middleman had to sign the book; the vehicle type and size was noted; and the payment amount was listed (Figure 4). This highly regularized yet ultimately petty bribery earned the small group of rangers at the O'Som station about \$50–100 per day. The money was apparently used to cover daily living expenses, and probably allowed for personal savings given that the rangers' wages and station-running costs were also being financed by the conservation NGO.<sup>103</sup> In addition to running the checkpoint, the rangers also received gifts of new motorbikes and cars from the *oknya*, in reward for their services.<sup>104</sup>

The level of discipline and internal transparency seen in the rangers' "informal taxation" practices in 2011 suggests that the *real* money was being tightly controlled and captured elsewhere, within the regime's upper echelons. This assertion holds true in light of events that unfolded in O'Som in 2010, when a dramatic power struggle between competing logging interests occurred.

<sup>99</sup>Interview with a high-level government official, Phnom Penh, September 2013.

<sup>100</sup>Taing 2011.

<sup>101</sup>CHRTF 2013, 18.

<sup>102</sup>Interview with a high-level government official, Phnom Penh, September 2013.

<sup>103</sup>In covering these expenses (around \$300/month/ranger) the NGO's intention was to remove incentives and justifications for ranger corruption. But the "financing fix" was not sufficient to produce non-corrupt rangers: a problem that the NGO denied steadfastly when it was accused of "turning a blind eye" to corruption within its project. The NGO involved is Conservation International; see Boyle and May 2012.

<sup>104</sup>Two of the senior rangers received new cars, while the more junior officers received new motorbikes.



Figure 4. Rosewood truck (left) parked in front of the ranger station while payoffs are arranged, and photo of the notebook (right) in which all such transactions were recorded. (Credit: Former staff member at the ranger station, 2011)

One NGO staff member who witnessed this struggle called it the “rosewood war.” He explained that “powerful people” in central government had heard, through a tip-off, that some rangers and Forestry Administration staff in collaboration with MDS were taking more than their fair share of rosewood and profits. This resulted in a high-ranking Army general from Phnom Penh deploying a helicopter and soldiers to the area to chase away or capture the rogue elements of MDS’s logging operation in the forest. There was even a car chase as some park rangers attempted to make a getaway from these disciplinary forces. Ultimately, this struggle resulted in a series of organizational re-shuffles within government, reflecting a realignment of power relations and resource flows associated with the rosewood extraction. These included the arrest of the Protected Forest director – who was released after about a week and now works for MDS – and the removal of the director general of the Forestry Administration, who was later “retired upwards” to a less hands-on role in the Ministry.<sup>105</sup> In addition, a stash of rosewood worth at least \$2 million was confiscated and deposited at the ranger station for subsequent auction by the government. The precise nature of these machinations was unknown and extremely sensitive at the time. But by 2014, with the O’Som rosewood now almost exhausted, it seemed safer for informants to disclose more. The latest explanation for the struggle is that it was territorial: a case of MDS (or, more likely, its poorly controlled field staff) being disciplined for extracting rosewood from Timber Green’s area, which encompassed all of Koh Kong Province. And, with Timber Green allegedly being controlled by Hun Sen’s daughter, there was no shortage of military muscle to bring to bear.<sup>106</sup>

Once the resource-sharing arrangements had been clarified and consolidated, however, it seemed that everyone could resume their smooth collaborations. Notably, there now appears to be a revolving door between the Forestry Administration and Try Pheap’s company. For example, the former director of the protected forest is now one of Try Pheap’s senior staff, and has allegedly become an *oknya* himself.<sup>107</sup> Other forestry officials and NGO staff have also taken up jobs with the tycoon, leaving their former employment on the conservation project. For Try Pheap, the benefit of this embedded relationship with Cambodia’s Forestry

<sup>105</sup> Interview with an NGO informant, Phnom Penh, 2012.

<sup>106</sup> Although both companies are linked to Hun Sen’s family, I was told that “like the mafia” internal conflicts within this familial network were not uncommon. Interview with a local activist, Phnom Penh, 2013.

<sup>107</sup> This is common knowledge among Forestry Administration officials; they discuss the subject openly. The former Central Cardamoms Protected Forest director is now Try Pheap’s “right hand,” officials declare.



