Donor-Funded Titling and Urban Transition: a Case Study of the Land Management and Administration Project (LMAP) in Phnom Penh, Cambodia

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Declaration

I, Benjamin Cyrus Roger Flower, confirm that the work presented in this thesis is my own. Where information has been derived from other sources, I confirm that this has been indicated in the thesis.

Abstract

Land titling is a popular development intervention to secure the housing tenure of residents across cities of the global south. This thesis contributes to our understanding of city-wide titling by examining the World Bank's Land Management and Administration Project (LMAP) in Phnom Penh, Cambodia. It draws on archival sources, interviews, focus group discussions and questionnaire surveys in three field sites.

The thesis finds that LMAP has enabled some historically marginalised communities to secure their property rights. Others have been excluded from legal ownership as their lands have been transferred to an elite group of developers. At the household level, titles have resulted in a range of outcomes. In general, recipients have accessed larger formal sector loans and invested more in income-generating activity and housing improvements than non-recipients. Titles have, however, exposed some to increased credit-related risks of displacement.

The thesis contributes to debates about titling in several ways. First, it provides a household-level analysis of a city-wide project in a post-socialist city. Most studies of titling have focused on unplanned settlements in cities where formally-recorded ownership is the norm. The reorganisation of property rights associated with city-wide projects may produce different outcomes, as it affects both unplanned and established urban areas. Second, it adds to debates about access to credit by examining titling in the context of a booming microfinance industry and other forms of lending emerging in the global south. Third, it provides evidence of the diverse mechanisms by which city-wide titling influences both small-scale housing investments and large-scale redevelopment projects. Fourth, it ties into debates about the political economy of international development, highlighting the intended and unintended consequences of donor-funded titling for the social, economic and-political processes of urban change.

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Chapter 1: Introduction

1.1 Prologue

This thesis emerged from my experiences working with low-income communities suffering tenure insecurity in Phnom Penh. I arrived in the city in 2009, having just completed a Masters course on urbanisation and development and keen to find work in the urban development sector. At the time, the national media was awash with coverage of a land conflict centred on an urban lake with a number of low-income communities on its banks. The Boeung Kak lake area was slated for development and authorities had served an eviction notice to residents in what the press were describing as Cambodia's largest post-war population displacement – over 4,000 households were to be relocated. During the dispute, I worked with a coalition of civil society organisations representing the community.

The coalition's strategy to support the community centred on a World Bank-funded land titling project being implemented in the city, the Land Management and Administration Project (LMAP). According to the coalition, the government had illegally prevented community members from obtaining titles under the project as part of a plan to evict them. Campaigners urged the Bank to ensure that their project was implemented according to the law and that members of the threatened community were protected from eviction and provided with legal ownership documents. The coalition submitted a complaint to the World Bank's independent Inspection Panel on behalf of the community, which eventually led to some households receiving titles to the disputed land. This action was too late for the majority of residents who had already been evicted from the area, while some of the remaining households continued to be excluded from titling under a new agreement offered by the government. In total, around 800 residents' plots were titled in the Boeung Kak area.

The experience of working on the Boeung Kak case highlighted a number of points about land governance in Phnom Penh that I thought important from a policy perspective. First, it was clear that tenure insecurity was an urgent problem for tens

of thousands of people living in unplanned settlements across the city. Second, it was also evident that civil society organisations believed the World Bank titling project could potentially change this situation by providing titles to those in unplanned areas. Third, it was clear that more research was needed to establish why certain areas had been excluded from the project in order to better support such communities.

In addition to these policy-related questions, I found myself thinking more critical thoughts about titling stemming from my recently-completed Masters studies. I was aware that titling was not the only policy intervention proposed as a means to secure the tenure of marginalised urban communities. Moreover, it was often argued that titling projects did not result in increased tenure security for low-income groups. Indeed, in some cases, titling was thought to have increased tenure insecurity. I also knew that a range of other issues were linked to titling, including housing investment and access to credit.

It struck me that discussions in the academic literature were poorly connected to the activities of groups working on land titling in Phnom Penh. NGO practitioners were not familiar with the academic studies of titling that had been conducted across cities of the global south, and the implications of such studies in relation to tenure insecurity in Phnom Penh. Linking key debates in the literature to the experience of Phnom Penh's titling project, I believed, might widen understanding of the city's tenure problems. An extended research project would provide a unique opportunity to explore Phnom Penh's titling project in depth and could also potentially provide a means for the experiences of the city's residents to inform debates in the academic literature. I proposed the idea of titling and urban transition as a PhD research project to a local policy research institute, the Cambodia Development Resource Institute (CDRI), which agreed that the issue of urban titling was a key policy area where further research was required. They agreed to act as partner for the PhD project and produce a series of policy briefs in Khmer, distilling the findings of the thesis for a Cambodian audience.

1.2 City-wide titling: a contentious policy framework

Land titling is a popular policy response to perceived weaknesses of land markets in economies of the global south. In many contexts, it is argued, inefficient institutions for formally registering property ownership render the process costly, complicated and beyond the reach of many low-income property owners (De Soto, 2000). Those who are locked out of formal ownership rely instead on informal mechanisms, including verbal contracts or documents issued at the local level. As informal ownership is not recognised by the state, the property rights associated with it are not legally protected, rendering property at risk of appropriation. The risk associated with informal tenure discourages property transactions and investment, limits access to formal sector credit and, ultimately, contributes to poverty and constrains growth (Deininger, 2003; De Soto, 2000; Werlin, 1999). Deficient property registration mechanisms are also thought to discourage large-scale investments, particularly from overseas, because investors cannot be sure that their investment will be safe (World Bank, 2002a).

Nation- and city-wide titling projects aim to correct inefficient land markets by developing strong institutional frameworks to enforce property rights in a standardised and predictable manner for all property owners. Planners predict a number of positive outcomes for title recipients, including increased tenure security, safer property transactions, higher rates of investment and better access to formal credit and services (Brandao and Feder, 1995). These benefits are expected to extend across economies, benefitting everyone, from the richest recipient to the poorest, and fostering a process of inclusive growth (Deininger, 2003).

The emergence of titling as the Bank's best-practice land policy mirrors a shift towards institution building and good governance that has occurred in mainstream development economics since the mid-1990s. The mantra of market primacy and state contraction associated with policies of the 1980s and early 1990s has been replaced by a focus on building global-standard institutions and promoting good governance (Rodrik, 2006; Rodrik et al., 2002; Stiglitz, 2001). Land titling is the policy outcome of the institutional economics school of thought applied to land markets: to secure property universally by building the capacity of institutions tasked with enforcing rights (Besley, 1995). Titling as a best-practice tenure reform

gained increased policy traction in the 2000s with the publication of Hernando De Soto's much-lauded *The Mystery of Capital.* The book, which became an international bestseller, argued that legally securing the ownership rights of the poor in the global south could result in the end of global poverty by unleashing the latent power of land markets and formal-sector investment.

The popularity of the titling thesis with the global policy-making elite has translated into policy action across the globe. Titling has become one the World Bank's most replicated interventions, accounting for a significant portion of its lending over the past two decades. According to Conning et al. (2007: 1) the World Bank lent nearly 1 billion USD on such projects in the fiscal year of 2004 alone. The policy has also received support from a variety of multilateral and bilateral aid agencies and has been implemented in a range of settings across the globe , including Eastern Europe, the Middle East, Latin America, Africa and Asia (Gilbert, 2002; Hall et al., 2011; Holstein, 1996; Markussen, 2008). In the Southeast Asian region two of Cambodia's three neighbours, Lao PDR and Thailand, received World Bank loans to implement country-wide land titling during the 1990s; in the early 2000s, Cambodia joined this growing global trend.

Many commentators have, however, been highly critical of the World Bank's brand of best-practice programming. A common criticism is that globally replicated policies serve the interests of global capitalism rather than those they purport to help: at best they provide no benefit to the poor and at worst further entrench inequality (Escobar, 2011; Ferguson, 1990; Power, 2004).The Bank's recent policy turn to institution building embeds these neoliberal principles more deeply in the governance apparatus of host economies (Fine 2001; Li, 2007). In this vein, city-wide property formalisation has been criticised for allowing World Bank-sponsored neoliberalism to reconfigure state-citizen relations along the lines of economic theory (Goldman, 2011). Though poverty reduction is the stated aim of such programmes, it is argued that their outcome for marginalised communities is increased tenure insecurity as urban areas become highly commodified and globalised spaces (Goldman, 2011; McFarlane, 2012; Roy, 2005).

In the main, debates about city-wide titling have been conducted at the global, national and municipal scales, and tend to be centred on the ideological battle ground

of development policy formulation. Proponents have focused on the theoretical arguments of institutional economics to predict positive outcomes of titling, while critics have characterised reforms as neoliberal impositions that harm low-income groups. To uncover the household-level impacts of titling, however, one must look to an earlier literature, which provides case study accounts of titling in relation to unplanned settlements (Angel, 1983; Gilbert, 2002; Payne, 2001; Varley, 1987). This body of work provides detailed analysis of titling in relation to tenure security, access to credit and housing improvements using surveys, focus groups and/or other household-based methodologies. Some of these studies have emphasised the importance of titles in increasing tenure security and housing investment in unplanned areas (Field, 2005; Van Gelder, 2010); others have disputed these links (Gilbert, 2002; Payne et al., 2009). This literature has focused on project-based titling, where planners have targeted unplanned areas and extended the rules of an existing formal sector to them. It does not, however, engage with city-wide titling programmes, which are broader in scope as they involve the reform of institutions and the reorganisation of property rights at the city scale.

What is missing, then, is empirical exploration of the impacts of *city-wide* titling projects at the *household level*. There have been no studies, for example, that shed light on how titling may have affected populations that have not been dispossessed during the implementation of a city-wide project, or that investigate the variety of household-level outcomes that may be associated with titling, such as housing investment and credit behaviour. Another aspect of city-wide titling that has not received attention in the literature is the effect of such projects for the majority of urban residents that do not live in unplanned areas.

This thesis, therefore, aims to contribute to debates on titling by presenting an integrated city-wide and household-level analysis. I seek to identify the issues associated with implementing a city-wide project and the effect of the project on processes of urban change at the city-wide scale. At the household level, I aim to assess the effects of titling on those who have received titles and those who have not in relation to tenure security, housing investment and access to credit.

1.3 Land policy and urban development in Phnom Penh

Phnom Penh is the capital of the Southeast Asian nation of Cambodia. Its population at the last official count in 2012 was 1.2 million, although there are thought to be many more undocumented and/or transient residents. The city is perhaps best known as the capital of the genocidal Khmer Rouge and the enforced exodus inflicted on residents in 1975, which resulted in the deaths of the majority of the city's population (Khemro and Payne, 2004; Kiernan, 1996). Today, peace and stability have returned and the city, which has enjoyed high rates of GDP growth over the past two decades (World Bank, 2016).

Despite the city's rapid development, Phnom Penh is defined by many stark inequalities between rich and poor – inequalities that are readily apparent in patterns of land ownership and property investment. At one end of the spectrum, Phnom Penh boasts one of the most buoyant real-estate markets in Southeast Asia, with average property prices reaching 5,000 USD per m^2 in some prime locations (VTRUST, 2014). The city has witnessed a construction boom, with hundreds of millions of dollars of investment reported each year by the Council for the Development of Cambodia (CDC), as domestic and international investors pour money into large-scale commercial and residential redevelopments. At the other end of the spectrum, a significant proportion of Phnom Penh's residents live in unplanned settlements, usually in former greenfield areas, close to bodies of water or public infrastructure, in predominantly self-built housing. A recent government report estimated that 25 per cent of the city's population lived in such areas, many with substandard accommodation made from poor-quality materials, where they are exposed to hazards such as floods, storms and fires (Phnom Penh Municipality, 2012). Between these two extremes lie the bulk of Phnom Penh's residents, whose land ownership and associated characteristics have largely been neglected in academic research.

The global policy shift toward institutional economics during the late 1990s has had a significant impact on Phnom Penh's land markets. In the early 2000s, the World Bank asserted that the lack of a unified tenure system constituted the 'overriding problem [for the country] and the one with the greatest contribution to poverty', as well as one of the main constraints to small-, medium- and large-scale industrial investment (World Bank, 2002a: 4). On the back of a revised land law, the flagship

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land titling intervention, the Land Management and Administration Project (LMAP), was implemented by the land ministry in 2002, with funding from the Bank and the governments of Canada, Germany and Finland. This project's aim was to formalise all parcels of land in the city and increase the capacity of the land ministry to enforce property rights.

While the LMAP and associated reforms coincided with a period of rapid economic growth and investment in Phnom Penh, inequality and the evictions of low-income residents in unplanned areas persisted. This trend of exclusion became acutely apparent in 2009, when the eviction of urban poor communities, whose tenure the project was meant to secure, led to the World Bank stepping back from the project. The trigger for the Bank's disengagement was the previously noted Boeung Kak dispute. Residents' groups claimed to the Bank's Inspection Panel that they had been unfairly excluded from the land titling process. The Inspection Panel agreed, noting that the LMAP had not been implemented correctly, and that the community in question had been unfairly excluded from the adjudication process (World Bank, 2010). An intense dispute between the Bank and the government ensued, culminating in the suspension of all World Bank financing to Cambodia. Eventually the government backed down and some residents in Boeung Kak received land title (although many others had long since accepted below-market compensation settlements and moved away or been evicted).

After the withdrawal of the World Bank, titling was pursued by the Cambodian government, with funding and technical assistance coming mostly from GIZ, the German state's bilateral aid agency. In 2016, the German government too withdrew funding from Cambodia's land sector because of the government's failure to provide titles to residents in unplanned areas. As of 2016, the government is still committed titling, and there are rumours that future financial and technical support for the project may come from the Chinese government.

The brief narrative of city-wide titling in Phnom Penh provided above hints at the difficulties and complexities tied up with implementing such a wide-reaching project as the LMAP. In particular, it illustrates the divergent interests attempting to steer the project towards achieving their own aims, from communities and civil society groups attempting to secure titles for those in unplanned areas to elites trying to

prevent such groups from doing so. Understanding how the LMAP has intersected with these varied interests in relation to land tenure is an important policy issue for those who wish to promote equitable land governance in Phnom Penh. Through my exploration of the LMAP, therefore, I hope to contribute to academic and policy debates in the Cambodian studies literature relating to urban development and land governance, and identify ways to improve outcomes from low-income, marginalised groups.

To date, there have been several studies of titling in Cambodia that provide valuable critiques of the policy and governance aspects of such land reforms (Biddulph, 2011; Springer, 2013; Un and So, 2011). While most studies have focused on rural areas (Biddulph, 2011; Dwyer, 2015; Hirsch, 2011; So, 2010), there have been a few that have also considered the outcomes of titling in Phnom Penh. Simon Springer (2013) provides a strong critique of the LMAP, drawing on the experiences of low-income urban communities that have been dispossessed of their land and homes. Other studies have looked at the consequences of eviction, for those that have suffered or are under threat of it, although not specifically in relation to the LMAP (Brickell, 2014; McGinn, 2013). In addition to the academic literature there are at least two high-quality reports commissioned by NGOs that have evaluated the implementation of titling in Phnom Penh (Grimsditch et al., 2012; Grimsditch and Henderson, 2009). This thesis aims to build on and contribute to these debates.

1.4 Research questions

The LMAP has been designed to increase the efficiency of Phnom Penh as a growth driver for the Cambodian economy by promoting increased and diversified small-, medium- and large-scale urban investment. It has also aimed to promote equitable economic development by extending the benefits of secure, standardised tenure across the city's diverse population. The aim of this thesis is to assess how successful the LMAP has been in achieving these aims and whether it has contributed to inclusive urban development. To achieve this, I view the LMAP at two scales.

First, I explore the LMAP as a policy intervention with city-wide implications. In this regard, I assess the scope and nature of institutional and regulatory reform that the project has entailed and provide an assessment of its mass land titling component. I assess how the LMAP has permitted access to different segments of the city's population, identifying groups that have been included (received titles) and excluded (have not received titles). I also explore how the city-wide distribution of titles has intersected with other changes in Phnom Penh's land sector, particularly in relation to the removal of low-income groups from central urban areas, the increase in foreign investment and the proliferation of large-scale redevelopment projects.

Second, I explore the household-level outcomes of the LMAP at the city-wide scale. I assess changes in tenure security, investment behaviour and access to credit in households across a range of population sub-groups in order to capture the variety of impacts associated with the LMAP. To this end, I have conducted in-depth household-based research in three contrasting survey sites. Site 1 is a planned residential area typical of Phnom Penh, where some residents have received titles and others are yet to receive them because of bureaucratic constraints (see Chapter 4 for details). Site 2 is an unplanned settlement where some residents have received titles but others have not yet done so, again because of bureaucratic constraints. Site 3 is an unplanned settlement that has been excluded from the project – no residents of the settlement have received titles.

To explore titling at these two scales, I have used a variety of research methods, drawing on a range of sources during a data collection period lasting over a year. I have sourced and analysed a large number of legal and policy documents, conducted archival research on land disputes, and used a variety of online data sources, including the WikiLeaks US embassy cables database. I have conducted key informant interviews and participated in focus groups with a wide variety of stakeholders, from private sector developers, to government officials to community activists. I have also drawn on responses from over 200 household questionnaires implemented across the three survey sites selected for study in this research. Finally, my experiences as a development worker in Phnom Penh's land sector has also contributed to the analysis of the LMAP included in this thesis.

The fieldwork and analysis discussed in this thesis has been guided by three research questions:

1. Which type of areas have been titled and which have been excluded from titling and why?

The LMAP has aimed to standardise tenure systems in the city, extending legal ownership across the population. I assess how effective the project has been in realising this aim. I investigate the allocation of titles, identifying the characteristics of areas and populations that have and that have not received title. I ask why and how the implementation of the project resulted in the formalisation of the property rights of certain groups to the exclusion of others', and which aspects of the LMAP's implementation have promoted or hindered the inclusion of lower-income populations.

2. What difference have titles made to recipients?

I ask to what extent formalised property rights have translated into changes in tenure security, investment in housing and access to formal-sector credit. I do so by comparing key socioeconomic characteristics and behaviours of households that have received titles against those that have not. I explore how the experiences of recipient and non-recipients may differ based on their household's socioeconomic characteristics.

3. How has titling contributed to the broader process of urban transition?

I ask how the distribution of titles and the outcomes of titling for recipient and non-recipient households have contributed to Phnom Penh's transition, drawing on both city-wide and household-level processes of change. I examine the drivers of land use and socioeconomic change, including land transactions, investments and evictions, and highlight the role titles play in these processes.

1.5 Structure of the thesis

Following this introduction, in Chapter 2 I review the two main strands of debate on titling in the literature. The first views titling in informal or unplanned settlements

and discusses the pros and cons of property formalisation for title recipients and non-recipients. The second looks at titling as city- and country-wide property rights interventions supported by international aid organisations. I discuss the implications of debates in the academic literature for my analysis and detail the analytical approach of this thesis. In Chapter 3, I present a brief history of land reform and urban transition in Cambodia to provide the historical background to the LMAP, from the beginnings of urbanism and property ownership in the ancient city of Angkor to more-recent donor-funded interventions. I draw out themes that have repeatedly characterised land governance in urban areas, including patronage politics, foreign intervention and the exclusion of groups not considered to be legitimate citizens by the state.

In Chapter 4, I provide a detailed description of the methodological approach of this thesis. I frame the study in the political economy tradition of land market analysis, present the range of data collection methods deployed in the field and the process of data analysis, and provide details about the survey sites and populations. I also include an assessment of the limitations of the methods and an appraisal of the ethical aspects of the research.

In Chapters 5 and 6, I present a city-wide analysis, looking at the distribution of ownership documents in pre-LMAP and post-LMAP Phnom Penh. In Chapter 5, I look at the distribution of titles in Phnom Penh between 1989, when property ownership was reintroduced, and 2001, when a new donor-supported land law was promulgated. I provide an analysis of the 1989 sub-decrees and 1992 Land Law that legalised ownership, detailing how this legislation excluded the residents of unplanned areas. Drawing on archival sources, I then provide case studies of land disputes in this period, illustrating how and for what purposes dispossession was actioned by elites. In Chapter 6, I examine how the distribution of ownership documents has changed as a result of the LMAP, the associated 2001 Land Law and other donor-related legal reforms. I note that in many cases unplanned areas have continued to suffer exclusion because of entrenched patronage networks that the LMAP has been unable to counter. In other cases, however, previously excluded unplanned settlements have received titles through the project. There is also evidence that the LMAP has provided new policy spaces in which excluded communities can assert their rights: as a donor-funded project, the LMAP has provided recourse for

excluded communities to appeal to the World Bank with their grievances, which in turn has increased pressure on the government to provide titles to excluded claimants.

In Chapters 7 and 8, I look at the household impacts of titling, drawing on survey data from Sites 1 to 3. Chapter 7 explores titling, tenure security and housing investment. I begin by discussing how the city-wide LMAP fits with the literature on titling and housing consolidation, which focuses on projects targeted at unplanned settlements, and discuss what this difference may mean in relation to how titling affects people's investment decisions. In Chapter 8, I explore titling and credit activity. I note that credit markets found in the survey sites differ from conventional representations of titling and credit in the literature because of the presence of poorly regulated microfinance institutions. In this context, I assess the relationship between credit activity and titling by different population sub-groups, finding that the impact of titles on household borrowing is closely related to their socioeconomic characteristics.

In Chapter 9, I draw on both city-wide analysis and household survey data to assess how titling has contributed to a process of urban change in Phnom Penh. First I present a case study of titling and urban transition in the commune of Tonle Bassac, highlighting how the exclusion of residents of unplanned settlements from titling has intersected with social and economic change in the rapidly developing area. I shift scales to the community level, tracing how titling has contributed to changes in property prices and transactions in survey Sites 1 and 2, where residents have received titles. I then look at urban change in areas where residents did not receive titles, but instead were subject to alternative interventions to secure their tenure. Finally, I explore the social and cultural dimensions of the LMAP in relation to recipients' and non-recipients' perceptions of tenure security.

I conclude the thesis in Chapter 10, where I detail the principal findings, their theoretical implications and the policy implications that have emerged. Finally, I suggest avenues for future research.

Chapter 2: Land Titling and Tenure Security: an Overview

2.1 Introduction

In this chapter, I locate Cambodia's titling project in relation to two strands of scholarship. The first views titling as a targeted development intervention to improve the lot of those living in unplanned settlements – areas of self-built housing where residents lack documents proving ownership. Contributions to such debates argue for or against the allocation of titles to unplanned settlements. Arguments for titling – typically associated with the work of Hernando de Soto (2000) – equate titles with increased tenure security, investment in property, utilities and infrastructure and access to credit. Arguments against dispute the supposed benefits of titling and highlight the risk of increased tenure insecurity for low-income groups resulting from market-induced displacement (Durand-Lasserve and Selod, 2009; Payne et al., 2009).

The second strand of literature views titling as a city-wide intervention intended to stimulate the urban economy. Arguments advocating city-wide titling are usually made by institutional economists and associated with the World Bank (Deininger, 2003; Feder and Nishio, 1998). Using the same reasoning as De Soto, these economists assert that systematically titling urban areas promotes universal tenure security and creates efficient and equitable land markets (Brandao and Feder, 1995). Critics of city-wide titling, on the other hand, see the policy as part of a broader process of neoliberal governance promoted across cities of the global South by the international financial institutions (The World Bank, IMF and others), and usually associated with negative outcomes for low-income communities (Goldman, 2011; Roy, 2005).

In this chapter, I explore the questions emerging from the literature in relation to Cambodia's titling project, and identify key issues and debates that I will address in later chapters. Finally, I provide an overview of the conceptual approach of this thesis, based on my interpretation of the literature and its relevance to titling in Phnom Penh.

2.2 Targeted titling

In this section, I review arguments for and against titling as an upgrading policy tool implemented in unplanned settlements. I then explore how Cambodia's titling project fits into these debates.

2.2.1 Titling and unplanned settlements

The role of property formalisation in the development of squatter settlements has been a central question for policy makers for nearly four decades. The roots of this literature can be traced to the late 1960s, when squatter settlements began to be viewed not as a cause of poverty but as part of a solution to the question of housing low-income urban residents (Doebele, 1987). Prior to this shift in thought, urban housing policy generally involved the demolition of squatter settlements and the moving of residents into purpose-built social housing. In many cases, this solution proved unsustainable because governments were unable to provide housing on the scale required (ibid.).

John Turner (1977) was among the first to assert that government policy should shift from the provision of social housing to supporting rather than eradicating squatter settlements. Turner asserted that residents provided the best solution to the housing question: autonomous efforts to improve their dwellings proved more successful than government-sponsored projects (ibid.). He emphasised the importance of security of tenure as a prerequisite to housing improvements, noting that settlements tended to improve over time as residents were willing and able to invest time and money in their dwellings providing they were safe from eviction. While not explicitly referring to the idea of regularising households' individual property rights, Turner advocated policies that would provide a secure environment for residents, including the legalisation of squatter settlements and the suspending of evictions.

The emphasis on households' latent potential to improve their living conditions found favour with multilateral aid organisations such as the World Bank, which, in the 1970s, promoted policies enabling the rational economic individual to thrive in the free market. As a result, property rights legalisation became a popular settlement-upgrading policy that was pursued in developing cities across the global south (Jimenez, 1983; Jones and Ward, 1994). More recently, Hernando De Soto's (2000)

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The Mystery of Capital caused a resurgence in the popularity of the policy: his ideas have appealed 'to a wide and highly influential audience … World Bank policy has clearly been influenced by his arguments' (Gilbert, 2002: 4).

De Soto and others (Deininger, 2003; Feder, 1987; Feder and Feeny, 1991) argue that titles are crucially important for tenure security because they provide legal protection to a person's ownership rights. They are documents issued by the state and registered in the cadastre that vest in the owner the state's protection of their property from appropriation. Titles also increase recipients' interactions with other stakeholders in the formal economy, such as banks and utilities companies, providing additional legitimacy to an ownership right (Brandao and Feder, 1995; De Soto, 2000). If a bank provides mortgage with a title as collateral, for example, the lender too becomes invested in the integrity of the title it has lent against. In this way, titles provide a platform for mutually strengthening relationships between recipients and formal sector institutions.

Studies over the past three decades have supported De Soto's claims about tenure security with empirical evidence (Jimenez, 1983, Van Gelder, 2013; 2010). In De Soto's native Peru, the World Bank-funded Comisión de Formalizacion de la Propiedad Informal (COFOPRI) provided land titles to over 1.3 million households between 1996 and 2002 (Calderon, 2004). It was found that legally securing tenure greatly increased households' perceptions of their tenure security: a survey of recipient households showed that in all cases respondents felt that land title had increased their sense of tenure security and reduced their fear of eviction (Kagawa and Turkstra, 2002). In Buenos Aries, a study by Van Gelder (2010) also found that households in receipt of formal ownership documents scored better on indicators relating to their perception of tenure security. Legal tenure status was found to be negatively and significantly correlated with the perceived probability of eviction and fear of eviction. A similar study in Jakarta found over 90 per cent of households with formal documentation believed their documents were the most important factor in securing their tenure (Reerink and Van Gelder, 2010: 84). Interestingly, the study also found that those without formal tenure documents still viewed the documents in their possession as the most important signifier of their tenure security (followed by the length of occupation), indicating that interventions to strengthen tenure documents would be effective in increasing tenure security.

Titling has also been found to increase tenure security at the intra-household level. In some cases, formalisation programmes that address intra-familial property relations can help women overcome their secondary relationship to property (Datta, 2006; Field, 2003; Varley, 2007). In Mexico, the formal recording of women's names on title deeds and the storing of these deeds in government offices makes it more difficult for their land to be appropriated by their (ex)husband (Varley, 2007). In India, Namita Datta (2006) reports that joint titling was strongly welcomed by women and perceived as important to increasing their tenure security. Illustrating the importance of titles, Datta (2006: 283) quotes a programme beneficiary: 'Now he cannot ask me to leave the house. I am as much an owner of this house as he is. If he decides to leave or run after another woman I will at least have the house.' She notes that women in general display a higher attachment to houses than men because of their role in society and, therefore, emphasises increasing women's tenure security as a particularly important policy outcome.

A number of studies have highlighted the role of land titling in increasing tenure security and thereby encouraging owners to invest time, money and effort in an attempt to better their living conditions (Jimenez, 1983; Field, 2005). In Argentina, Galiani and Schargrodsky (2010), conducted a 'natural experiment' in a partially regularised informal settlement in Buenos Aries, where a specific bureaucratic context resulted in an allocation of titles exogenous to household and dwelling characteristics. The study found that prior to titling, households in the area were 'extremely similar' and their plots 'identical' (ibid: 711), but those who had gone on to receive titles began to invest far more in their property. Households in receipt of titles lived in dwellings that scored 37 percentage points higher in an index of housing quality than those that did not receive titles (ibid: 706). The authors conclude that their 'evidence supports the hypothesis that securing property rights significantly increases investment levels.' (ibid: 708) In Peru, Erica Field (2005) uses panel data to show that households receiving titles increased investment in housing by 68 per cent over a four year period. She notes that this increase was due to 'strengthening tenure security through property formalisation' (Field, 2005: 281).

One of the main arguments used by those who favour land titling is that legal title increases investment by improving access to formal credit across the population in general, and for the poor in particular (De Soto, 2000; Feder and Feeny, 1991). Feder

and Nishio (1998) note that titling improves credit supply services through two mechanisms. The first is by stimulating demand for credit through increasing tenure security for property owners. If property owners feel secure they will borrow more to invest, in turn creating more demand for credit and increasing incentives for creditors to extend services. Second, land titles can be used as collateral on a loan, giving lenders the assurances they need to release credit and borrowers the means to access it. This is an effect of the creditor's ability to simply and legally seize a debtor's assets in case of default. In the short term, these mechanisms increase households' access to credit. In the long term, reduced risk is reflected in lower interest rates and a more efficient and geographically dispersed credit-service infrastructure. In rural areas there has been some support for this argument. For example, Feder et al.'s (1987) empirical study of titling in rural in Thailand affirmed a clear positive relationship between registered land and access to credit. In urban areas, however, there have been few if any empirical studies that have shown this to occur in regularised informal settlements (Field, 2005; Gilbert, 2012).

A few studies have asserted that formalising land rights has encouraged utility companies and redevelopers to invest in upgrading settlements to the benefit of low-income communities (Cantuarias and Delgado, 2004; Werlin, 1999). In Peru, Cantuarias and Delgado (2004) report that households that received titles under the COFOPRI programme enjoyed better access to electricity, water and telephone services than those with no documents. In other areas, lack of titles has been construed as a barrier to utility companies servicing informal settlements. In Argentina's Córdoba Water Concession Project, which aimed to harness the private sector to improve water supply in the city of Córdoba, a lack of titles was considered to be a major barrier for 'pro-poor private sector participation' because there was no legal requirement for private-sector providers to extend services to areas where residents did not have titles (Nickson, 2001: 21). In response, the mayor of Córdoba pledged to provide titles to those with informal land rights as a prerequisite for water supply extension to informal settlements.

Titles are seen as important to extending utilities because recipient households can be held legally accountable for payment of services provided. Upgrading of service infrastructure in the absence of titles in Jakarta's *kampungs*, for example, turned out not to be sustainable over the long term because private or state companies could not

recover costs for infrastructure maintenance: 'unless officials can threaten individuals with loss of property' there is no incentive to invest in services (Werlin, 1999: 1527). Property formalisation in tandem with service provision has been a model promoted by aid agencies keen to ensure sustainable settlement upgrading (McGranahan et al., 2008). The Swedish International Development and Cooperation Agency (Sida), for example, has implemented this integrated approach widely across informal settlements in Central America (ibid.).

Some studies have attempted to capture the impacts of titles beyond legal tenure security, investment, credit and services. A study by Erica Field (2003) of Peru's COFOPRI programme found that including the names of both men and women on titles increased women's decision-making power in the family, which resulted in a sharp decrease in fertility rates. In Buenos Aries too, Galiani and Schargrodsky (2010) find that titling led to a decrease in fertility rates, which, in turn, resulted in higher spending on children's education. In India, Datta (2006: 293) finds a broad range of benefits for women resulting from titling 'increase women's participation in decision making, their access to knowledge and information about public matters, their sense of security, self-esteem, and also the respect they receive from their spouses.' Titling has also been linked to improved health outcomes in regularised informal settlements, including better scores on indicators relating to child nutrition and adolescent sexual health (Galiani and Schargrodsky, 2004).

Another strand of debate emphasises the psychological aspects of titles, tenure security and ownership in relation to emerging narratives about geographies of the home. The home has been positioned as lying at the 'heart of human life' and, therefore, protecting one's home is of immense psychological significance (Blunt and Varley, 2004: 3). The psychological and emotional dimensions of secure homeownership relate to the concept of ontological security – a framework forwarded by Anthony Giddens (1984) that refers to feelings of confidence, trust and belonging in society. Secure homeownership is believed to be important to ontological dimensions of security, particularly in societies that privilege the concept of homeownership. In England, for example, Peter Saunders (1989: 187), notes the importance of secure ownership in fomenting a 'sense of self and belonging' because of a strong culture of homeownership in English society. Secure homeownership can also contribute to a perception of economic security for owners and their families,

which also has important ontological dimensions. A study by Ann Dupuis and David Thorns (1998: 43) explored what homeownership meant to New Zealanders who had lived through the depression of the 1930s, finding that respondents 'pursued the maintenance of ontological security through the economic benefits they perceived homeownership brought them'. Respondents noted, for example, that secure homeownership enabled them to pass down wealth to their offspring, thereby securing the economic future of their family. This situation was associated with feelings of happiness and contentment for homeowners.

Similarly, studies looking at titling in developing country contexts have noted the important psychological impacts of titles for recipients. In some cases, titles have been found to be associated with the psychological prestige of formal home ownership, representing the end of a long struggle for residents of informal settlements to gain acceptance (Doebele, 1987; Varley, 2002). Jean-Louis Van Gelder's (2013: 13) study of informal settlements in Buenos Aires, for example, observes that 'residents simply wanted to be legal and not be regarded as informal slum dwellers … [title] implies inclusion in a society that has systematically denied them entry'. The psychological importance of titles has been noted in a study of a partially regularised informal settlement in the city of Osasco, Brazil. Those in receipt of titles 21 percentage points more likely to be 'happy' (according to an index of happiness) than those without (de Moura and da Silveira Bueno, 2013: 196). These more abstract feelings of contentment contribute to a psychological sense of security that can have positive impacts on the socioeconomic empowerment of vulnerable groups (Datta, 2006).

The important ontological dimensions of secure homeownership imply there also exist important ontological dimensions to being excluded from secure homeownership. In developing world cities, where access to secure homeownership can be uneven, a number of studies have assessed the psychological impacts of this exclusion (Brickell 2014; McGinn, 2013). In such cases, the emotional impact on those excluded can be very significant. Drawing on the experiences of those excluded from acquiring land titles and subsequently evicted in the Cambodian capital of Phnom Penh, Katherine Brickell (2014: 1262) reports a resident's feelings of 'regret for leaving the house she "loved" and regret for the "misery" and "torture" she feels'.

2.2.2 Critiques of land titling in unplanned settlements

Though evidence suggests that titling has increased tenure security in *some* cases, conflating tenure security with land title and recommending it as a best-practice panacea to urban poverty has been strongly criticised (Gilbert, 2002; 2012; Payne et al., 2009).

Compelling evidence has shown that title is not necessary to increase tenure security and encourage investment in informal settlements. Tenure security is a subjective condition, not a 'fixed, objective concept', and therefore a household's perception of tenure security is affected by a variety of factors (Varley, 1987: 464). Land titling is important as a signifier of official recognition of a settlement, but many argue that there are other forms of official recognition that can encourage residents to feel secure in their tenure to invest in improving their homes: for example a moratorium on evictions or installation of utilities (Varley 1987, Gilbert 2002). In Mexico City, Ann Varley (1987) found that title was not a precondition for investment in housing, highlighting state provision of service infrastructure as the main factor that convinced residents that their settlement was officially accepted. Similarly, in Bogotá land with only an informal receipt of sale as documentation would be immediately improved, as occupants based their investment decisions 'less on the exact legal status and more on [their] perceptions of the probability of eviction and demolition (enforcement); as well as the availability of services and passage of time' (Gilbert, 2002: 10). In both these examples, land titles were not a necessary precondition for utilities to be extended into informal settlements. Titling can even limit state investment in service infrastructure by acting as a politically useful but less effective substitute for more costly service upgrading (Fernandes and Varley, 1998; Gilbert, 2004).