Administration is that he can easily access maps of forested areas; acquire data on timber inventories; and utilize the personal and professional networks of officials. The latter is clearly a key asset in enabling him to acquire government permits and contracts for logging, which are underpinned by the negotiation of appropriate revenue-sharing arrangements. What is more, this pattern of interrelationship is now no longer unique to the forests of the Cardamom Mountains. For example, in Preah Vihear Province, Try Pheap recently donated a new office for the local Ministry of Environment rangers.<sup>108</sup> Furthermore, his timber storage compounds in all provinces are apparently easily identifiable, given that they are located right next door to the Forestry Administration offices. Thus, across the country, authorities charged with protecting the forest are instead entangled in a symbiotic dance with the logging tycoon.

On this note, the role of Try Pheap in sustaining the state apparatus and in financing an array of public functions has become increasingly conspicuous since 2011. For example, it was rumored that he sponsored the purchase of about five tanks for the Royal Cambodian Armed Forces to bolster their struggle against Thailand over the Preah Vihear temple site.<sup>109</sup> The Cambodia Human Rights Task Force also shows how Try Pheap cooperates with the state by “covering all of the expenses of armed forces and civil servants” around the concession areas where he operates, and also by making “donations for the construction of office buildings and CPP buildings.”<sup>110</sup> In addition, around his hometown, he is seen to be “nice to neighboring villages” through gifts of roads, schools, wells and assistance for the pagoda, but this is acknowledged to be for “strengthening the CPP” only.<sup>111</sup> These practices correspond with the CPP’s widely acknowledged nationwide political strategy of gift giving and mass patronage, typically financed through off-budget mechanisms.<sup>112</sup> They also correspond with the system of social and political obligations that accompany business privileges, signified by the title *oknya*. But public gift giving on behalf of the party is not necessarily cheap. Indeed, one government informant told me that Try Pheap is “in financial trouble,” as he has committed to building public roads into concession areas near the Vietnamese border, and apparently the only way he can pay for this is through more logging.

Thus, as Try Pheap’s contribution to the state and the party expands, so must his business portfolio. Indeed, it seems as though the two are locked into a mutual ratchet effect. The tycoon’s empire now includes two casinos, two special economic zones, an island resort complex, various hotels, and concessions covering over 100,000 hectares.<sup>113</sup> Circulating through all of these projects and assets is the capital acquired from logging. Furthermore, perhaps as a measure of his prominence, Try Pheap’s access to the timber resource has only consolidated through 2013–2014. For example, he has now secured exclusive rights to all timber felled on ELCs in Ratanakiri Province,<sup>114</sup> all “illegally” logged timber confiscated by the Forestry Administration;<sup>115</sup> and nationwide permits for transporting and exporting timber to Vietnam and China.<sup>116</sup> Notably, all of these state-endowed rights also serve as mechanisms through which

<sup>108</sup>This is common knowledge among NGO staff working in the area.

<sup>109</sup>NGO informants in Phnom Penh (2012) and Mondulakiri (2013). The provision of tanks to the government was said to be what secured the tycoon’s monopoly rights over timber in Ratanakiri, granted in late 2013.

<sup>110</sup>CHRTF 2013, 12.

<sup>111</sup>Ibid.

<sup>112</sup>Craig and Pak 2011; Milne, Pak, and Sullivan 2015.

<sup>113</sup>See CHRTF 2013; Global Witness 2009; Pheap and Woods 2013.

<sup>114</sup>Peter and Pheap 2013.

<sup>115</sup>These rights were apparently acquired at a fee of \$3.4 million, paid to the Forestry Administration, although the 5000 cubic meters of timber would be worth over \$25 million. See Pheap and Woods 2013.

<sup>116</sup>Exports to China are via boat. When Timber Green was operating in the Cardamom Mountains, boats left from Sre Ambul port, Koh Kong Province. According to an informant in 2014, Try Pheap now

monopolies can be established and illegally logged timber can be laundered. NGOs and villagers claim that this has caused logging to increase dramatically in Cambodia: “once forestry officials stamp wood as belonging to Try Pheap, it can be transported legally [regardless of its origins]” explained a human rights worker in Ratanakiri.<sup>117</sup> Government spokesmen claim, however, that Try Pheap was issued the timber rights in an effort to “curb illegal logging” by anarchic others,<sup>118</sup> and Try Pheap’s company claims that it does not encourage deforestation, as “the government is dealing with that.”<sup>119</sup> These circular and discursive claims reveal how the tycoon’s business model from O’Som has now been replicated at a national scale. In essence, this entails using state power and authority to create monopoly rights over timber, which in turn underpin highly lucrative logging operations that finance a combination of public, private, and party coffers.