Others question the line of causality – from titles to tenure security to housing investment – that underpins arguments made by proponents of titling. In Recife, for example, favela residents with insecure tenure reportedly improved their homes to strengthen their negotiating position in a bid to obtain official recognition of their property claims (De Souza, 1998). In this case, the line of causality was inversed, running from housing investment to tenure security to (potentially) titles. This

direction of causality implies that titles are not a necessary precondition for housing investments.

A number of authors argue that land titling increases tenure insecurity by causing market-induced displacements (Durand-Lasserve, 2007; Durand-Lasserve and Selod, 2009; Payne, 2001; Payne et al., 2009). Payne et al. (2009: 447) assert that 'market-driven displacements appear to be an increasingly common means by which land titles reduce security of tenure rather than increase it', citing examples of Rwanda and Cambodia, where low-income homeowners are driven out of central areas by rising house prices. It is not only owners but also tenants who are vulnerable to market-induced displacement – priced out of central areas by rising rents as titled areas are gentrified (Durand-Lasserve and Royston, 2002; Payne, 2001). Increasing land prices due to titling expose the poor not only to gentrification, but also to appropriation. The expectation of titling can encourage unscrupulous powerful individuals to appropriate land before title secures it and increases its market value (Gravois, 2005; Hirsch, 2011)

Critics have argued that proponents of titling misrepresent the relationship between titles and access to formal credit. Specifically, De Soto and others fail to account for the multiple constraints on extending formal credit to low-income households: banks do not base decisions on loans solely on collateral, such that convincing banks of one's ability to repay loans (by providing proof of salary, for example) is a major factor that limits borrowing (Gilbert, 1999; Payne et al., 2008). Moreover, lending against the homes of low-income borrowers may be unappealing to banks: executing repossession orders against low-income families could cause reputational damage and might only recover a modest sum for the creditors (Payne, 2001). In recognition of the difficulties those who have received land title may face in obtaining credit, COFOPRI in Peru set up institutions specifically tasked with helping them. This effort has resulted in a limited volume of formal lending being extended to the beneficiaries of formalisation programmes, particularly in Lima (Field and Torero, 2006). However, COFOPRI estimates that 90 per cent of those who receive title will be ineligible for private sector loans because of loan requirements other than collateral, such as proof of their ability to service the debt (Kagawa and Turkstra, 2002). It seems that the majority of formal credit extended in Peru as a result of

COFOPRI has come from public banks, and that these banks are becoming increasingly reluctant to lend because of high default rates (ibid.).

Exposure to formal credit markets as a result of titling has been cited as a possible cause of displacement, if households default on a loan and have their home repossessed (Payne et al., 2009; Gilbert, 2012). The effect of credit markets causing displacement through repossession has not been documented in empirical studies, but is a fear for the future given the credit culture that land titling programmes such as COFOPRI encourage, especially in light of the sub-prime mortgage defaults and global financial crisis (Payne et al., 2009).

A number of authors argue that titling programmes fail to achieve many of their aims because they are an alien and inappropriate response to the diverse tenure needs of low-income groups (Durand-Lasserve and Selod, 2009; Payne, 2001; 2004; Payne et al., 2009). Titling is rooted in western notions of private property that may bear little resemblance to the endogenous tenure systems present in developing country contexts (Sjaastad and Cousins, 2009; Von Benda-Beckmann, 2003). Indeed, while De Soto (2000: 231) calls formal property 'a system of thought' that has to be taught to those in the informal sector, others argues that it is a system of thought 'imported' from the west and imposed on low-income populations, disrupting the fragile tenure arrangements that enable the most vulnerable to access shelter in urban areas (Payne, 2001; Von Benda-Beckmann, 2003).

Formal property ownership may not accommodate the complex and/or divergent priorities and tenure needs of low-income communities. Very poor households, for example, may put up with a low level of tenure security in exchange for a location close to livelihood opportunities and services – although that is not to say they too would not prefer increased tenure security (Payne, 2004). These diverse needs are reflected in the 'bewildering complexity of tenure systems which exist in most cities of the developing world … whilst the distinctions may be almost insignificant to outsiders, they are crucial for those groups supplying or accessing housing' (ibid: 169). A study by Boaventura de Souse Santos (1992) of tenure in Recife favelas, for example, found that home ownership had been uncoupled from land ownership: a household owns their home (i.e. physical structure) but not the land underneath it. This arrangement facilitated a thriving housing market that provides low-cost urban

housing to low-income groups. In such cases, formalising land would potentially reduce the stock of low-cost urban housing by bundling housing with land ownership. In many parts of sub-Saharan Africa, customary tenure regimes are based around communal ownership; implementing a system of individual ownership may cause conflicts, increasing tenure insecurity for the most vulnerable as land rights are drastically reorganised (Meinzen-Dick and Mwangi, 2009).

In recognition of the disjuncture between land titling policy and local tenure systems, many authors argue that tenure policy interventions should be based on the latter (Durand-Lasserve and Royston, 2002; Khemro and Payne, 2004; Payne, 2005, 2001). Local or customary tenure systems are often viewed as appropriate to local needs as they have evolved 'endogenously in response to changing resource pressures' (Hunt, 2004: 174). Policies should, therefore, strengthen and build on rather than disrupt local tenure arrangements (Payne, 2005; Sjaastad and Cousins, 2009). In the case of Cambodia, Geoffrey Payne (2005) argues that the state should push for a moratorium on evictions and provide legal protection for all forms of tenure documentation, rather than pursue land titling.

Others have asserted that the formal/informal binary characterisation of land markets promoted by proponents of titling is flawed. As Ann Varley (2002: 459) points out, such categorisations discount 'the ambiguity of experience' of many households searching for tenure security. De Soto claims that residents are trying to 'cross a bridge' to legality, but the reality is there is not such a clear separation between the formal and informal. Households regarded as having 'informal' property rights may have (semi-)official documentation recognising rights other than an official land title. In these cases households obtain their tenure security through a mixture of formal and informal processes and titling may not improve tenure security. The formal and informal are better thought of as 'intersecting circuits' – households secure their tenure by whichever mechanisms best suit their situation (McAuslan, 2002: 30).

Arguments against titling can also follow similar binary dichotomies. Varley (2010: 68 citing Whitehead and Tsikata, 2003) notes how a current strand of the debate pits African/traditional/good tenure systems against western/new/bad. Explaining and universalising the experience of residents of the 'global south' in such binary terms

risks masking their true needs. For example, both 'western' and 'African' accounts of land formalisation do not speak to the tenure needs of women in Mexico's *ejido* settlements. Predominant 'western' discourses on property rights highlight the experience of the rational economic subject, often equated with a male household head, which fails to account for the experiences of female members of the household. 'African' discourses highlight the role of formalisation in disrupting community-based tenure systems. Both fail to adequately address the property rights of individuals within families in a way that can explain the complexities of women's experiences. More generally, private property should not be universalised as a 'new' concept that is imposed on those living in unplanned settlements. In the Mexico study, for example, the 'institutional context and the dominant ideology' of participants was already private rather than collective ownership (Varley, 2010: 72).

2.2.3 LMAP and settlement upgrading

The debates around titling and settlement upgrading provide useful lines of inquiry into Phnom Penh's titling project. Settlement upgrading is particularly relevant in Phnom Penh because unplanned settlements were (and remain) ubiquitous in the city. At the time that donor-funded titling began in 2001 there were an estimated 175,000 households living in unplanned areas – around fifteen per cent of city's population (Sovannarith et al., 2001: 47). The large population in unplanned settlements is largely a result of Cambodia's traumatic urban history. As the city re-urbanised following the fall of the Khmer Rouge in 1979, returnees occupied any properties they found empty. When the available housing stock had been exhausted, new migrants occupied public buildings and erected makeshift housing on vacant land, along roads and railway tracks, on the roofs of apartment blocks and similar types of space (Khemro and Payne, 2004; Shatkin, 1998). Unplanned settlements grew rapidly and by the mid-1990s were present in many parts of the city; the largest were located in precarious areas along the banks of rivers or on stilts over lakes (Urban Sector Group, 1994).

Historically, those living in unplanned settlements suffered low tenure security (Engvall and Koko, 2007; Urban Resource Centre, 2002) and few residents were able to acquire legal ownership documents (Catalla, 2000; Menzies et al., 2008). During the 1990s, evictions of these sites were endemic and frequently accompanied

by violence. From 1989 to 2001 NGOs estimate that 30,000 households in unplanned areas were evicted (Sahakum Teang Tnaut, 2011).

In this context, Cambodia's donor-funded Land Management and Administration Project (LMAP) was implemented across the city (and the nation) in2002. In Phnom Penh, the World Bank funded the systematic titling component of the project, which aimed – ultimately – to formalise all land rights in the city. As a city-wide project, Cambodia's titling project did not specifically target unplanned settlements. However, the project was mandated to implement the 2001 Land Law, which provided rights to title for many in such areas and it was expected, therefore, that many marginalised populations would benefit (Grimsditch and Henderson, 2008). According to the World Bank's 2002 Project Appraisal Document:

> Many of the expected beneficiaries are poor and vulnerable to being dislodged from the land where they live … The beneficiaries of land titles would enjoy the benefits associated with land titles, in the way of increased tenure security, access to credit and opportunities to increase investments and productivity. (World Bank, 2002a: 10)

A key aim of this thesis is to establish whether the titling project did benefit low-income communities in the way planners expected.

The literature on settlement upgrading suggests that there are two scales of analysis to assess the impacts of titles on those living in unplanned areas. The first relates to the question of whether those living in unplanned areas have in fact received titles or not. Successfully extending legal title to unplanned areas requires a well-designed titling programme (Lanjouw and Levy, 2002; McAuslan, 2002) and a political landscape that shows willingness to reallocate property rights (Angel, 1983). Has the LMAP built institutions capable of distributing titles efficiently, equitably and transparently? These questions will be explored in depth in Chapters 5 and 6 of this thesis.

A second scale of analysis is the difference titles make to those who receive them. Do titles change the lives or homes of recipients? According to proponents of titling, formalising property rights drives settlement consolidation by increasing tenure security, which leads to greater levels of investment. In Chapter 7, I shall test

whether titles have made any difference to the tenure security and investment behaviour of recipients. Are traditional tenure systems a constraint to investment that titles overcome by increasing tenure security as suggested by De Soto's influential work? Are there other potentially more important factors that motivate or inhibit investment in housing, as suggested by Alan Gilbert, Geoffrey Payne and others? How do the experiences of residents in Phnom Penh compare to key debates in the literature on housing investment, for example the formal/informal conception of tenure systems that has been critiqued by Ann Varley?

Another key assertion that can be tested in Phnom Penh is that title leads to greater access to formal credit. In general, the literature shows little empirical evidence supporting a link between titling and credit in low-income urban households. However, there are concerns that titling may encourage households to take on formal debt in the future by encouraging a credit culture (Payne et al., 2009; Gilbert, 2012). The credit culture issue may be pertinent in Cambodia as the formal credit market has grown significantly over the past few years: formal credit as a percentage of GDP increased from around 10 per cent in 2005 to nearly 30 per cent by 2010 (Cambodia Development Resource Institute, 2012). In particular, the microfinance industry has expanded rapidly over recent years, increasing the availability of formal credit to lower-income groups (Bylander and Hamilton, 2015; Ovesen and Trankell, 2014). In Chapter 8, I ask whether these conditions have resulted in formal credit being extended to low-income households with or without title.

Finally, the suggestion that titling will lead to the displacement of low-income groups by market-induced displacement can also be tested in Phnom Penh. There is certainly scope for gentrification taking place because of the high property prices in the city. Sylvia Nam (2011) notes that in the latter half of the 2000s property prices in Phnom Penh were amongst the highest of any major Southeast Asian city, yet Cambodia has one of the lowest per capita GDPs of any Southeast Asian nation. Some studies suggest that titles have been a key driver of rising property prices, thereby applying significant market pressures to centrally located low-income communities and resulting in market-induced displacement (Durand-Lasserve 2007; Gravois, 2005). Titling may also erode local communal systems of tenure that have insulated communities from market-driven evictions (Sjaastad and Cousins, 2009). These issues will be explored in Chapter 9.

2.3 Land titling and city-wide urban land management

Studies of the household-level impacts of titling have been paralleled by a literature that views titling as part of a package of city-wide neoliberal reforms. As a nationwide, World Bank-funded project, Cambodia's titling project also links to studies of neoliberal urban development.

2.3.1 Titling as a tool to increase efficiency of urban land markets

In the mid-1980s the World Bank started promoting land titling at a city-wide scale, beginning with the 1986 Urban Management Programme, a ten-year programme intended to position 'development assistance in the urban sector in the context of broader objectives of economic development and macroeconomic performance' (Jones and Ward, 1994: 34). Projects that concentrated on titling informal settlements were replaced by city-wide institutional reforms that standardised and stripped down the state bureaucracies associated with land administration and encouraged households to apply for land title individually (ibid.). This approach exemplified the then orthodox 'Washington Consensus' development agenda, which was based on the neoclassical belief that policy makers should install a skeletal institutional framework supporting free exchange and allow institutions to develop organically in response to changes in prices as economies grow (Lal, 1985; Williamson, 1993). In relation to land administration, the state should do little more than provide a universal formal system to recognise private property rights; it should play no proactive role in systematically surveying and titling land and property. Individuals would apply for a title deed if they felt that their property was valuable enough to warrant official protection; as demand increased institutional capacity would develop to meet it.

In the late 1980s and early 1990s, as urban development discourses were being merged with neoliberal macroeconomic productivity models, many post-socialist cities were emerging from years of isolation and beginning to embrace capitalism. In these countries, the international financial institutions promoted 'shock therapy' transitions: in a very short space of time new city- or even country-wide skeletal cadastral systems were put in place, fundamentally changing the institutional landscape of many such societies. These transitions, however, tended not to result in the efficient and equitable land markets predicted by planners, as existing power

structures distorted markets by apportioning rents gained from privatisation through established social networks, such as those associated with the military or public office (Easterly, 2006). In Russia, for example, a law of proprietorship was promulgated in July 1990 that enabled residents of Moscow to apply for property titles (Pickvance, 1994). In central areas of the city, however, officials often opted to enrich themselves by renovating and selling properties, rather than providing eligible residents with titles. Chris Pickvance (1994) reported that this had the effect of displacing poorer residents from inner city areas. Industrial assets also fell into the hands of well-connected elites and government officials. Consequently, Russia's urban centres saw a decline in economic output and the emergence of a kleptocratic elite (Black et al., 2000; Stiglitz, 2003).

In contrast, China's transition has been characterised by a gradual shift from a socialist to a capitalist system of property rights, which has incorporated socialist-era institutions (Ho, 2001; Zhu, 2004). In some respects, this mode of transition has been associated with more equitable urban development than experienced in Russia. In Shanghai, Jieming Zhu (2004) provides an example of equitable, state-led development policies promoted by authorities to manage the transition from socialism to capitalism in urban areas. In 1988 full private ownership of urban property was permitted in the city, and as a result land in the centre became increasingly attractive to developers wanting to erect high-rise office and living spaces. In commodifying land, privatisation put pressure on the established socioeconomic practices of central areas: the factories, warehouses and workers' housing organised around work units (Danwei). Rather than simply enabling market forces to reallocate land use, the government has aimed to strategically balance emerging private-sector interests with those of established urban groups: 'to create a land market where land use efficiency can be improved through market mechanisms, while the old organisations of the Danwei are taken care of during the transition' (ibid: 1254). To achieve this, authorities have developed a bespoke institutional mechanism called the Land Development Right (LDR) to promote equitable urban redevelopment projects (ibid.). The LDR framework enables residents who are members of the Danwei, the Danwei institution and urban redevelopers to invest collectively in a redevelopment project and share the capital from the finished

product, which is considerably more than the market value that residents would otherwise have received.

The failure of the results of land titling to conform to the predictions of neoclassical economic theory in Russia and the relative success of China's institution-focused transition led to the World Bank asking some serious questions about the prevalent development discourse. The most significant argument in terms of transforming mainstream development economic thought has centred on inadequate institution-building as key to explaining the perverse outcomes, in particular, of Russia's attempted land reforms. Joseph Stiglitz, former chief economist of the Bank, asserted:

> insufficient attention [was given] to an institutional infrastructure that would allow a market economy to flourish … the International Monetary Fund and treasury had laid the ground work for the oligarchs' plundering (Stiglitz, 2003: 202).

There was a failure to provide institutions to protect individual property rights, which rendered them weak and vulnerable to appropriation by powerful rent-seeking individuals. Planners did not appreciate the complexity of the reforms that were required or the effect that corruption and, above all, a weak judiciary would have on the emergence of a land market and on land-use efficiency. The experience of Russia and China contributed to an institutions-focused policy agenda at the World Bank (Stiglitz, 2003). Prominent development economists began promoting institution-building policies and positioned strong institutions as the key variable explaining cross-country variations in long-term economic growth (Acemoglu et al., 2001; Rodrik, 2006).

The focus on institutions has marked a shift in the Bank's understanding of land markets. Institutional failures are thought to increase transaction costs in land markets, such as those associated with the searching, documenting, transacting and financing of land transactions (Fawaz, 2009). The result is that the price of land often does 'not reflect its true social value, and the extent of land transactions will be less than optimal' (Feder and Feeney, 1991: 140). This will, in turn, undermine efficient resource allocation, ultimately constraining growth. The role of policy makers is to reduce transaction costs through institutional reforms.

The Post-Washington Consensus institutions-focused land policies converge with De Soto's treatise on property rights, which perhaps explains why his ideas have been so enthusiastically embraced by the World Bank. Both De Soto and World Bank economists view the existence of a formal/informal binary distinction in tenure systems as the key institutional deficiency constraining land markets (Brandao and Feder, 1995). Those in the informal sector suffer from tenure insecurity because they do not have recourse to legal institutions able to regulate or protect their assets. This is reflected in their property being worth less than it would be in a 'perfect' market because of the high transaction costs associated with informal ownership. The orthodox World Bank policy prescription is to formalise all informal areas and build a strong institutional framework to enforce the rights of all holders of property titles to improve the functionality of land markets (Holstein, 1996; Markussen, 2008). The aim is to unify tenure systems under the governance of a strong and transparent state bureaucracy (the formal system) that can guarantee security of tenure. The end result is supposed to be that price mechanisms will function effectively, effecting an economically-efficient distribution of land conducive to growth and poverty reduction (Deininger, 2003).

Advocates hold that titling will improve the economic efficiency of a city in three ways. First, formalising ownership rights will realise the latent potential of land markets as a driver of growth. Informally-held assets are priced to reflect the risk associated with extra-legal tenure and are thus of no or very little economic value. Proponents of titling argue, therefore, that land markets are stunted in countries where formal rules do not apply across the board because much informal property cannot be sold on the formal market. De Soto (2000) claims that there are billions of dollars of dead capital in the world economy – a situation with prevents land markets propelling economic growth in many cities of global south. Second, proponents argue that in countries with strong and secure property rights, there will be higher rates of investment, particularly foreign investment, and less rent-seeking (Stiglitz, 2001). This, in turn, will foster a spirit of entrepreneurialism and lead to equitable, sustainable and high economic growth (North, 1990; Stiglitz, 2001). Third, informal tenure systems limit access to formal credit (Feder, 1988; Feder and Nishio, 1998). Lack of formal title limits demand for credit by limiting the incentive to invest and constrains supply because lenders do not have the assurances they need to release

credit, or borrowers, the means to access it. Thus in the short term informality limits households' access to credit, but in the longer term it also stunts the growth of formal credit infrastructure.

2.3.2 Land titling and neoliberalism

City-wide titling must also be viewed in the context of a voluminous literature that has criticised international development programmes, particularly donor-funded projects, at best as ineffectual, and at worst as covertly pushing an agenda that suits the economic interests of western powers rather than host nations. Many of the critiques view development interventions in the context of uneven power relations: at the global level they are critical of the power structures that determine the dominant development discourse and what constitutes best practice; at the national and local level, they emphasise how best-practice models interact with local power structures during and after implementation.

For many authors, a fundamental flaw with many best-practice models is their reliance on economic theorems that fail to account for the complex array of power structures embedded in local socioeconomic systems (Fine, 2001; Onis and Senses, 2005). This is particularly true of property reforms because ownership of land is so closely connected with place-specific political, historical and cultural conditions (Angel, 1983; Borras Jr. et al., 2008). What is worse, top-down development projects can compound and strengthen elite power. Perhaps the most influential text regarding the theoretical underpinnings of much post-development literature is James Ferguson's (1994) *The Anti-Politics Machine*. Ferguson identifies two main problems with top-down development interventions which mean they are usually destined to fail in their pro-poor project goals. First, constraints to development are identified through western knowledge frameworks, and do not – indeed, cannot – represent local realities. Second, development interventions are inherently apolitical, viewing the state as simply a conduit that translates policy into reality, and do not recognise that uneven distributions of power in state bureaucracies can negatively affect project outcomes. Taking a broad view of the aid industry, Ferguson draws parallels with Foucault's genealogy of the prison. While project outcomes do not match the stated policy intentions (reforming inmates in the case of prisons, reducing poverty in the case of development interventions), their continual failure to do so

often provides an entry point for greater state intervention and regulation and mainly serves the long-term interests of those who implement them (i.e. donors and governments). Thus for Ferguson (1994: 20) failure is an underlying (though unconscious) logic of development programmes, what he calls their 'strategic intelligibility': that they will always fail to tackle poverty despite their pro-poor discourse.

Ferguson's argument that development projects are a vehicle to further western power has been a feature of much post-development literature. It is argued that those who wield power in international financial institutions, unconsciously or otherwise, serve the interests of advanced economies and that widely disseminated policy prescriptions such as land titling are part of a strategy that reproduces a hierarchical global capitalism which keeps rich countries rich and poor ones, poor (Escobar, 2011). Marcus Power (2004: 170-171) asserts that 'the spatiality of power and discourse in development' results in policies that render developing economies more amenable to the spread of global capitalism being pursued, and the good governance, pro-poor agenda is merely window dressing, or an 'engineering of consent' (ibid: 175). Increasingly, post-development discourse has focused on what the 'engineering of consent' actually means and what forms it takes. Ben Fine (2001) argues that the transition from Washington Consensus laissez-faire institutional frameworks to institution-focused Post-Washington Consensus has resulted in ever-deeper structural reforms in host economies. Institutional economics, he argues, has allowed economic planners to 'colonise' other aspects of social science, notably political science, and to manipulate a wide range of institutions that intrude on the daily lives of populations.

The Post-Washington Consensus's engagement with governance structures has resulted in Ferguson's conception of a dogmatic anti-politics machine implementing best-practice models being questioned. More recent studies have highlighted the malleability of neoliberal development interventions, foregrounding the idea of policy mobility rather than policy replication in the spread of neoliberal ideologies (Li, 2007; Mosse, 2008; Peck, 2010). The concept of policy mobility refers to the fact that institutions-focused projects work through local institutions and policy makers rather than simply restructuring economies according to the principles of the Washington Consensus.

The shift in scholarly debates has mirrored a shift in strategy at the World Bank: there has been a focus on closing the gap between development policy and on-the-ground realities by promoting context-sensitive approaches that build on local knowledge, such as social capital and participatory projects (Mosse, 2008). Despite the changing face of development policy, however, it is argued that neoliberalism is still at its core (Li, 2005; 2007; Power, 2003). As a case in point, social capital has come under particular fire for claiming to build on local knowledge, but actually picking and choosing aspects of it to conform to the economic theory underlying social-capital models (Cleaver, 2005; Fine, 2001). Tania Li (2005: 387) refers to the governance strategies that World Bank projects use to disseminate neoliberal ideology as a liberal 'art of government'. Such strategies are still an exercise in power which privileges the knowledge of the planner, but this effect is achieved in more subtle ways than by simply imposing a bureaucracy as James Ferguson suggests (Li, 2007; Mosse, 2008).

This idea that neoliberal policies 'travel' through space and adapt to and shape different contexts in different ways is a key argument of the emerging literature on postcolonial urbanisms. The main vehicle for neoliberalism to travel through urban areas has been international development programmes (Robinson, 2011). Land titling typically constitutes a central aspect of neoliberal planning strategies in urban areas, and it works at three main levels to produce space.

First, the formal/informal distinction constitutes a tool that discursively constructs territorial space, enmeshing the interests of local elites and the rationale of global capitalism. Ananya Roy (2005) sees the discourse of informality as a projection of Agamben's (2005) 'state of exception': a space where normal laws are suspended. This discourse is perpetuated to justify certain kinds of neoliberal urban interventions. 'Informal' settlements in Israel, for example, have been discursively constructed using terms such as 'illegal resident/immigrant', 'unapproved development', 'illegal housing', 'building and planning infringements' and 'land invasion' (Yiftachel, 2009: 93). These areas have thus been designated 'gray' spaces by the state and the neoliberal elites whose interests they represent: opaque, illegitimate places that exist in a state of constant provisionality. Eventually, these settlements are 'whitened', as discourses are mobilised that invoke neoliberal concepts of 'development' or a need to protect the 'national interest', or 'blackened'

through evictions (ibid.). Thus, as in Agamben's state of exception, planners have discursively constructed a place where citizens do not enjoy rights afforded to them by the state, but are nevertheless subjected to its laws: informality, therefore, is a discursive tool to categorise and define space to justify neoliberal policy interventions. Yifatchel argues that these discursive formations represent the coming of an urban apartheid, where colonial techniques of rule are married to neoliberal concepts of development (ibid.).

Second, the formalisation of land rights is part of a broad strategy to construct city-wide neoliberal institutional frameworks. Institutions that formalise and administer land fit into a larger urban governance strategy where 'state-citizen relations [are] becoming shaped by the culture of neoliberal speculation' (Goldman, 2011: 564). 'Neoliberal speculation' refers here to the culture of making maximum profit from the commoditisation of land, frequently displacing lower-income groups in the process. This argument is essentially the same as those made by Payne (2001) and Durand-Lasserve (2007), cited earlier in relation to market-induced evictions. The difference is that Goldman (2011) emphasises the strategic and global aspects of land formalisation policy at the city-wide scale: he highlights the role of the World Bank in constructing an international property rights system in Bangalore that encouraged investment from multinational firms in the technology industries, as part of a broad process where urban governance is structured around speculation and profit making.

Third, regularising urban space can be viewed as an instrument that the state strategically deploys to exert its power, reshaping that space to represent a future vision of modernity (Scott, 1998). Thus struggles over informal spaces are laden with political significance, where what is defined as an informal or as an illegitimate urban practice by the state is less to do with what is legal or illegal and more to do with distribution of power in society (Varley, 1998). For example, in South Africa many of the country's elite live in gated communities that contravene laws regarding the use of public space, as do many unplanned settlements. However, the state responds to these extra-legal activities in different ways: unplanned settlements are perceived as a problem, whereas gated communities are perceived as a rational response to insecurity and violence (Lemanski, 2004). Asserting control over informal spaces, therefore, becomes a 'complex political struggle' (Roy, 2005: 150) where new urban futures can be forged (Holston, 1998). Hence, informality can be

decoupled from poverty and viewed as an arena where various groups vie to shape urban space in their own interests. If land titling is implemented 'successfully' in such areas, the result will simply be that the logic of a hegemonic neoliberal elite is extended into these areas and ultimately that residents will be subject to the power of a neoliberal state or property markets, which will saddle residents with high formal-sector costs of living: either by market mechanism or force, the poor will be displaced (Roy, 2005). Thus for the poorest, 'secure rights can be more insecure than informal claims' (ibid: 154).

2.3.3 City-wide titling and the LMAP

In the following chapters, I seek to add to the debates on donor-supported development interventions in urban governance structures using the LMAP as a case study. Above all, I shall ask whether the LMAP represents an inclusive and equitable land administration policy, as proponents hope, or the deepening of an exclusionary neo-liberalism, as critics fear.

The literature on donor-supported policies in general, and that pertaining to land titling in particular, has been highly polarised regards the supposed impacts of such policies on Cambodia's economy and society. On the one hand, World Bank literature has espoused orthodox development economics to view titling as a Post-Washington Consensus reform that corrects land market inefficiencies through promoting strong institutions. LMAP project documents singled out the weak pre-LMAP institutional mechanisms for registering property ownership as the overriding cause of tenure insecurity that plagued Cambodia in the pre-donor period (World Bank, 2002a). The result of these deficient institutions, according to the Bank, was that conflicts were 'endemic in Cambodia and reflect pervasive tenure insecurity' (World Bank, 2002a: 37). Planners believed that systematically titling all land parcels would reduce uncertainty over land ownership rights, strengthen tenure security, increase investment and promote equitable economic growth.

On the other hand, much recent analysis of Cambodia's post-socialist history has viewed donor-supported institutional reforms as imported, inappropriate and inherently exclusionary policies that have harmed the vulnerable (Hughes, 2009, 2007; Springer, 2010, 2009). Caroline Hughes posits that the extent of foreign influence in Cambodia's statecraft has meant that the national identity is a foreign

import, with more recent institution-building interventions being modelled 'on standard liberal accounts of the rational, profit-pursuing individual in a society comprised of similar individuals' (2007: 836).   She argues that donor efforts to build equitable economic institutions merely engineer consent for the imposition of frameworks that cause inequality and compound uneven distributions of power. To support her point, Hughes (2007) cites an International Labour Organisation programme that provided a conflict-mechanism for labour disputes over working conditions. This strategy worked to dissipate workers' grievances through making minor concessions that did not address broader issues of exploitation. The ILO policy intervention helped instil a neoliberal logic that saw workers contented to reproduce global capitalism, overlooking their own underlying grievances (ibid.).

Similar arguments have been made relating to the LMAP and accompanying donor-supported land interventions. Simon Springer (2013), for example, asserts that donor interventions in land management have caused forced evictions. Far from promoting equitable systems land management, World Bank institution-building has deepened an inherently inequitable mode of neoliberal urban governance and has caused violence by weakening customary systems of tenure and strengthening the power of elites to dispossess others. Springer asserts that NGOs mistakenly believe that it is the government's failure to implement land laws that is the cause of insecurity. He argues that in reality the opposite is true – that land laws promoted by donors are inherently exclusionary:

> while it is typical to critique Cambodia's evictions as 'illegal' perversions of law, in most instances this well-meaning appraisal is factually incorrect….
> The SLR [Systematic Land Registration] and LMAP were purposefully designed to facilitate and disseminate awareness for conditions wherein, following an initial period of allowable registration, oral precedents [customary tenure systems] would no longer be honoured... Thus, the insistence that forced evictions in Cambodia are necessarily 'illegal' is both naïve and unhelpful. What is actually needed is a more critical appreciation of law's violence (Springer, 2013: 18)

The polarised interpretations of city-wide titling are interrogated in this thesis by pursuing a number of lines of inquiry. In Chapters 5 and 6, I analyse patterns of

inclusion and exclusion resulting from both pre- and post-LMAP property regimes to assess whether the LMAP represents a more inclusionary framework (e.g. De Soto, 2000) or the deepening of exclusionary urban governance mechanisms (Springer, 2013). How exactly do pre- and post-LMAP institutional, regulatory and legal frameworks for land administration address the issue of tenure insecurity for low-income urban communities? How have such laws been implemented and who has benefited from them? In other chapters, I assess whether specific socioeconomic outcomes related to titling have been spread equally across the population: have different sub-sections of society benefitted from new institutional arrangements for land ownership in terms of investment (Chapter 7) and credit (Chapter 8)? In particular, have low-income groups accessed and benefited from titles in the way that World Bank (2002a) policy makers predicted? Finally, in Chapter 9, I examine the types of social and demographic change resulting from titling, both in areas included and excluded from the project. Through exploring these issues, I hope to reveal whether the LMAP has perpetuated inclusive or exclusionary urban land markets in Phnom Penh, and to contribute to debates about the efficacy of donor-funded titling interventions more generally.

2.4 Conclusion: reconciling targeted and city-wide debates

In this chapter, I have reviewed two strands of literature that have engaged with titling at the targeted and city-wide scales. I have suggested that the issues raised in these debates have important implications for Cambodia's titling project. As a city-wide project that also aims to formalise the property rights of those in unplanned settlements, analysis of titling in Phnom Penh provides an opportunity to reconcile these two strands of debate.

Reconciling salient themes in the city-wide literature with those made in relation to targeted titling interventions brings new perspectives to city-wide reforms. A criticism levelled at some city-wide analyses of international development policies is that they focus heavily on the theoretical attributes of such interventions (Robinson, 2011). On the one hand, proponents of titling use economic models to construct the problems, identify the appropriate solutions and predict the inevitable (positive) outcomes of their policies. On the other hand, critics use the fact that titling is based

on the theories of development economics to predict the inevitable negative outcomes of such policies. In this sense, criticisms of development policies can use the same logic as institutional economics, but in reverse – project outcomes will inevitably conform to a pre-ordained theoretical rationality. Discounting the possibility of any beneficial outcomes based on a theoretical reading of international development policies can limit the scope of analysis of such interventions in the same way as predicting universal positive outcomes.

Engaging with debates addressed in the literature on targeted titling enables an approach focused on the observed outcomes of titling as distinct from the policy's roots in World Bank theory. The questions raised in the literature on targeted titling relate to the range of outcomes of titling at the household level, charting experiences of security, investment, allocation of credit and other household and dwelling characteristics. Testing such arguments in the context of city-wide debates 'decentres' the concept of neoliberalism from the analysis at the household level to recognise 'that alignments with neoliberalism in some contexts may create opportunities for constructing better futures for urban dwellers' (Robinson, 2011: 1104).

A key aim of this thesis is to provide a critique of titling that yields policy suggestions to improve outcomes for vulnerable groups. In this endeavour, a conceptual openness to the 'positive' aspects of land titling is crucial if a range of policy implications to benefit low-income groups are to become apparent. Such an approach does not imply that titling is an inherently good or bad policy framework, but seeks to identify how the intervention can be leveraged to benefit the vulnerable. As Ananya Roy (2005: 155) notes, it is an uncomfortable truth that to achieve better outcomes for the marginalised may require 'working *through* rather than *against* institutions of power.' She argues that harnessing the laws, regulations and institutions of power (be them of the state or international organisations) can empower the marginalised and further their interests: 'the master's tools cannot dismantle the master's house, but perhaps when strategically used, they can allow those on the outside to occupy the master's house.' Following this approach, it is my goal to provide a critique of titling as an international development intervention, but to also uncover how 'the masters tools' can be leveraged to the benefit of those 'outside' the master's house.

Engaging city-wide and targeted literatures also enables us to explore the household level impacts of titling beyond unplanned settlements. City-wide titling programmes have become a ubiquitous international development policy, receiving billions of dollars in funding. Despite this, there has been little or no research that has assessed how formalisation has affected communities outside unplanned settlements. Simone and Rao (2012: 318) identify ordinary urban areas in the developing world as one of the most under-researched issues in urban studies: communities that occupy the space between the very poor and the emerging 'global' middle class – 'between the superblock and the slum'. Engaging project-based and city-wide literatures offers the potential for achieving an understanding of how donor-funded land policies affect these groups.

Chapter 3: A History of Land Reform and Urban Transition in Cambodia

3.1 Introduction

Cambodia is perhaps best known for two contrasting periods of its history: the ancient Khmer Empire of the Angkor era and the Democratic Republic of Kampuchea of the Khmer Rouge. Fittingly, given the subject of this thesis, both periods were remarkable for their contribution to urban history. The Khmer Empire, which existed from the 9th to the 15th centuries, is best known for Angkor, its capital, the site of world's largest preindustrial settlement (Evans et al., 2007). The ancient city is famed for its sophisticated urban form, which supported a thriving urban population and provided a base for Southeast Asia's largest empire. In contrast, the Khmer Rouge was responsible for one of the great tragedies of urban history: the forced evacuation of Cambodia's cities in the mid-1970s and murder of most of the urban population is widely recognised as one of the greatest atrocities of the 20th Century (Kiernan, 1996).