### ***Case 2: Logging around a Vietnamese Rubber Plantation***

The second modality of making cakes without flour is the clearing of forests to make way for ELCs – a practice that frequently involves illegal forest conversion and selective logging of high-value timber outside concession boundaries. As noted, this appears to be widely practiced in Cambodia, with ELCs adjacent to conservation areas being considered particularly lucrative, since the “protected timber” can be covertly harvested and trafficked under the concession’s logging permit.<sup>120</sup> There is also a strong bias for ELCs to be located on top of or next to evergreen forest, the most valuable forest type. This geography of extraction emerges clearly in maps that show the overlay between concessions, forest cover, and conservation areas (Figures 1, 2, and 5). By law, ELCs are not allowed to overlap with “natural forest,” as this is considered to be *state public land*. However, if this land is deemed to have lost its “public interest,” then it may be reclassified as *state private land*, making it eligible for conversion to plantation under the ELC sub-decree.<sup>121</sup> This process of land reclassification is almost completely opaque, but the fact that concessions continue to be issued illegally on forested land suggests that timber reserves play a strong part in decision-making about where ELCs are located.<sup>122</sup> This is corroborated by government and NGO sources, who have informed me that prospective concessionaires must complete timber inventories as part of their contract negotiation process, according to which they are “taxed” by ministerial officials. In addition, would-be investors are apparently instructed by government officials as to how forest clearing will take place in their target area, and by whom. Without fail, I observe that the logging contractors involved are Cambodian entities with high-level government connections, typically led by an *oknya*.<sup>123</sup>

The case of rubber concessions overlapping with the forests of Mondulkiri is informative, not least because it reveals the internally contested and at times unpredictable nature of government decisions. The case involves three adjacent concessions, each originally issued at the

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exports rosewood to China from Cambodia’s main port in Sihanoukville. This is because rosewood sale prices are at least ten times higher in China than in Vietnam, so it is more profitable for Try Pheap to export directly to China.

<sup>117</sup>Pheap and Woods 2013.

<sup>118</sup>Peter and Pheap 2013.

<sup>119</sup>Pheap and Woods 2013.

<sup>120</sup>For example, see the maps of ELCs and mining concessions generated by ADHOC (2012).

<sup>121</sup>See 2001 Land Law Article 16; and Sub-Decree No.146 on Economic Land Concessions 2005, Article 4. See Open Development Cambodia: [http://www.opendevelopmentcambodia.net/laws\\_and\\_regulations/environment-land-and-nrm-laws/?post\\_type=law](http://www.opendevelopmentcambodia.net/laws_and_regulations/environment-land-and-nrm-laws/?post_type=law) (accessed 3 February 2015).

<sup>122</sup>Vrieze and Naren 2012. See also Open Development Cambodia’s briefing on ELCs: <http://www.opendevelopmentcambodia.net/briefing/economic-land-concessions-elcs/> (accessed March 2014).

<sup>123</sup>Interview with an NGO informant in Phnom Penh, February 2014.



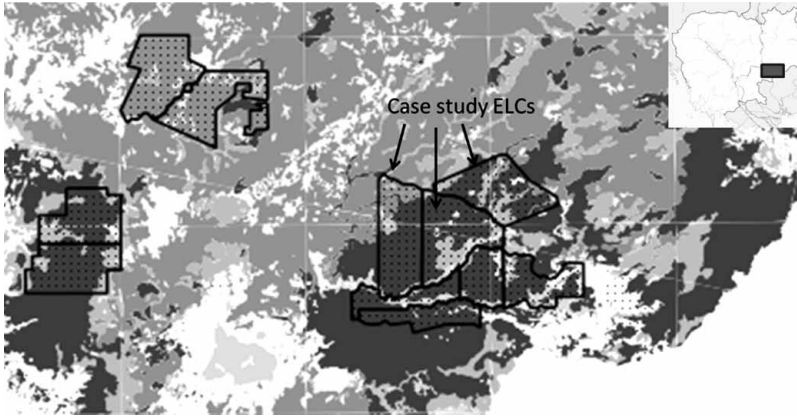


Figure 5. Forest cover and Vietnamese concessions in the study area. Legend: Dark grey is evergreen forest; light grey is deciduous forest; enclosed dotted areas show ELCs in the area (Mondul Kiri and Kratie provinces). Note that the case study ELCs are shown in their original 10,000 hectare allocations, before downsizing. (Credit: Concession data from LICADHO, Phnom Penh, 2014; forest cover data from the Forestry Administration, 2006)