The aim of this chapter is to provide a historical narrative of urbanism and tenure reforms in Cambodia to provide a context for subsequent discussions. In presenting these interlinked histories, I explore the country's divergent rural and urban development trajectories and the varied experiences of its urban populations from the Angkor period to the present day. I also relate Cambodia's urban and tenure transitions to key political movements in Cambodia, revealing close links between tenure reform and political power.

3.2 Beginnings of urbanism at Angkor

Cambodia's urban history begins in AD 802, when King Jayavarman II established the ancient city of Angkor, which developed into a sprawling metropolis at the centre one of the great ancient civilisations. At its peak in the 13th Century, the city covered a huge area, including a high-density urban core of around 35 km^2 and a low-density

urban complex extending over 1,000 Km^2 (Evans et al., 2007). To put that into today's context, New York City included around 800 Km^2 of urban space in 2016.

There is evidence to suggest that property ownership played an important part in the workings of the ancient city. A detailed analysis of property regimes recorded in the inscriptions of Angkor by Michael Ricklefs (1967: 419) reveal 'a functioning system of private land-ownership' that included property titles and a legal system to enforce property rights. Inscriptions discovered in the city show details of properties owned, transferred and provide records of dispute resolution mechanisms. This formal tenure system projected the power of the king and state in several important respects. First, property rights were distributed by the king to shore up patronage networks: large plots of land were allocated to favoured court members, which often included the rights to slaves to work the land. Second, the kings pushed the frontiers of the Khmer empire by providing ownership rights over lands in peripheral areas to his subjects. Third, as well as extending the power of the state over territory, property ownership was used to project power over Angkorian society. There is evidence that as the power and bureaucratic capacity of the Khmer Empire grew, registered property ownership was extended across the population 'to the most humble of free men' (Ricklefs, 1967: 426). As with the property of elites, these rights were registered in inscriptions and were protected by Royal Law. Populations considered illegitimate, or not part of normal society, were not afforded these rights: slaves – either those born into slavery or those who had acquired the status through debt – were not eligible to own land (ibid.).

Outside the realm of Angkor, however, there seems to be little evidence of private ownership aside from the large holdings of elites. During and after the Khmer Empire period, many Khmer viewed land not in terms of private ownership in the western sense, but part of an all-encompassing physical and metaphysical realm called the *sruk* that defined 'Khmerness' (Chandler, 1996). Land was divided into two distinct types, that of the *sruk*, i.e. Khmer lands, and those lands that were not part of the *sruk*, i.e. foreign lands. For Khmers, Muller (2006: 178) explains, 'the king was not only master of all beings in his realm, but also owned all the land'. Land devoid of such royal protection was considered cursed (ibid.).

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While the idea of the *sruk* provides a broad conceptual framework of land ownership, the day to day practice of administering land was not so abstract. According to May Ebihara (1984: 288), while the king was 'nominally and symbolically' owner of all the lands, freemen could enjoy '*de facto* property ownership and inheritance'. These *de facto* rights to land were linked to land's productive value, rather than as a commodity of value itself. For example, the Cambodian elite did not tax land, but rather harvests. Land could be used as collateral on a loan, but again only by virtue of its function of producing food. If peasants defaulted on a loan, for example, they would 'pawn' the land to the money lender, who would be paid back in the form of produce from the land. Once the loan was paid off, the peasants could again farm the land for their own needs (Chandler, 1996). These *de facto* claims were underpinned by unwritten social contracts: if a household worked a given parcel, then to all intents and purposes they owned it, though this form of ownership was rarely documented (Steinberg, 1957).

3.3 The introduction of a European system of property rights

With the fading of Angkor and the Khmer Empire in the 14th and 15th Centuries, the capacity of the state to administer land also lessened. In the post-Angkor and pre-colonial period Cambodia was ruled by a succession of weak royals who were subservient to either Thailand or Vietnam and lacked the capacity or desire to implement a formal system of ownership (Steinberg, 1957; Yuon, 1982). This situation changed in the 19th Century as foreign powers took a more interventionist approach to Cambodian governance. In 1840 Vietnam, under Minh Mang, invaded Cambodia and began to survey and register land ownership rights so that they could be administered by the state (Chandler, 1996). This intervention was part of a broader strategy to advance Vietnamese power, which went as far as forcing Cambodians to wear Vietnamese-style clothing (Chandler, 1972). The strong bonds of patronage between the Cambodian masses and the elite, however, meant that it was extremely difficult to implement any meaningful change in land-holding patterns. In fact, the response of the Cambodians was to revolt. This, and Minh Mang's death, resulted in the restoration of traditional tenure systems and the withdrawal of Vietnam from Cambodian lands (Chandler, 1996).

In 1867 Cambodia became a protectorate of the French, ushering in a colonial period that saw changes in land governance – at least in urban areas. In 1884 the French passed a law that gave individuals the right to own land. In a similar vein to Minh Mang, the decree was part of a package of reforms designed primarily to cut the ties between the traditional elite and replace them with the French colonial state, or as commentators at the time noted, 'an effort of European administrators in Asia to deal with the problem of harmonising native customs, as to this department of government, with civilised notions of freedom and justice' (Maxwell and Thomson, 1885: 81). The decree set out the process for registering land ownership with the state and obtaining a title for it. It ruled that no 'verbal contract' could supersede or 'mutate' a titled claim of ownership (ibid: 89). In doing so, it sought to move Cambodians from a 'native' system of verbal tenure to a 'modern' system of titles.

The French justified their intervention by emphasising the problem of tenure insecurity, lack of investment and access to credit that resulted from customary tenure. According to Jean Moura, the Administrator of the French Protectorate of Cambodia in the 1850s, Khmers suffered tenure insecurity because they did not legally own land in the western sense: 'first occupiers are dispossessed without a word of warning, without the excuse of public interest and simply in order that someone may help himself to a field quite fit for cultivation' (cited in Maxwell, 1884: 130). Even as the decree was passed, however, commentators questioned 'whether the political condition of the country will admit of [the decree's] peaceful introduction' (Maxwell and Thomson, 1885: 82). Such reservations turned out to be well placed. Tentative attempts at land titling precipitated mass civil unrest in defence of the king and were only haphazardly implemented and poorly enforced. In a context where all land was believed to belong to the king, Steinberg (1957: 204) suggests that land titling by foreigners was 'not seen as an attempt to develop a system of private ownership, but an attempt to defraud the king'.

While the 1884 land law was not adopted by the rural population, it was linked to the development of Cambodia's urban spaces. The French colonial period heralded a new chapter in Cambodia's urban history, which had declined following the abandoning of the city of Angkor that occurred in the 14th and 15th Century. Prior to the French occupation, Cambodia had returned to a rural society, with small settlements located on riverbanks to benefit from trade and populated mostly by a

Chinese merchant class. These settlements were worlds away from the large, sophisticated urban complex of Angkor. Writing in the late 1850s, the French traveller Henri Mouhot described the new capital Udong:

> the market-place, occupied by the Chinese, is as dirty as all the others of which I have made mention. The longest street, or rather the only one, is a mile in length. The entire population numbers about 12,000 souls (Mouhot, 1864: 199).

In Phnom Penh, which became the capital city under the French in 1867, the new property laws had an important effect on the city's development. The decree led to the emergence of formal land markets for Khmer elite and French expatriate populations, resulting in a housing and construction boom in 1890s Phnom Penh (Chandler, 1996). As a Western-style tenure system developed during the colonial era, large sums of money were invested in constructing grand buildings that remain in Phnom Penh today and the city's population expanded rapidly (Osborne, 2008). Phnom Penh emerged, at least in parts, as one of the most aesthetically pleasing of the cities in French Indochina (Muller, 2006).

Outside of the bubble of the Phnom Penh elite, tenure systems remained much as they had done in pre-colonial times: based around social bonds and kinship, with land conceptualised as the *sruk* under the divine realm of the king. After the failed attempts of titling rural Cambodia, the French largely stayed out of land administration in rural areas. They considered rural Cambodia as reactionary and barbaric, prone to frequent violence and unable to move into the modern French-constructed reality (Edwards, 2006). Consequently, the only interactions between the Khmer masses and the French colonial administration were through tax collection, again in terms of a portion of households' harvests. For the average rural household, the conception of land tenure remained the same at the end of the colonial period in the 1950s as it was in the 1860s (Steinberg, 1957).

Cambodian society was not characterised only by a rural/urban distinction; as urbanisation took hold, Phnom Penh became a fragmented urban space as new social groups emerged. A growing middle-class of urban Khmers were seen by traditional urban elites as an unwelcome intrusion on the colonial serenity of Phnom Penh. Consequently, colonial urban planners worked to render a socio-cultural divide in the

city's spatial plan and separated the civilised urban spaces reserved for the European and Cambodian elite from emerging social groups. Penny Edwards (2006: 432) cites a decision from the Municipal Council of Phnom Penh in 1915 regarding permissions to construct shops and offices for Cambodians:

> put [them] out by the road to Kampot, and next to Stung Meanchey, where establishments of this type are better placed … [with their] many inconveniences, dust, noise, the movement of many natives … [there] is no place for [such things] in the districts which have, over the years, been reserved for Europeans.

While this middle class were recognised as by colonial authorities as having a right to live in Phnom Penh – albeit not in the same locales as Europeans – the growing urban poor communities were regarded in a different light. With the expansion of Phnom Penh, poor rural migrants initially erected makeshift accommodation along the river (Rabe, 2009). From 1915, the French began a policy of evicting these residents to beautify the river area, resettling the evicted residents on plots of land on the city's outskirts (ibid.). Rapid urbanisation also resulted in population change at the rural-urban fringe. Urban dwellers began to purchase land for speculative purposes on the edge of cities, leading to increased landlessness in rural areas on the urban fringe (Kiernan, 1982).

While the French had given up on formalising the land rights of Cambodian smallholders, they did extend control in rural Cambodia through granting land rights to a colonial elite of expatriate plantation owners. The formal system the French created encouraged new forms of investment through providing land concessions, which led to a diversification of agricultural practices to include large enterprises, notably rice and rubber plantations (Muller, 2006). This was primarily as a response to France's strategy of developing primary product export markets as an important source of revenue in South East Asia. As the plantation owners were part of or had close ties with the French colonial administration, and large mechanised landholdings supported the colonial development strategy, virtually all state support for agriculture went to large French-owned concession plantations. Helmers (1997) notes that the province of Battambang played host to many large rice plantations (over 16,000 Ha) where the French colonial state invested significant financial

resources and experimented with large scale mechanisation, even building a railway linking Battambang to Phnom Penh, from where rice was shipped to regional and global markets. Meanwhile, expatriate plantation owners remained in their companies' head offices in Phnom Penh, and were considered among the wealthiest foreign residents of the city (Osbourne, 2008).

Cambodia gained independence from France in 1953 and the popular and charismatic King Sihanouk came to power. The king, who later abdicated and was elected Prime Minister, became a keen supporter of Phnom Penh's development as a modern city. Under his rule the divergent trajectories of rural and urban Cambodia became even more pronounced. While life for rural Cambodians remained relatively unchanged, Phnom Penh's built area doubled in size between 1953 and the late 1960s as universities, hospitals, sports stadia, markets and residential areas were built for a burgeoning urban class (Osbourne, 2008). Much of the development was planned by Cambodia's most celebrated modern architect, Van Molyvann, who became Head of Public Works and State Architect under the government of King Sihanouk. Many of his works are now recognised as among the most outstanding examples of Khmer modernist architecture, including the Royal University of Phnom Penh, the Olympic Stadium and Independence Monument. There were also planned residential areas to integrate the growing middle class into the urban fabric in a way that did not disrupt the urban form that Sihanouk cultivated, most notably in the Tonle Bassac area where large apartment complexes were built as 'machines for living'.

Within Phnom Penh there were familiar social tensions as low-income Khmer populations encroached on the king's vision of the city. Like the French, King Sihanouk viewed low-income self-built housing as a blot on his civilised, sophisticated and modern city. To address the problem of the urban poor, the government decreed that urban residents should abide by certain codes of conduct so as to not damage Cambodia's image in 'foreign newspapers' (Figure 3.1). The edict construed housing without titles, which in practice referred to self-built communities, as an illegitimate urban practice. Such housing was to be 'immediately removed'; if residents did not comply with this rule they would be 'punished according to the law as an example to others'.

Figure 3.1: Government edict on urban living

The father of national independence has criticized the dirty condition of Phnom Penh, of which foreign newspapers have also spread gossip. Therefore, the King has decided to form a committee to ensure all city streets and buildings are kept clean and attractive. To assist the committee in its duties, please observe the following:

Do not litter;

Do not urinate/defecate in public;

Do not build structures for public vending on sidewalks or on land that you have no deed or rights to;

Those structures built in improper places must be immediately removed.

The successful clean-up of Phnom Penh will only go smoothly with the assistance of the people. Do not allow your interests to hurt the reputation of the King or the Khmer people. Those who do not respect this edict will be punished according to the law as a model for others.

Source: Public Edict No. 1, Phnom Penh Cleanliness and Beautification Committee, 1958 (cited in Rabe, 2009: 62)

The government's policy of exclusion of low-income populations was initially successful. During the 1950s and 1960s the rapidly expanding class of urban poor lived on the city's fringes and were not considered to be integrated into the urban space. Milton Osborne (2008: 127), who lived in the city from 1959 to 1961, described the poor:

> Just what proportion of Phnom Penh's population they represented is difficult to know. European foreigners had little awareness of them except when they took a ride in a *cyclopousse* [rickshaw]. Overall they were an almost invisible mass, living well away from the city centre in shanty towns eking out a living in various forms of manual labour.

The facade of urban order desired by King Sihanouk began to crumble in the late 1960s, however, as a result of an increasingly difficult geopolitical context. The war in neighbouring Vietnam began to spill over into Cambodia. America's secret bombing campaign against Viet Cong supply routes in Eastern Cambodia included

over 230,000 sorties and nearly 3 million tonnes of ordinance and are estimated to have killed hundreds of thousands of civilians and maimed many more (Owen and Kiernan, 2007: 2). This action resulted in a growing communist insurgency in the countryside led by the Khmer Rouge who promised to defeat the American imperialists. King Sihanouk, who had attempted to walk a tightrope of neutrality during the Vietnam war, was vulnerable to attacks by the left for failing to stop the American bombing, and, increasingly, the right for failing to deal with the growing Khmer Rouge insurgency. In response to King Sihanouk's perceived failure to deal with the communist threat, the CIA-supported General Lon Nol staged a coup against Sihanouk in 1970, signalling the start of the Cambodian civil war.

From 1970 to 1975 it is estimated that Phnom Penh's population doubled as people fled war in rural Cambodia (Kiernan, 1996). Many of these migrants did not reside in the urban periphery, as in the 1950 and 1960s, but flocked to central urban districts, squatting in uncompleted buildings or temporary structures on the banks of rivers and lakes. An urban planner at the time and future Phnom Penh governor, Kry Beng Hong, wrote with alarm of the sudden increase of squatters in downtown Phnom Penh, but considered them a 'temporary' problem caused by insecurity in the countryside (Beng Hong, 1973). It was expected that they would return to rural areas or be re-housed at the urban fringe once the war had ended. However, the events of the years that followed resulted in a very different urban space from the one he envisioned.

3.4 The Khmer Rouge period

The rural/urban distinction that had been cultivated by the French and later by King Sihanouk was also deployed by the Khmer Rouge, but to very different ends. King Sihanouk had characterised the societal divide in paternalistic language: referring to peasants as his 'children', he invoked traditional concepts of patronage and hierarchy (Cixous, 1994). The Khmer Rouge, however, characterised the rural/urban distinction as an oppressive construction; cadres were taught to hate the urban class as corrupt and parasitic, profiting from the toil of peasants and doing nothing to end the misery wrought upon them by American bomber raids (Shawcross, 1979). The Khmer Rouge promoted an effective propaganda campaign, which, ironically, used

films that had been commissioned by King Sihanouk to promote Phnom Penh, to demonstrate the ostentatious practices of the urban elite (Osborne, 2008). The Khmer Rouge proclaimed that the tonic for urban decadence was an extreme brand of agrarian socialism, which necessitated a return to a pre-industrial, pre-urbanised society. In the words of their leader, Pol Pot:

> We are building socialism without a model. We do not wish to copy anyone; we shall use the experience gained in the course of the liberation struggle. There are no schools, faculties or universities in the traditional sense, although they did exist in our country prior to liberation, because we wish to do away with all vestiges of the past. There is no money, no commerce, as the state takes care of provisioning all its citizens. The cities have been resettled because this is the way things had to be. Some three million town dwellers and peasants were trying to find refuge in the cities from the depredations of war. We evacuated the cities; we resettled the inhabitants in the rural areas where the living conditions could be provided for this segment of the population of new Cambodia. The countryside should be the focus of attention of our revolution, and the people will decide the fate of the cities (cited in Mysliwiec, 1988: 6).

When the city fell in April 1975, the antipathy of the Khmer Rouge towards Cambodian urbanism found an outlet. Within days, the Khmer Rouge had marched the entire population – swollen to around 2 million in April 1979 – to work in rural areas. Witnesses remember the brutality of the evacuation, which included summary executions of those suspected of being connected to the previous government (Bizot, 2007), and forcing even the seriously ill to evacuate hospitals (Mysliwiec, 1988). The city was reduced to a skeleton workforce of around 20,000 to 30,000 needed to keep basic services running (Kiernan, 1996). The few accounts of the city from this period or immediately after describe a ghost city, with once bustling streets, markets, cafes and restaurants lying empty (Becker, 1998).

In engineering their perfect society, the Khmer Rouge intended to wipe the concept of modern 'urbanism' from Cambodian history (though, ironically, they had emblazoned on their flag an image of the city of Angkor). They achieved this through destroying much of the physical, institutional and human infrastructure

associated with urban life. The city's housing stock was ransacked by the army; a survey immediately following the Khmer Rouge collapse of power estimated that around 80 per cent of Phnom Penh's housing stock had been destroyed between 1975 and 1979 (Beng Hong, 1983). Cars were stripped, with rubber from the tires fashioned into flip-flops and then left in the street to rust, while libraries were emptied in an 'orgy of book-burning' (Osborne, 2008: 45). Former urban residents were singled out by the Khmer Rouge in the new agrarian society. They were referred to as *Neak Themi* (new people) and assigned to special work groups, enduring harsher conditions than their rural counterparts; many were also sent to concentration camps to be 're-educated', never to return, or were summarily executed after being accused of counter-revolution.