maximum legal size of 10,000 hectares. Each concession is held by a different company. They are Binh Phuc Kratie-rubber 1, Binh Phuc Kratie-rubber 2, and Eastern Rubber. However this division of territory between companies appears to be mainly symbolic, arranged to ensure compliance with the legal size limit of 10,000 hectares per concession. This is because all three concessionaires are allegedly affiliated with or are “member companies” of the Vietnam Rubber Group (VRG), an enterprise established by and still majority-owned by the Government of Vietnam.<sup>124</sup> Another investor, whose name is disclosed on the signboard at one of the concession entrances in Kratie Province, is “Tien Dat Furniture Corporation.”<sup>125</sup> This is unambiguous proof that the concessions entail both timber and land interests. Apart from VRG’s violation of ELC size limits through the use of multiple member companies – a problem that is not just constrained to this case<sup>126</sup> – the three concessions are also in breach of the law because they overlap with natural forests (Figure 5). In particular, large portions of the concessions lie within the conservation areas of Seima Protection Forest and Snoul Wildlife Sanctuary and their buffer zones. But local officials working with the conservation projects felt powerless to contest the concessions. Or, as one senior director put it, “These concessions come from the sky,” like an act of god.

But the concessions’ illegality did not go completely unnoticed or uncontested by some of the more well-intended individuals within the government. In mid-2012, one of Cambodia’s deputy prime ministers surveyed the area with a team from the Forestry Administration, as part of an

<sup>124</sup>On the company’s website (<http://www.vnrubbergroup.com/en/about.php/>) VRG is described as “a multi-ownership Group, in which dominant capital ownership belongs to the State.” VRG has admitted ownership of Binh Phuc 1, but denies association with the other concessions, in spite of evidence that suggests otherwise. See, for example, Global Witness 2013.

<sup>125</sup>See Boyle and May 2013. An NGO worker in the area informed me that Binh Phuc itself was a furniture company. The website for Tien Dat Furniture Company (<http://www.tiendatquinhon.com.vn/index.asp?language=EN>) shows that it had a \$40 million turnover in 2012–2013 and that it has Forest Stewardship Council certification.

<sup>126</sup>Global Witness 2013.

effort to “control ELCs within evergreen and semi-evergreen forest” in four provinces.<sup>127</sup> The result was an official letter to relevant ministers and excellencies stating that “the Royal Government of Cambodia had agreed” to “withdraw” all land that was not yet degraded by the companies, so that it could be “administered as natural forest” or state public land. According to the letter, 85 percent of the 30,000 hectares under contract to the VRG member companies was considered to be either evergreen or semi-evergreen forest.<sup>128</sup> Thus, each concession contract was ordered to be reduced to just 1500 hectares, down from their original sizes of 10,000 hectares each. But there was a swift diplomatic response from Vietnam. Shortly after the letter, it was said that the “Vietnamese Embassy complained to Hun Sen,” and the concessions were restored to around 5000 hectares each.<sup>129</sup> The concession boundaries were then redrawn. But this did not happen arbitrarily: the revised boundaries overlap conspicuously with the richest evergreen forest and are shaped in ways that provide opportunities for illegal clearing outside the boundaries (Figure 6).

Indeed, before the ink had even dried on the revised maps in late 2012, the Cambodian logging outfits were actively collaborating with the concessionaires to remove timber from the ELC areas and the surrounding forest. There is plentiful evidence of this, which I gained personally from visits to villages bordering with the Binh Phuc 1 and 2 concessions in 2013 and 2014. Villagers spoke in private about the logging, which they said involved selective harvesting of their liquid resin trees (*Dipterocarpus* spp.) from the protected forest. These trees – worth about \$5000 each – are valued for furniture and construction in domestic markets.<sup>130</sup> Some villagers reported being intimidated by the logging group into selling their resin trees for \$2.50 each, because loggers told them “if they do not sell, the trees will be cut anyway.”<sup>131</sup> In 2012–2013, this subject was extremely sensitive, as villagers knew that the logging had high-level backing from the government and that it was potentially dangerous to complain. Repeatedly during my fieldwork Khmer colleagues told me: “Do not ask about the company, otherwise we cannot guarantee your safety.” In 2014, however, some villagers started to resist the illegal logging, for example by confiscating company trucks laden with enormous round logs and by gathering evidence to take to the provincial court and the Forestry Administration. But these actions have so far been thwarted and villagers’ claims either ignored or denied. The situation remains tense.