The Khmer Rouge period was significant from a tenure perspective because all vestiges of the French Colonial tenure system were completely destroyed. The Khmer Rouge wanted to create a 'year zero' for Cambodia – to begin building a new society on a blank slate. A key aspect of the dismantling of the 'old' society was erasing the imperialist tenure regimes installed by the French (Kiernan, 2014). The institutions, laws and social norms that governed people's interaction with land were radically redefined or destroyed by the Khmer Rouge (Khemro and Payne, 2004). All claims of property ownership were declared void and records, including cadastral registers and maps, were destroyed (ibid.). The vast majority of the bureaucrats and officials who had staffed the property system were forced into exile or executed, while most property owners were 'killed or had died during the period 1975 – 1979' (ibid: 182). With the death of these populations died the memory, records and knowledge of urban land ownership prior to the Khmer Rouge in Cambodia.

Rural land holding patterns also radically changed. In the pre-Khmer Rouge era the distribution of land had been largely egalitarian and based around small family-run farms (even though distribution of wealth and social power was highly polarised). Farming in the Khmer Rouge period was characterised by extreme communisation: work units were organised into collectives and traditional methods of farming abandoned (Kiernan, 2014).

The Khmer Rouge period, therefore, represents a watershed moment in the institutional and regulatory history of Cambodian land administration. The systems

of ownership and transfer that defined the Colonial and Independence period came to an end; they were replaced with a socialist system whereby ownership was not legally possible. It would not be until 1989 that institutions facilitating private ownership would be reintroduced in Cambodia. However, as shall be discussed presently, later arrangements of property ownership bore little resemblance to pre-Khmer Rouge frameworks. Instead, they represented a new chapter in the institutional and regulatory mechanisms associated with property ownership. Indeed, this break was explicitly acknowledged in Article 7 of Cambodia's 2001 Land Law, which stipulated: 'any regime of ownership of immovable property prior to 1979 [the year the Khmer Rouge were toppled] shall not be recognized.' In this sense, the Khmer Rouge regime were successful in their goal to induce a 'year zero' for institutional and regulatory regimes associated with land administration in Phnom Penh and throughout Cambodia. This action had significant implications both in relation to succeeding socialist-based land holding arrangements and subsequent systems of private property ownership, which were to be built from scratch.

3.5 The Vietnamese occupation

After a period of rule that spanned just four years but ended the lives of an estimated fifth of Cambodia's population, the Khmer Rouge was ousted from government in 1979. After a series of border skirmishes, the Vietnamese invaded Cambodia and forced the regime from the city; the Khmer Rouge continued to fight a guerrilla war from the west of the country until the mid-1990s. The Vietnamese installed a one party socialist state that was sympathetic to the interests of Vietnam and supported by Vietnamese military and government advisors. The leaders of the regime were former cadres of the Khmer Rouge's Eastern Zone, who had defected to Vietnam during Pol Pot's purges of party members (Gottesman, 2004). This Vietnamese-sponsored government was named the People's Republic of Kampuchea (PRK).

During the PRK period the patronage system of governance that has defined Cambodian politics to the present day was established. Its bedrock was the close personal relationships between the powerful former-Khmer Rouge cadres that became leaders of the new PRK regime in 1979 (Gottesman, 2004; Heder, 2005). These key figures, including Heng Samrin, Chea Sim and, most notably, current

Prime Minister Hun Sen, went on to dominate Cambodian political life over subsequent decades.

The patronage networks that underlay PRK rule are best described by historian Evan Gottesman in his 2004 work, *Cambodia after the Khmer Rouge.* Gottesman was able to gain unprecedented access to achieved documents that shone light on the inner workings of the PRK regime. He found that the leaders of key ministries, such as the Ministry of Defence and the Ministry of Interior, were members of a close knit group of former Khmer Rouge cadres. Many shared long personal bonds that were cemented through marriage and other personal connections. As well as consolidating their power in the central ministries of Phnom Penh, the PRK also drew on established Khmer Rouge military networks to exert control across the country. The party leadership of Chea Sim, Heng Samrin and Hun Sen appointed provincial governors who had been their Khmer Rouge comrades, and who already had established power in their localities. Many key governors were also tied to the leadership through family connections.

Patronage networks were strengthened through the strategic distribution of state resources. Government distributed the rights to highly-valued resources or commodities, such as forestry, gasoline and medicine, to political leaders in key ministries and provincial governors who, in turn, distributed these resources to lower-level bureaucrats in a manner that ensured the support necessary to maintain power (Gottesman, 2004). In this way, the allocation of state resources to solidify patronage networks permeated society, from top leaders, to local officials who often paid bribes to access government positions where they could gain control over lucrative resource stocks (ibid). The mutual dependence inherent in these patronage structures ensured party loyalty and enabled the PRK government to exercise political control effectively.

Patronage governance had an impact on land distribution in Phnom Penh during the PRK period. Control over large areas of real-estate was distributed among political elites to shore-up patronage networks. Chea Sophra, the current Minister of Rural Development and former Governor of Phnom Penh, explained to a news reporter how he acquired an eleven hectare plot in the early days of the socialist republic (worth an estimated 45 million USD today):

I have owned my land since January 7, 1979 [the day Phnom Penh was liberated]. If you look at the history of that time, there were [at first] only 70 [Cambodians] in Phnom Penh, so individuals could own several houses or several pieces of land. It is easy for [people] to criticise senior [government] officials as corrupt, but look at the history … No one was using money yet. (*Phnom Penh Post,* 28 February 2015)

From this statement it seems that a small group of communist leaders acquired 'ownership' of large swathes of real-estate following the fall of Phnom Penh. It is likely that political leaders permitted this activity to solidify political networks by distributing the spoils of war in the form of urban real estate in place of hard cash, which was not reintroduced until 1980, setting in place a pattern of rent-seeking that has defined the leadership ever since. It is also likely that leaders accumulated assets to demonstrate their political power to discourage potential challengers from threatening their positions within the regime (Gottesman, 2004).

State distribution of resources and commodities became more important as informal markets began to develop where commodities and resources could be traded, and hence profits could be made, as the 1980s progressed. A changing geopolitical landscape in Vietnam meant that the government increasingly tolerated informal markets and began to relax their enforcement of key communist principles governing commerce (Gottesman, 2004). With regards to land markets, David Chandler (1996) notes that, despite the socialist sensibilities of the PRK, it is now generally accepted that the Vietnamese ruled with a relatively soft hand and did not impose a rigid communist doctrine, tolerating the informal exchange of land rights.

As part of this process of increasing state tolerance of market activity, there is evidence of nascent informal land markets emerging in Phnom Penh during the PRK period, with many land transactions reported in Phnom Penh during the 1980s, increasing in frequency as the decade progressed (Cambodia Development Resource Institute, 2007). These transactions appear to have been facilitated with a contract of sale written between two parties, which were sometimes witnessed by local authorities. There is, however, no detailed information available about the extent and nature of land market transactions at this time.

Regards, the development of Phnom Penh during this period, it is important to note that – like the Khmer Rouge before them – the PRK government viewed Cambodia as a rural country. Therefore, many of the reforms they implemented concerned agricultural production; there was much less focus on urban development. Initially, agriculture remained organised on a collective basis. Over time, however, traditional family farming methods were reintroduced as each rural family was allocated a private plot of 600-2,000 m^2 for a house and private farming (Curtis, 1989). The government also implemented a system of rural taxation to fund public works to boost agricultural productivity and even provided state loans to farmers (ibid.).

In contrast, there was very little investment in public infrastructure in urban areas, including Phnom Penh. Roads remained potholed, electricity supply erratic and sanitation coverage low: a 1988 survey, for example, found that around 50 per cent of the city's residents had no functioning toilet (Mysliwiec, 1988). In addition, many families shared housing with others in order to support each other weather the difficult circumstances of 1980s Phnom Penh, which included high crime rates, a lack of basic services and the scarcity of consumer goods.

Phnom Penh did, however, slowly begin to re-urbanise through the 1980s. By 1981 the population had reached an estimated 300,000 to 400,000, including a few returning residents, but mainly consisting of rural families who had been displaced by war and who had never lived in a city before (Osbourne, 2008). The growing population made homes in abandoned housing, occupying any structures that were found empty (Khemro and Payne, 2004). It is also during this period that unplanned settlements began appearing in Phnom Penh as the available stock of vacant property diminished (Urban Sector Group, 1994). As will be demonstrated in later chapters, migrants constructed dwellings in a range of public spaces, usually controlled or administered by government ministries or the military.

3.6 The emergence of private property

In 1989 the Vietnamese withdrew from Cambodia and an independent Cambodian government, the State of Cambodia (SOC), was formed. Though new in name, the SOC was simply a repackaged PRK, with leaders Hun Sen, Chea Sim and Heng

Samrin maintaining their positions as rulers of Cambodia. After the Vietnamese departure, however, the former communists quickly abandoned their socialist principles and implemented a raft of market reforms (Hill and Menon, 2013).

One of the first acts of the new government was to install the regulatory apparatus to enable formal property ownership and exchange. In 1989 a decree was passed that that permitted homeownership in Phnom Penh for the first time since the fall of the city to the Khmer Rouge fifteen years earlier. In this sense, the SOC represented the beginning of a new period of tenure and land administration in Cambodia based on the concept of legal private ownership.

The decision by the Cambodian government to implement market-based tenure reforms were primarily a pragmatic response to the changing domestic situation in Cambodia, including the growth of informal land markets, and the growing trend toward marketization across transitioning socialist economies globally (Gottesman, 2004). Tenure reform was not, initially, the direct product of international financial institutions or other global policy making entities, which did not become active in Cambodia's land sector until the mid-1990s, as I will discuss presently.

The 1989 decree invested in a person(s) or entity the legal right to apply for a land title, which was considered definitive proof of ownership. In a similar fashion to the post-Soviet transition in 1990's Eastern Europe, the approach encouraged households to apply to the state for formal title to their land. As was discussed in Chapter 2, this neo-liberal doctrine posits that as socioeconomic development progresses, land prices increase and the incentive to encroach on others' land increases, more and more people will start to apply for formal title. In response to this growing demand, the apparatus for managing formal land will develop appropriately in response to the changing needs of society and the increasing price of land.

In Phnom Penh, the allocation of titles was not defined by price mechanisms, however, but by the same patronage governance structures that characterised the distribution of state resources during the PRK period. In this way, the Cambodian reforms had a similar affect to the Russian land privatisation model: pre-existing power structures meant that formal ownership remained the preserve of the urban elite (Engvall and Koko, 2007). Worse, in Phnom Penh, the law ushered in a period

of rabid capitalism, where top officials acquired swathes of valuable real estate, evicting low-income groups in the process (see Chapter 5). Consequently, Engvall and Kokko (2007: 7) assert that the land law became 'a "get rich quick" manual for the upwardly mobile who knew how to satisfy the formal registration requirements'.

3.7 Donor-supported tenure frameworks

One of the greatest changes in tenure associated with Cambodia's market reforms relates to the stakeholders involved in shaping land policy. Crucially, by replacing socialism with capitalism, the government reconnected Cambodia to global circuits of aid, bringing to an end decades of isolation from the 'western' or 'capitalist' world (Shatkin, 1998). During the Khmer Rouge period, the country's interactions with the outside world were limited to a few socialist states, including North Korea, China and (initially, before relations deteriorated) Vietnam. From 1979 an international embargo on the Hanoi-backed PRK government and ongoing civil war meant that flows of capital and knowledge into the country came only from the communist bloc, particularly from the Soviet Council for Mutual Economic Assistance (Gottesman, 2004). The Vietnamese withdrawal in 1989 signalled the end of these socialist alliances and paved the way for western development assistance and the resumption of bilateral relations with governments in North America, Europe, and other aligned countries globally. It also heralded the beginning of relations with multi-lateral organisations representing these interests, such as the United Nations, World Bank, the Asian Development Bank and the International Monetary Fund.

The first major donor intervention in Cambodia's was made by the United Nations in the early 1990s. The United Nations Transition Authority in Cambodia (UNTAC) intended to bring to an end the guerrilla war waged by Khmer Rouge remnants by administrating free elections in the country (Widyono, 2007). In promoting democratic reforms, the intervention also hoped to replace a decade of patronage governance presided by Hun Sen and other top leaders. This process began in 1991, when the Paris Peace Agreement secured the participation of the various Cambodian factions in UN-administered elections scheduled for 1993. This was the first UN mandate to take on many of the roles of a state, including the authority to supervise

judicial processes throughout Cambodia 'to ensure the maintenance of law and order and the protection of human rights and freedoms' (Donovan, 1993: 6). Although the 1993 UN-backed elections were won by the opposition party FUNCINPEC, the results were not accepted by the leaders of old regime, Hun Sen, Chea Sim and Heng Samrin, who had rebranded themselves as the Cambodian People's Party (CPP). Instead, a coalition government was formed, with CPP leader Hun Sen and FUNCINPEC leader, Prince Ranariddh, acting as 'co-prime ministers' until 1997, when Hun Sen consolidated his power in a bloody coup d'état.

The coup did nothing, however, to dampen the flow of aid to Cambodia. Over the coming decade, international financial institutions, aid agencies and NGOs flocked to the city, and became a key fixture in the country's development. In this context, the land sector became a key area for reform (Hendrickson, 2001; Hughes, 2009; Springer, 2009).

In the mid-1990s donor organisations became increasingly visible in shaping the Cambodian government's land policies. In 1995, the Asian Development Bank (ADB) made the promulgation of a new land law (which became known as the 2001 Land Law) a condition of future funding, and in the mid to late 1990s German and Finnish government development agencies started pilot land titling projects (Torhonen, 2004). Since 2000, the World Bank's role has become increasingly prominent. With the World Bank as principle technical and financial backers, and with German and Finnish support, the government started the process of formalising the entire country, implementing the Land Management and Administration Project (LMAP) in 2002.

The LMAP has been the most significant donor-supported intervention in land administration in Cambodia to date. Through the project, planners aimed to formalise all land rights in Phnom Penh – and Cambodia as a whole – by titling every eligible private plot of land, classifying and demarcating state-owned land, and strengthening the capacity of the land ministry to enforce property rights equitably, predictably and transparently (Cambodia Development Resource Institute, 2007). During the first five-year funding period, the World Bank expected to formalise the land ownership rights for 198,000 parcels in Phnom Penh, accounting for the majority of the city's dwellings, including many of those in unplanned settlements

(World Bank, 2002a: 43). The Bank expected that the LMAP would be funded for a second phase, as had been the case for the World Bank-funded land titling project in neighbouring Thailand, which was supported over three phases (ibid.). As noted in the introduction, however, the LMAP ended prematurely in 2009, although titling continued after then with support from other donors.

The LMAP is a typical example of the institutions-centred Post-Washington Consensus international development paradigm. It required significant reform of regulations and institutions associated with land administration in Cambodia. The comprehensive programme of reform it entailed was included in the World Bank's (2002a) *Project Appraisal Document*, which set out the detailed plans for project implementation around five components (Figure 3.2).

Component 1 involves building the regulatory framework to achieve a universally applicable, formal system of tenure in Cambodia. This includes the installation of institutional mechanisms to facilitate the development, promulgation, implementation and monitoring of land laws and policies. New laws that ensure equitable access to secure land tenure are to be published and made easily accessible to the public, and mechanisms put in place to ensure that policy makers are held to account and have their decisions debated in public and academic forums (World Bank, 2002a).

Figure 3.2: Components of the LMAP

Component 1: Development of land policy and regulatory framework
(a) Development of the capacity of the Secretariat of the Council of Land Policy.
(b) Formulation of key policies for land administration and management.
(c) Development and drafting of legal instruments.
(d) Dissemination of policies, laws, rules and regulations.
Component 2: Institutional development
(a) Long-term institutional development of the Land Ministry at all levels.
(b) Project management.
(c) Development of land management and administration education program.
(d) Development of a private surveying industry.
Component 3: Land titling program and development of a land registration system
(a) Information dissemination and community participation.
(b) Systematic land titling program.
(c) Sporadic land titling program.
(d) Development of a modem land registration system.
Component 4: Strengthening mechanisms for dispute resolution
(a) Strengthening the national cadastral commissions.
(b) Strengthening the provincial cadastral commissions.
(c) Legal assistance for disadvantaged.
Component 5: Land management
(a) Clarification of procedures for defining different classes of land, such as forest land, protected area land, private land, and public private land
(b) Procurement of aerial photographs and satellite images as needed.
(c) Preparation of land classification maps for each of the project provinces showing boundaries of forests, protected areas, land under private use, land under public use, land under concession, and other types of land use.

Source: Adapted from World Bank 2002a

Component 2 aims to build the institutions capable of enforcing regulations and laws relating to property registration, transfer and ownership in Cambodia. This component links closely to the recent trend in best-practice land tenure interventions: to build the institutional capacity of the state to enforce property rights and enable markets to function effectively (see Chapter 2). To this end, the LMAP sought to develop the institutional capacity of the land ministry – the Ministry of Land Management Urban Planning and Construction (MLMUPC) – to enable it to implement and enforce a universal system of private property rights. Component 2 entails the significant expansion of the MLMUPC and its transformation into a large institution capable of executing a diverse set of roles regarding land administration. The General Department of Cadastre and Geography is responsible for training the cadastral officials involved in titling, storing details of landholdings and maintaining the central database for land title registration and issuance. To ensure that state power is spatially extended across Phnom Penh and the country, the MLMUPC employs a hierarchical land governance structure. The central ministry in Phnom Penh constitutes the highest authority, followed by Provincial Land Management Offices (or Municipal Land Management Office, in the case of the capital, Phnom Penh), which are located in the main urban centres of every province, and then District Land Management Offices. These local offices are responsible for collecting and maintaining cadastral records, which are then fed to the MLMUPC in Phnom Penh. In this way, the state's power is administered at different levels; the result is that household interaction with the apparatus of the state regards land administration will increase.