A key reason why contesting the logging is so hard is that, just as in O’Som, it is not being conducted by a clearly identifiable corporate entity. Rather, it is being orchestrated by a consortium of powerful Cambodian actors who are partially embedded within the state apparatus. In a now familiar arrangement, each of the ELCs in this case has an *oknya* at the helm of its logging operations. Timber extraction on the ground is then coordinated by a combination of the *oknya*’s personal staff, military police who operate under his name, and a small number of Forestry Administration officers who control and manage the permits for sawmills and transportation. Each concession houses timber stockpiles and sawmills in pseudo-legal fashion, but these activities are strictly guarded from public access because they also allow the laundering of high-value timber from conservation areas. Villagers who lived as far as twenty kilometers away from the concessions, deep in the protected forest, complained of the *oknyas*’ persistent

<sup>127</sup>Unofficial translation of So Chor Nor 693, Council of Ministers, 2 July 2012.

<sup>128</sup>Unofficial translation of So Chor Nor 693, Council of Ministers, 2 July 2012. The letter also calls for the full cancellation of five other concessions in Koh Kong and Kompong Thom that had not yet signed contracts with the Ministry of Agriculture Forestry and Fisheries, because they also overlaid natural forests.

<sup>129</sup>Interview with a Khmer official in Monduliri, later confirmed by two NGO sources in Phnom Penh, November 2012.

<sup>130</sup>Interviews with local villagers and NGO workers in Monduliri in January 2013 and July 2014.

<sup>131</sup>Reports from villagers near to the concessions, Monduliri and Kratie provinces, January 2013.

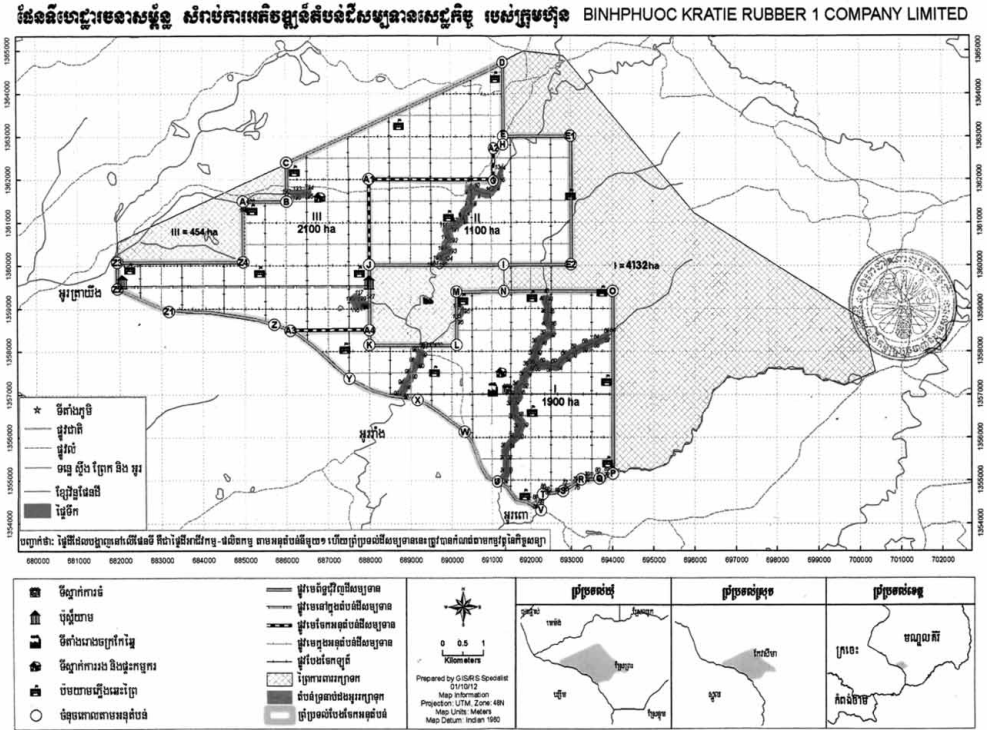


Figure 6. Revised concession boundary for Binh Phuoc 1. (Credit: Official company map acquired from anonymous informant)

logging efforts that enjoyed military backing. There were two *oknyas* in this case who, in circumstances similar to the Cardamom Mountains, enjoyed local timber monopolies designated along provincial lines: it was said that *Oknya* Ol had the rights to Mondulkiri Province, and *Oknya* Tai had the rights to Kratie Province. Furthermore, there appeared to be territorial struggles between them, to the point that the provincial boundary through one commune had been redrawn several times.<sup>132</sup> But unlike Try Pheap, these tycoons had managed to keep extremely low profiles. For example, in 2013 when hundreds of villagers tried collectively to take *Oknya* Ol to court for stealing their resin trees, the provincial judge dismissed their case because no one knew the tycoon’s full name or address. Indeed, all that I could glean from informants was that *Oknya* Ol came from Kompong Cham Province, and that he is the godson of Hun Sen’s brother there.

Finally, even though the operations in this case were not focused on rosewood, the windfall profits they generated are still staggering. Two independent informants described to me the number of trucks of fully laden timber leaving the area each day in 2013. Rough calculations, based upon the frequency and capacity of these trucks, suggest daily timber flows of 500 cubic meters. At a conservative “forest gate” value of \$1000 per cubic meter, this puts the revenues of this operation at least \$500,000/day of milled timber; all removed on the company’s own

<sup>132</sup>The boundary runs through the middle of Srei Chuok commune and Sre Andoal village. Local residents said the provincial boundary had been disputed for years, with no local demarcation. The disputes, they told me, related to resource struggles and company claims being exerted through the provinces.

Downloaded by [Sarah Milne] at 10:27 19 May 2015

private road, straight to Vietnam.<sup>133</sup> Forest clearing at this rate continued until the ELC clearing was complete in early 2014. Overall profits are hard to calculate, but analysis of timber inventories from the area indicate that the per hectare value of clearing evergreen forest is around \$100,000 per hectare,<sup>134</sup> implying a total of \$500 million revenue from each of the three ELCs in question, or \$1.5 billion in total.<sup>135</sup> In addition to this, further profits are still being derived from ongoing logging of high-value timber outside the concession boundaries, even though the original forest clearing contracts have now been completed.

Again, this prompts the question: where does the money go, and who benefits? Strong Vietnamese government interests are clearly involved in this case, but Cambodian government actors and their clients are also major players and beneficiaries. For example, the *oknya* in Monduliri is known to give “allowances” of \$5000 per month to certain forestry officials in exchange for the ongoing privilege of logging outside the concession boundaries. But this is just a fraction of the fees and taxes leveraged by the state from the ELC operation as a whole. Indeed, it appears that much larger amounts are being transacted between company representatives and individuals at higher levels in the government. For example, rumors in Monduliri suggested that companies seeking ELC land must pay \$2 million up front into a bank account, just to get a meeting with the prime minister.

Similarly on the ground, the government’s extractive and symbiotic relationship with ELC development appears to play out in systematic ways. For example, the *oknyas* and concession companies provided state employment by hiring military police and soldiers to be stationed around the ELCs. Ostensibly this was for the purpose of ensuring safety and security, but by guarding all roads and denying public access into area these armed forces also managed to protect and conceal illegal logging activities. During my visits to the area I also witnessed road building and infrastructure works to enable the establishment of new soldier settlements deep within the forest, apparently in connection with the concessions. In this way Cambodia’s transnational investments, whether for dams or ELCS, advance state making by providing sustenance and a *raison d’être* for the country’s numerically strong but generally under-financed armed forces. This strategy is vital for the regime because, in return for unfettered access to the forest frontier, these forces are likely to remain loyal to the party, while upholding its territorial interests in remote areas. Such “military–commercial alliances” in the context of ELCs and other investments are now official policy in Cambodia, and they continue to proliferate.<sup>136</sup>

### When “Making Cakes without Flour” Becomes a Mode of Governance

As noted at the beginning of this article, the dynamics and patterns of logging that I describe in two forest locales are not isolated cases. Similar stories of elite-backed logging could be told for almost all of Cambodia’s land concessions and hydropower projects. Given that these

<sup>133</sup>Two reliable sources in 2013 calculated timber removal rates from the three concessions of twenty trucks per day. Truck size was calculated conservatively from photographs. The value of \$1000 per cubic meters is conservative, given that luxury species in the area were worth about \$2000 per cubic meters in mid-2014 and \$1700 per cubic meters in 2013 (see WCS 2013).