Components 3 and 5 of the project relate specifically to the administrative and practical aspects of formalising the entire country, from rural smallholdings to urban housing to vast areas of tropical rainforest. The most important way this was to occur was through the systematic land registration component – perhaps the most administratively demanding aspect of the LMAP. This process involves numerous steps. Once a district is earmarked for systematic titling, the MLMUPC-trained titling teams will be deployed there. A demarcation officer will determine the boundaries of parcels of land, while the adjudication officer will clarify the property rights associated with that parcel (World Bank, 2002a). If there is no dispute, the ownership rights of adjudicated parcels will be publicised by the local authorities.

The decision will then be ratified by local and provincial authorities and sent to the MLMUPC where a formal title is issued. In tandem to this process the survey officer will note the location of each parcel of adjudicated and titled land, which will then be included in the national cadastral database. Titles can also be obtained through sporadic land registration, which refers to a process where an applicant applies to the MLMUPC of their own accord.

The Cadastral Commission (Component 4 of the LMAP) is set up to deal with disputes arising from LMAP-associated titling – both systematic and sporadic. The commission is intended to replace the informal role of local authorities in mediating disputes because it is believed that their process does not conform to principles of 'good governance', namely procedural transparency or accountability (World Bank, 2002a).

As the preceding overview of the project demonstrates, the LMAP has been associated with significant changes in Phnom Penh's land sector. Not all of these changes, however, have been associated with the state apparatus. As donor involvement in land policy has increased, so too has NGO activity. The number of NGOs assisting the vulnerable to benefit from the LMAP and associated land reforms has grown rapidly over the past two decades, mirroring the expansion in donor land-sector activity. This has included an increased presence of international NGOs, such as Human Rights Watch, Amnesty International, and the Centre on Housing Rights and Evictions, as well as local organisations, such as the Urban Sector Group and Cambodian Centre for Human Rights. These groups have advocated for land titles for vulnerable households in a variety of ways, and have become particularly adept and negotiating the shifting political, regulatory and institutional arrangements governing land tenure in the capital (See Chapter 6).

3.8 Land market activity outside the formal framework

In tandem to the expansion of formal tenure, a number of other 'informal' mechanisms used by those unable or unwilling to use the formal framework have proliferated over the past two decades. Important in this respect are the large number of informal settlements in Phnom Penh, which, since the late 1980s, have grown

rapidly in both size and number (Figure 3.3; Urban Resource Centre, 2002). By the end of the 1990s, residents of unplanned settlements accounted for an estimated 15 percent of Phnom Penh's population of just over a million (Sovannarith et al., 2001). Today, the population is estimated to have grown to 250,000 at the most recent estimate (Phnom Penh Municipality, 2012). Such settlements are spread across the city, but mainly associated with former public spaces, such as riverbanks, lakes, parks, canals and other greenfield sites. Many residents of informal settlements do not have formal ownership documents, and so utilize other 'informal' mechanisms of tenure and property exchange. Even outside unplanned areas, many residents in planned accommodation do not have titles – a legacy of the Khmer Rouge's destruction of all property records in the 1970s (Grimsditch and Henderson, 2009).

Figure 3.3: Location of unplanned settlements in Phnom Penh 1994
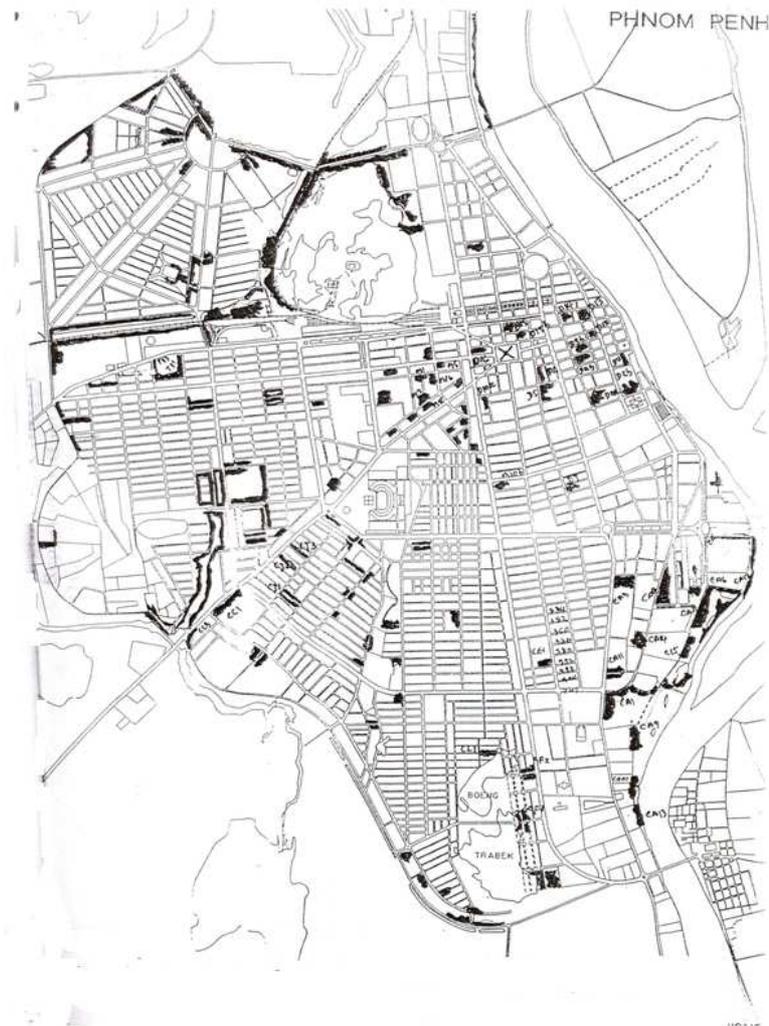
Source: Urban Sector Group, 1994

The most comprehensive survey of 'informal' tenure systems in both planned and unplanned areas of Phnom Penh was conducted by the Cambodia Development Resource Institute in 2007 (Cambodia Development Resource Institute, 2007). The survey demonstrates the ubiquitous role of local authorities in administering land ownership and transactions outside the formal framework.

Before detailing the results of the CDRI survey, it is useful to put them into context by briefly outlining the main administrative divisions of Phnom Penh. Local government in the city can be divided into four tiers. The highest tier is Phnom Penh Municipality. Below the municipality there are District government offices, of which there are nine in Phnom Penh. Below the district are commune offices, of which there are 76 in Phnom Penh. The lowest administrative division of government in Phnom Penh is the village; on average there are between 15 and 20 villages in each commune.

The CDRI tenure survey noted that most of the properties in Phnom Penh conferred ownership through documents provided by these local government offices, rather than formal titles provided by the land ministry (the MLMUPC). The results of the CDRI (2007: 41) survey suggested that 86 per cent of plots (out of a total of 1,658) included in the survey had semi-official ownership documentation, including papers issued by the district (50 per cent) and the commune or village (36 per cent). Only 5 per cent were in possession of a legal title. The remaining respondents either had no documents or documents not stamped by any local authority. Similarly, the transfer of ownership had typically been facilitated by local authorities. The survey found only a tiny minority (0.3%) of the 1,012 reported land sales were formally registered at the MLMUPC (Cambodia Development Resource Institute, 2007: 50). The majority of transactions (60 per cent) were documented at the commune level, while 20 per cent were documented at the village and 13 per cent at the district level. Local authorities facilitated the sale of property by providing a stamped receipt of the transaction.

Although the CDRI survey was conducted nearly a decade ago, the types of tenure it highlights are still ubiquitous in areas where LMAP titling has not taken place: in such areas, tenure documents and transactions facilitated by local authorities remain prevalent (Flower and Grimsditch, 2015).

3.9 Conclusion

Cambodia's history of land tenure is inextricably linked to its urban history. From the historical analysis presented in this chapter, three salient trends emerge in relation to property reforms and urban development.

First, the state has often distributed property rights to elites as a way of consolidating, extending or projecting political power. In the Angkor, period elites were provided with large parcels to extend the margins of the empire and shore-up support for the king. In the colonial period, titles were distributed to secure investments for a colonial urban elite in central Phnom Penh, and in rural areas through the provision of land concessions. During the 1980s, government officials were able to amass large swathes of urban real estate because of their connections to the regime. This trend continued into the 1990s, when property was privatised – as will be discussed in-depth in the next chapter.

Second, the association between urban areas as 'civilised' or 'progressive' spaces where property rights systems flourish, in contrast to rural spaces which are 'traditional' and 'reactionary' has been a defining feature of property reforms in Cambodia. From the Angkor period to the return of the free market, tenure reforms largely ignored rural small-holders, instead providing titles to urban properties and/or concessions to agricultural land to urban elites. The exception to this trend was the Khmer Rouge, and to a lesser extent the PRK, which targeted property reforms, such as collectivisation, at agriculture to increase productivity in the sector. Despite the differences in desired outcome between socialist and capitalist land reforms, both used the conception of rural and urban difference as a model to implement their tenure reforms. For the French, and later King Sihanouk, tenure reform underpinned urban development, just as it underpinned rural development for the socialists. The impact of mechanisms of ownership associated with the LMAP on Phnom Penh's development will be explored in depth in the remained of this thesis.

Third, the extension of property rights to sections of the population considered legitimate citizens is a recurrent theme throughout Cambodian's history. In the Angkor period, the right to own property was extended to all freemen, while slaves were not permitted to formally own property. Similarly, in the French and Sihanouk periods the urban poor were often denied land ownership rights as an 'illegitimate'

social group. As the following chapters will demonstrate, the relationship between ownership documents and urban citizenship are an important feature of the LMAP.

The more recent donor-funded land reforms have been justified as an attempt to remove the inequalities that have defined past systems of tenure. They aim to provide tenure security for all Cambodians, and to bring other benefits associated with titles, including increased investment and equitable access to affordable credit. In doing so, titling aims to create a fairer society based on the principles of good governance and inclusive growth. The justification for this most recent foreign intervention is, therefore, much the same as the land laws implemented by French colonial administrators. The key question which will be addressed in the following chapters is whether more recent donor-funded interventions have improved the lot of ordinary and low-income urban residents or whether they have resulted in the same inequitable tenure regimes that defined the French period and subsequent systems of private property rights.

Chapter 4: Methodology

4.1 Introduction

This thesis is based on over a year of fieldwork in Phnom Penh during 2012-2013. It draws on a variety of methods, including a survey of over 200 households, over 80 key informant interviews, archival research and a variety of other data. In this chapter, I detail the range of qualitative and quantitative methods I have used to assess the effects of donor-funded land titling in the city. The chapter is organised as follows: first, I review the methodological approaches to land market analysis in the literature and describe the approach to data collection and analysis I use in this thesis, which is structured around the city-wide and household scales. Second, I explain my use of city-wide research methods, including analysis of documents, key informant interviews and other fieldwork activities. Third, I discuss my household-level research strategy, explaining site-selection criteria, providing an overview of the sites, and describing my approaches to data collection and analysis. I conclude by considering the ethical aspects of the fieldwork and the limitations of the research methods employed.

4.2 Overall methodological approach

4.2.1 Approaches to land policy analysis

It has been suggested that methodologies for land market analysis follow either neoclassical or political economy traditions (Jones and Ward, 1994). Neoclassical methodologies test policy interventions against a pre-defined set of economic criteria as markers of policy success or failure, typically relying on econometric analyses. Such an approach has, however, been criticised for reducing an array of social interactions to economic principles (Fine, 2001). In land policy analysis, a focus on economic indicators alone misses uneven distributions of power that frequently affect policy outcomes (Jones, 2000), simplifies and codifies complex social relations associated with land ownership (Varley, 2002) and fails to account for the

wider historical, political and socioeconomic factors that affect tenure security (Gilbert, 2002).

A methodology informed by political economy methodology, on the other hand, views property as a social construction. A focus on the social relations that have produced land has facilitated the application of a variety of methodological tools, including discourse analysis (Yiftachel, 2009), historical research methods (North, 1990), household surveys (Varley, 1987) and ethnographic methods (Brickell, 2014). These tools have revealed land-policy formulation to be a dynamic practice associated with shifting geopolitical priorities (Hirsch, 2011; Springer, 2013) and influenced by a range of historical, political, economic and social conditions, which can generate both winners and losers (Jones and Ward, 1994; Hunt, 2004; Varley, 2010).

Both political economy and econometric methodological approaches have been applied to Cambodia, generating a variety of results and policy implications. An econometric analysis using census data found that farmers with formal ownership documents achieved higher rates of productivity than farmers who did not have such documents: higher tenure security among those with formal documentation was found to be the casual mechanism increasing productivity (Markussen, 2008). On the basis of this finding, the study concluded that titling would increase tenure security, rates of investment and agricultural productivity.

Studies inspired by political economy have used methodological tools that look more closely at the process of implementation to present a more nuanced picture of titling's impact in Cambodia. Robin Biddulph (2010) mapped rural areas where titling had been deployed by government against areas where land conflicts were highest and found an important discrepancy: titling tended to be implemented in areas with low instances of land conflict and high tenure security such that it had an insignificant impact on tenure insecurity. This political economy analysis challenges the econometric assumption that titling automatically results in increased tenure security, highlighting constraints in the implementation phase. Biddulph notes that the goal of donor programmers to provide title to residents of areas where people suffered insecurity was not achieved because it was against the interests of powerful figures, concluding that 'the development industry is poorly equipped to engage in

political struggles which involve opposing the projects of a host nation's political elite' (Biddulph, 2010: 224).

As well as identifying top-down interference, political economy analyses have suggested that programmers' goals have also been undermined by local-level processes in Cambodia. Buntheon So (2010) highlights the issue of 'cadastral sustainability', using survey data to chart post-titling land transactions in rural Cambodia. He finds that many of those who received titles went on to transfer ownership rights through informal mechanisms, rendering the cadastral database out of date and undermining donors' desire to promote tenure security through formal ownership.

Political economy methodologies have also looked at the process of implementation on a broader geopolitical scale, drawing on governance- and discourse-focused analyses, and viewing titling in Cambodia in the context of a global battle of ideologies, cultures and classes. These methodological approaches have uncovered global hierarchies of power that contribute to the spread of capitalism to the detriment of poor Cambodians (Hughes, 2009, Springer, 2013). These latter works have been highly critical of land titling and other projects as neoliberal reforms intrinsically designed to dispossess the poor.

The example of land titling policy analysis in Cambodia demonstrates how findings can vary greatly depending on methodological approach, even when examining the same issue in the same location. The econometric approach of Markusson (2008) assumes titling will result in positive outcomes, the political economy methodologies of So (2010) and Biddulph (2010) show how positive intentions may be mediated by elite capture, while the geopolitical methodologies employed by Springer (2013) have asserted the inevitability of titling fomenting tenure insecurity.

4.2.2 Approach of this study

In this thesis I use political economy methodologies to study the impacts of the LMAP in Phnom Penh. The methodological tools I use are closely linked to the overall aims of this thesis: they have been developed to explore both the positive and negative aspects of titling – both in terms of its implementation and its outcomes – and to identify the ways that low-income groups can benefit in the context of titling.

These guiding methodological principles are linked to the policy-oriented conceptual framing of this thesis, outlined in Chapter 3.

To achieve these aims, my data collection and analysis has operated at two scales: the city-wide scale and household scale.

At the city-wide scale, I have taken a broad view of the LMAP as an intervention with implications across Phnom Penh. I have looked in detail at the legal and institutional reforms that have occurred as part of the project, and explored how both residents in unplanned settlements and outside them are treated in the law and in practice. This has entailed, firstly, a consideration of the temporal aspects of land governance in Phnom Penh. To this end, I have considered the LMAP in its historical context, exploring how reforms associated with the project have differed from property regimes before them. In particular, I have looked at differences in relation to their provision of equitable access to legal ownership documents across the city's different sub-groups. I also consider how the implementation of the LMAP is linked to other political, social, economic and cultural changes in Cambodia, and in international development discourse more generally, that have occurred over the past two decades. Secondly, I explore the city-wide spatial aspects of the LMAP, identifying areas that have received titles, areas that have not and analysing the reasons underlying the state's allocation of titles across the city. I consider how the distribution of titles has led to city-wide changes in the urban landscape, highlighting in particular the role of titles in facilitating large-scale domestic and foreign investments.

I also assess the outcomes of the LMAP as a city-wide reform at the household scale. I attend to what difference titles have made to recipients and non-recipients across the city in relation to key indicators associated with titles, including tenure security, housing investment and access to credit. To capture these household-level effects, I have conducted surveys in three contrasting sites: an 'ordinary' planned settlement where titling has occurred, an unplanned settlement where titling has occurred and an unplanned settlement excluded from titling.

The methods used in the production of this thesis broadly conform to these two different scales of analysis, and hence the remainder of this chapter is structured around city-wide and household methods. Similarly, in my analysis chapters, the

temporal- and spatial-based analyses of titling rely on the data from city-wide methods (Chapters 5 and 6), whereas the assessment of household-impacts of title in relation to tenure security, investment and credit rely on survey data and key informant interviews (Chapters 7 and 8). In Chapter 9, I draw on both city-wide and household-level data to paint a complex picture of titling and urban change in Phnom Penh, suggesting that this process occurs at multiple scales.

4.3 City-wide methods

4.3.1 My role as a participant in Cambodia's land sector

My knowledge of Phnom Penh's land sector is rooted in my experiences of living and working in the city. I arrived in Cambodia in 2009 and immediately began working with the Centre on Housing Rights and Evictions (COHRE), which was one of the key organisations representing communities that had been excluded from the LMAP and were facing eviction. After this, I worked as a researcher at the Cambodia Development Resource institute (CDRI) – Cambodia's leading policy research institute – where I participated in a project assessing the impact of titling in urban and rural areas. It was at CDRI that I spent the next five years working at their head office in Tuol Kork in central Phnom Penh. From 2014 onwards, I worked as a consultant for other projects relating to titling and land tenure in Phnom Penh's unplanned settlements, principally as part of the European Commission-funded Human Rights Spatial Planning Projects 1 and 2. These projects involved the mapping of unplanned settlements and collating and analysing residents' tenure documents.

Participating in the urban land sector in Phnom Penh has meant that I have experienced many aspects of land administration in the city. While advocating for communities under threat of eviction, I developed hands-on experience of the responses of communities facing eviction, the processes by which NGOs would support threatened communities, and the strategies of government to push through evictions. This experience was particularly useful in my analysis of NGO strategies to obtain titles for those in unplanned settlements in Chapter 6. Having worked with the NGOs involved in these cases, I had a good knowledge of the strategies they

deployed and was, therefore, able to provide an in-depth analysis developed through my participation. I have been able to define and contrast different approaches of NGOs (see Chapter 6 on the differences in strategies between sectoral and advocacy NGOs), and highlight successful tactics that have been used to obtain titles for residents living in unplanned settlements.