<sup>134</sup>Calculated based on conservative estimates of the density of valuable hardwood species (1100 kilograms per cubic meter); forest gate timber prices of \$1000 per cubic meter; tree biomass/hectares in Monduliri’s dense evergreen forest (see WCS 2013); and a proportion of one third of the tree biomass being marketable. (Note: this proportion is at the lower end of conversion timber recovery rates, which typically fall within the range of 30 to 70 percent, according to Phuc To. Personal communication.). The resultant figure of \$100,000 per hectare for conversion timber in Cambodia was verified by NGO informants in Phnom Penh in 2014.

<sup>135</sup>Assuming, conservatively, that 5000 hectares of evergreen forest is cleared for each concession.

<sup>136</sup>Pye and May 2014.

developments now cover over 2 million hectares of forested land and additionally have enabled illegal logging in almost all of the country's remaining timber reserves, the likely resource flows involved are staggering: certainly multiple billions of dollars nationally in recent years, given that my case studies each represent from one quarter to over 1 billion dollars of illicit revenue in the period 2009–2013. The significant magnitude of these revenues demands attention. But perhaps more important is the central paradox they display: that while most of the revenue flows escape formal taxation, the state simultaneously plays a systematic role in generating the opportunities and conditions for this illicit extraction. Even more compelling is that this paradoxical mode of extraction appears to hinge off the manipulation of foreign investments in development and conservation. In my concluding paragraphs, I reflect upon what the Cambodian example tells us about contemporary extractive regimes and the political ecology of state formation more broadly.

### *On the Familial Nature of Neo-Patrimonial Rule*

Whereas logging revenue in the 1990s was the salve that ensured Cambodia's transition to peace, today it is the gel that holds the regime together. In both eras, easily acquired forest rents have been used to secure allegiances and loyalties. In the past it was guerrilla forces that needed appeasing, but now it is the hungry elements of the regime itself. Under these now peacetime arrangements, the license to extract is tightly controlled through reciprocal relations with the party, which are often cemented through implied or real kinship ties with the prime minister.<sup>137</sup> Both of the logging cases discussed in this article involved tycoons with god-brother or godson (*bong thoa* or *goan thoa*, respectively) relationships to Hun Sen's family. Thus, just as a father might share his business ventures among sons, timber exploitation rights are divided up among a familial constellation of *oknyas* and kin. These rights also appear to operate as a set of pre-negotiated territorial monopolies, often demarcated according to provincial boundaries. Furthermore, the foreign companies that trigger these in-house extraction rights apparently have little choice in the matter: dealing with the *oknyas* is part of operating in Cambodia. In this way the *oknyas* function as modern-day strongmen, as they are integrated into the state with surprising formality, yet they retain a degree of autonomy and power in their domains of extraction, rather like oligarchs.

But such accounts can erroneously give the impression that Cambodia's rulers are all-powerful, operating at the helm of a neo-patrimonial state that is monolithic and neatly controlled through a centralized hierarchy. While compelling, evidence in this article suggests that the situation is far more complex and dynamic. Indeed, like any family, relationships within the regime also entail rivalries and disputes. This article has shown how these tensions play out around resource-sharing, through ground-level territorial struggles between tycoons and relatives of Hun Sen, as well as through tensions within the government, such as between central and local level officials. Thus, despite superficial impressions, it seems that Hun Sen and his party must work hard to maintain control. In this view, the regime should be considered as a product of constant and often decentralized negotiations, not as a neat pyramid of patrimonial relations. Literature on neo-patrimonialism acknowledges the potential for power in such regimes to be exercised in "erratic and unpredictable" ways, due to the lack of formal-rational rules.<sup>138</sup> But my findings reveal that the dynamics and protocols of kinship, with all its feuding and emotion, are also applicable.

<sup>137</sup>Global Witness (2007) likened the regime and its interrelationship with logging syndicates to a "family tree."

<sup>138</sup>Erdmann and Engel 2007, 14.



### ***On the Use and Misuse of State Authority to Facilitate Extraction***

The evidence in this article has revealed how Cambodia's extractive regime relies upon the deft deployment of state authority, particularly the manipulation of legal mechanisms, which occurs in a variety of ways. First, some laws and decrees are made simply to be enforced, even if they lack legitimacy or are violent in nature. For example, the declaration of logging bans and new conservation areas enabled the government to secure its territorial control over forests, claiming them as state property. This now provides the basis for today's unofficial and monopolized forms of timber extraction, in which *oknyas* work hand-in-hand with the Forestry Administration and other authorities in designated areas. But this rather straightforward form of state predation is complemented by the second function of the law, which is about improper enforcement. In this aspect of state authority, it appears that some laws are made to be broken, so that their shadow or "secret" can be exploited.<sup>139</sup> Systematic but informal taxation of the law is therefore enabled, supplying a steady stream of illicit funds to state officials. On the ground this sustains remotely located police, border guards, park rangers, and forestry officials through petty corruption. By implication, however, their profits are kept in check by higher levels of the regime, where the lion's share of forest rents is captured.

These practices present something of a riddle: if the regime is so powerful, then why does it bother to create and maintain spaces of illegality? For instance, by making logging illegal through the creation of strict conservation areas, timber extraction and its revenues are necessarily pushed into the hidden or illicit realm. This strategy may simply help to "keep it in the family" by making informal or familial modes of regulation easier, while also facilitating the private capture of public funds. But there is more to the story than this, as the two case studies suggest. A critical dynamic here is the way in which various public obligations appear to go hand-in-hand with state-sanctioned access to illicit profits. For example, the elite beneficiaries of logging observed in this article support state functions and public goods that include the direct financing of government facilities, like offices, temples, and schools; the hiring of government staff in remote areas, especially security forces; and monetary contributions to the party, signaled by purchase of the title *oknya* and donations to the Party Working Group. Thus the conventional boundaries and expectations of what a state might be or should do start to fade away. What emerges instead is system of rule where formal legal functions are intertwined like a double helix with the generation of illegality and illicit funds, each supporting and enabling the other. Ultimately, this symbiosis enables the extractive regime to perpetuate itself.

### ***How Loopholes in Sovereignty Give Rise to New Modes of Extraction***

The final aspect of the Cambodian regime that problematizes current understandings of state formation and resource use relates to interactions between the state and the transnational or non-sovereign realm. Both cases in this article show how the transnational – seen chiefly in the form of investments by Vietnamese and Chinese state-owned companies, but also in the activities of international conservation organizations – does not emasculate governmental institutions and systems of power, but actually serves to reinforce them. This jockeying off of transnational actors appears to be a deliberate and highly profitable strategy for the CPP and its elite allies, who have cashed in on the timber shadow economy of ELCs and dams for personal gain and regime strengthening. Danielle Tan has recently made similar observations about Laos PDR. She argues that the government-facilitated proliferation of foreign investments in Laos represents a

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<sup>139</sup>Anders and Nuijten 2007.



new kind of state building, rather than being a sign of state erosion or weakness.<sup>140</sup> This implies that while state sovereignties are increasingly fractured and porous in contemporary Southeast Asia, incumbent extractive regimes appear to be highly capable of making good use of this, by adapting and blurring state formation, often through processes that utilize illicit finance. This foreignization of rule, which results especially from transnational investment models that synergize with the interests of host regimes, is a matter for further research – perhaps extending Aiwha Ong’s notion of “graduated sovereignty” or Jean-François Bayart’s “extraversion.”<sup>141</sup> But new analysis should also attend to Mom Sonando’s poetic insights on Cambodia’s leaders: “willing to shrink down the [nation’s] territory, in order to expand [their] authority, even in a cage.” With these words, Sonando conveys the hollow and constrained nature of power that results from the flagrant exploitation of resources through loopholes in sovereignty. Once the forested land is gone and legitimacy has waned, then Hun Sen’s Cambodia may well be trapped in a cage, forced to consume its very own sources of power.

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### Notes on contributor

Sarah Milne has been working on forest conservation issues in Cambodia since 2002, as a practitioner and a scholar. Her 2009 doctoral dissertation examined the political ecology of transnational biodiversity conservation in the Cardamom Mountains, southwest Cambodia. She has recently completed an edited volume on related material entitled *Conservation and Development in Cambodia: Exploring Frontiers of Change in Nature, State and Society*, published in 2015 by Routledge.

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<sup>140</sup>Tan 2014.

<sup>141</sup>Ong 2000; Bayart 2009, cited in Tan 2014. The term “foreignization of rule” was suggested by an anonymous reviewer of this article, whom I thank.

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