My professional relationships with people and organisations working in the land sector also enabled me to source laws and relevant policy documents, maps and other data, which were integral to the production of this thesis. A good example is the official correspondence between municipal and LMAP officials that I draw on in Chapter 6. The letter details areas to be excluded from the LMAP's systematic titling component when the project was rolled out in the commune of Tonle Bassac, and gives reasons why certain areas were being excluded from the project. This communication had been obtained by NGOs and subsequently shared with me through professional contacts. It provided an important insight into the reasons why officials excluded some areas, and the processes through which these exclusions were actioned.

Through considerable time spent in unplanned settlements over the course of five years, I have been able to observe how land markets work and the documents associated with both 'formal' and 'informal' tenure, which proved valuable in developing an in-depth understanding of the laws, regulations and practices of *de jure* and *de facto* tenure across the city. This understanding has enabled me to provide perhaps one of the most in-depth analyses of tenure in Phnom Penh to date. In Chapter 3, 5, 6 and 7, I have provided details of the types of documents associated with the various tenure mechanisms, the level of official recognition and security associated with them, and the forms of property transfers that they have facilitated.

Perhaps as important as my professional experiences have been my personal relationships with those involved in the land sector. As a systematic titling project that involved significant legal reform, the LMAP affected everyone in Phnom Penh to some extent. I knew friends and acquaintances that lived in areas that had been excluded from titling, for example, and others that had obtained titles and used them to access loans or for other purposes. Through personal relationships with development workers in the land sector, I was also privy to confidential information

about large-scale land transfers and other procedural aspects of titling. While I have not used information yielded from personal 'off-the-record' encounters directly in this thesis, the knowledge I have developed as a result of them has provided the solid base on which this thesis has been built. Moreover, these personal encounters have opened up avenues of inquiry that have led me to other sources of information and data that I have used in this thesis. For example, off-the-record information on the relationships between key tycoons and officials involved in large land transactions provided me with the key details (names and places) that I then explored more fully using different sources, such as newspaper articles and other forms of online fact-checking. This approach is in evidence in my analysis of patronage networks and land transfers in Chapters 5, 6 and 9.

As a result of my role as participant in Phnom Penh's land sector, I have enjoyed relatively privileged access to a breadth of sources. Such access may not be available to researchers who have not been embedded in development work in the same way I have. I hope that my privileged position in this regard, and the deep immersion it has afforded me, has brought new insights to the issues covered in this thesis.

As well as being a participant in Phnom Penh's land sector, I was also a resident of the city for many years. My experiences as a resident and as a participant in urban life have also informed many aspects of this thesis. During my period of residence in the city, I saw significant changes in the urban landscape. I witnessed the removal of low-income settlements in violent evictions, and the development of large, residential and commercial complexes in the spaces that unplanned settlements once inhabited. I came to know areas of the city associated with rapid development, and have watched them transition over the years. Every day I travelled across the city, and became well versed in the everyday rhythm of urban life, a key aspect of which has been the widening disparity between the economic elites and lower-income groups. I also participated in the cultural life of the city, including engaging with artistic representations of Phnom Penh's transition. I assisted with the annual Our City Festival arts programme over 3 years, which explored artistic responses to Phnom Penh's rapid transition and residents' reactions to it through the medium of site-specific public art.

Living in such a rapidly changing urban space and experiencing it in myriad ways on a day-to-day basis has affected how I have consciously engaged with key themes in the city's development in this thesis. It has also, perhaps, affected me at a sub-conscious level by influencing how I have interpreted issues associated with titling and urban change. This is particularly the case in relation to the strong emotional response associated with viewing the injustice of urban transition, replete with evictions and elite capture of valuable real-estate.

4.3.2 Documents

Analysis of documents relating to land administration in Phnom Penh was crucial to understanding the roots of the LMAP, the structure of the project, and the historical, political and socioeconomic context in which it was implemented. Given the wide scope of the project, it was also necessary to use secondary sources to gain an appreciation of its range of outcomes across Phnom Penh – an impossible task if relying exclusively on primary methods given the resources available to me as a PhD researcher.

I spent a significant period of time searching libraries, archives and collections of documents in Cambodia, together with web archives, and in requesting material from donors and other contacts. I amassed hundreds of documents, which I organised and coded around key themes and by source. This documentary analysis gave me a solid foundation on which to identify, approach and interview key informants.

Legal and policy documents

Assessing the legal and policy frameworks associated with the LMAP was the foundation on which my research has been built. A solid legal understanding was important, first, to identify the LMAP procedures in relation to titling in unplanned and planned areas, and in relation to large-scale investment and land concessions; second, to facilitate an analysis of policy intentions against policy outcomes; third, to enable me to identify the complex ways that the LMAP has been used by actors such as the government, private-sector elites, civil society and communities to promote their own interests; fourth, to place the LMAP in the wider context of international development policy analysis.

I accessed a variety of legal and policy documents in the production of this thesis. Key donor documents were readily available and provided the overall aims and framework for the project. The most important of these was the Word Banks's (2002a) Project Appraisal Document, detailing the rationale, scope and intent of the LMAP. Other useful documents included the LMAP Project Credit Agreement (World Bank, 2002b), which detailed the government's commitments to the World Bank having received the project loan, and the Inspection Panel review of the LMAP (World Bank, 2010) – a response to the LMAP's failure to secure tenure for those living around Boeung Kak Lake, detailing the procedural irregularities of that case.

Laws promulgated by the Cambodian government were also important to understanding the LMAP. The project has been designed as a package of land reforms and is governed by a myriad of complex legal processes. The most important laws in this regard are the Constitution of 1993, the Civil Code of 2011 and Land Law of 2001 – theoretically in that order according to legal precedent. In practice the 2001 Land Law is the key document detailing property rights and establishing criteria for legal ownership. The 2001 Land Law is supported by a number of sub-decrees that establish the legal procedures and details needed to implement legal requirements, such as a detailed framework for demarcating public land or implementing systematic land titling. Other sub-decrees amend and/or add clarifications to the law. I have collected and analysed numerous other legal documents, such as circulars, announcements, letters and cadastral maps that have enabled me to identify the regulatory structures of land management in Cambodia.

Obtaining all relevant laws and regulations was challenging and I cannot be certain I was successful. All laws are published in hardcopy in the Royal Gazette in the Khmer language: accessing these hardcopy laws regularly and obtaining accurate translations was beyond my capacity. Instead, I relied on newsletters from the international law firm DFDL, which provides summaries in English of all laws promulgated by the government on a monthly basis. If there was an interesting law that looked relevant to my research I could then track it down and get it translated. I also obtained translated land laws from the German government's land rights programme, from other websites such as Open Development Cambodia, and from contacts working in the land sector. While this thesis is up to date with relevant laws

as of 2016 (to my knowledge), it is possible (indeed probable) that some legal points may become out of date as new laws are promulgated.

Historical material

Political economy approaches to land market analysis suggest that reforms are often mediated by local contextual factors. Following this insight, I collected data relating to historical land polices, regulatory frameworks and patterns of ownership and conflict in Phnom Penh. In doing so, I hope to identify the historical factors that have affected the project's implementation and explore differences the LMAP has engendered in Cambodia's land governance.

I collected historical legal documents relating to land privatisation in Phnom Penh, including important laws promulgated in the late 1980s and early 1990s that permitted homeownership for the first time since the fall of the city to the Khmer Rouge fifteen years earlier. These documents were crucial for establishing the legal regimes prior to the donor-funded interventions of the late 1990s and 2000s, and the processes of acquiring titles at that time. In addition, I collected cadastral and other maps to determine patterns of land ownership across Phnom Penh during the pre-donor period.

Perhaps the most important source of historical data came from research I conducted at the National Archives of Cambodia. There I discovered a large cache of documents covering historical land disputes during the UNTAC period (1991-1993). The UNTAC civil administration in Cambodia was responsible for monitoring human rights abuses as Cambodia prepared for elections in 1993 and in theory 'correcting' abuses where they occurred (Williams, 1999:26). I spent time searching through complaints made by residents to Phnom Penh provincial headquarters of the UNTAC civil administration relating to land conflicts. The case files included witness statements, signed declarations, copies of property documents and other evidence. They provided an important insight into the nature of land conflicts at that time, which often involved powerful figures who remain influential in public life to this day.

Online newspaper archives were also important for establishing past patterns of land conflict. The *Phnom Penh Post* and the *Cambodia Daily* – the two most widely

circulated English-language newspapers in Cambodia – have archived news reports dating from the early 1990s. These news sources provided important information on historical land conflicts in Phnom Penh and the political context in which they occurred.

Finally, WikiLeaks US Embassy cables provided a fascinating behind-the-scenes insight into the behaviour of the political and diplomatic elite regarding land policy and ownership in Cambodia, from the 1970s to 2011. The cables include reports of confidential conversations between diplomats and political leaders regarding the distribution of titles and details of the relationships between the political and economic elite, which were helpful in establishing how laws were wielded by those in power and to what ends. It was of note that land policy and land conflicts were a prominent issue in the cables, underscoring the importance of these issues in contemporary Cambodian life.

Web research

I acquired information about large-scale investments and those behind them through web searches of companies active in Phnom Penh's land sector. This research uncovered details of patronage governance that influenced the distribution of titles and large-scale investments in the city. For example, by visiting the websites of prominent redevelopers I obtained details about the companies associated with certain parcels of land or disputes, and established links between companies – some of which extended beyond Cambodia's borders – thus revealing important networks through which land transfers have been actioned. I also drew on the websites of global real-estate agents, such as CBRE and Frank Knight, to investigate the increasingly global nature of Phnom Penh's land markets and to acquire data on property prices.

Databases

I used a number of databases to determine patterns of land ownership, investments and relocations of urban poor communities. I utilised a database provided by the Cambodia Development Resource Institute (CDRI), of around 2,000 households, to explore pre-LMAP tenure systems across the city, and a database provided by the NGO Sahakum Teang Tnaut to view the location, characteristics and distribution of

ownership documents in unplanned settlements in Phnom Penh. I also drew on census data and the World Bank's World Development Indicator database to explore broader socioeconomic changes in the city.

4.3.3 Key informant interviews

Key informant interviews were an important tool enabling me to understand how the LMAP had worked in practice during its implementation phase, how practice deviated from policy, and how the LMAP contributed to urban change in Phnom Penh. Overall I conduced over 80 key informant interviews, with officials, donors, community representatives, community members, civil society representatives and private sector actors (See Appendix 1). I attended most interviews with my research assistant, Mr Sim Vichet, a final year Bachelor studies student in Environmental Studies at the Royal University of Phnom Penh (RUPP). Vichet had a good understanding of land law and related issues and so was particularly helpful in interviews; when interviews were conducted in Khmer he acted as interpreter. Where possible I recorded interviews and later transcribed them. In some cases, however, people asked that I did not record our meetings.

Government and donor officials

As they are responsible for making key decisions about how the LMAP is implemented, I tried to interview relevant officials in the Land Ministry. Unfortunately, however, I was unable to meet many despite repeated requests transmitted through different channels. I did manage to interview two district-level cadastral officials, but I found that these interviews were disappointing and yielded little useful information; because of the sensitive subject matter, the interviews were quite tense. When I asked sensitive questions (for example: 'have there been any areas excluded from titling and if so what were the grounds for these exclusions and who authorised them?'), I would get no response. These incomplete responses were unsurprising. As I suggest in later chapters, the process of implementing the LMAP at the higher levels is made deliberately opaque and characterised by smoke and mirrors. In most cases, speaking with higher-level officials about such topics on the record is unlikely to provide a complete representation of how the project is implemented.

Much more forthcoming with information about the LMAP were commune-level government officials. The commune (of which there are 67 in Phnom Penh) is an urban administrative category between district (of which there are seven in Phnom Penh) and village (of which there are over 600). These officials were more involved with the day-to-day administration of their areas and facilitated a diverse range of land-related activities, such as providing informal conflict-resolution mechanisms or documents to enable people to access credit, and recording transactions and other transfers. Interviews with commune officials were useful for finding out more about the LMAP's implementation – concerning, for example, areas that had been excluded - and also to gain the opinions of experienced sub-national officials about the impact titles were having on land administration and property markets in their areas.

Interviews with donor officials from the World Bank and GIZ were also fruitful. These interviews provided detailed information about how the project was implemented from the donor perspective and about problems that had been encountered, as well as opinions on why these issues had arisen. Donor employees had a direct insight into the project because they worked with the government – often in the land ministry – to implement the project.

Village officials and community representatives

I conducted interviews with community representatives that were very helpful in developing a bottom-up view of how the project was implemented. Village chiefs, local level officials who lived within a 'village' – the lowest administrative unit of government, consisting usually of a few hundred households in central urban areas – provided both details of and opinions about the project in relation to their local area. Although they are affiliated with a political party, officials at the village level are also members of their community. As a result they were very engaged with titling because it affected them both as citizens and as local officials.

In addition to village chiefs, I also interviewed other community representatives in unplanned settlements. In unplanned areas, villages could have larger populations and were often organised around a number of NGO-supported savings groups. Often, the leaders of these savings groups were women from the community who had received leadership and community-mobilisation training from an NGO. These

leaders were a good source of information as they had usually lived in the community for a long time, were very willing to talk to outsiders and often had detailed records of events of the community. They could say what kind of documents people had and provided detailed histories of the community.

Civil society organisations

Cambodia has a long tradition of active civil society groups, many of which have been important actors in the land sector. There are two main groups of NGOs working with urban poor communities in Phnom Penh: human rights NGOs providing legal and advocacy support and urban sector NGOs providing material support for infrastructure upgrading and for savings groups, as well as other services.

Human rights NGOs work mainly in areas where things have gone wrong with the implementation of the project. Important land rights groups in Cambodia have included the now-defunct Centre for Housing Rights and Evictions (COHRE), Cambodian Centre for Human Rights (CCHR), Equitable Cambodia (EC), Sahakum Teang Tnaut (STT) and others. These groups provide legal assistance to communities that have been excluded from adjudication under the LMAP and/or that are facing eviction. Interviews with such civil society informants were important because they allowed me to identify cases where the LMAP has not been implemented correctly or where weaknesses in the LMAP meant that secure tenure has not been achieved for marginalised groups. The interviews also helped me to develop an understanding of the strategies used by human rights NGOs and the communities with which they worked to access titles and increase tenure security.

By contrast, organisations that work with the urban poor on issues other than land rights advocacy – for example, in promoting savings groups or providing technical and material assistance for settlement upgrading – tended to engage with authorities in a different way. The main difference was that, unlike the advocacy groups, these organisations were not averse to working with local and municipal authorities. Examples of such groups include the Community Development Fund (CDF), Community Managed Development Partners (CMDP), Urban Poor Women for Development (UPWD) and others. In interviews I explored how the LMAP had intersected with the activities of these groups.

Private sector

A different perspective on land titling in Phnom Penh was provided by private sector stakeholders associated with the city's land sector. Specifically, I was interested in whether the LMAP had changed the investment behaviour of domestic and international companies. I was able to meet representatives of a Hong Kong-based real-estate company involved in land acquisitions and developments in Phnom Penh to discuss what impacts titles were having on large-scale land investments in the city. I also interviewed officials from two of Cambodia's 'big three' banks, including the head of mortgages of ACLEDA and ANZ Royal and a former CEO of ANZ Royal. These meetings proved particularly fruitful in highlighting the importance of titling in relation to access to credit for redevelopers, and how, in turn, increased availability of credit had important implications for land-related investments in Phnom Penh.

4.3.4 Data from other research projects

In the production of this thesis, I have drawn on focus group discussions, interviews and surveys with residents in unplanned settlements I have completed as part of the EC-funded *Human Rights Based-Spatial Planning* (HRBSP) project, implemented by People in Need (PIN), Sahakum Teang Tnaut (STT) and Urban Poor Women for Development (UPWD). This is currently the largest civil society project concerning land rights and tenure security in Phnom Penh, targeting 5,000 households in unplanned areas under threat of eviction. I have worked on HRBSP I and II since 2013, conducting focus group discussions and implementing surveys regards the legal status of residents in the communes of Charang Chamres and (in the near future) Boeung Tumpun. The on-going project aims to document and strengthen the possession claims of target households, who were under threat of eviction from the government. I have not used questionnaire data from this work, but have drawn on key informant interviews and more general experiences and insights garnered from my involvement with the project as a consultant.

I have also drawn on focus group responses from my work as a consultant on the EC-funded *DIPECHO IX: Building Disaster Resilient Communities II* project, implemented by a broad consortium of NGOs led by Action Aid. In this project, I looked at the problem of flooding and other disasters affected urban poor

communities in the Chbar Ampov and Russei Keo districts of Phnom Penh and the city of Kampong Cham. The study considered how tenure and related issues – such as investment and access to credit – intersected with resilience to disasters, and so provided some relevant information for this thesis. I have obtained the relevant permissions to use data from these projects.

4.3.5 Making sense of multiple streams of data

The range of sources drawn on in this thesis presented logistical challenges because of the volume of material that needed to be assessed. To meet this challenge, I developed a strategy to follow clear lines of inquiry, drawing on multiple sources of data to support my assertions. Often, the starting points for these lines of inquiry came from my role as a participant in Phnom Penh's land sector. I would often become aware of key issues through off-the-record conversations I had with associates, or leads from key informant interviews. In following up these lines of inquiry, I took on the role of a 'detective', sorting through documents, databases, exploring specific points in key informant interviews and linking data sources together to paint a full picture of a particular issue.

There are numerous examples of this kind of approach being used in the production of this thesis. In Chapter 5, for instance, I used multiple sources of data to explore the issue of titles being used by corrupt officials in the transfer of public land to well-connected tycoons. From my work as a development professional, I was aware of the name of a prominent business tycoon with a reputation for land grabbing who was particularly active in Cambodian politics during the 1990s. With this information, I searched the national archives for records of conflicts where he was an actor, finding one in a downtown area of Phnom Penh, which involved the transfer of state public property by officials to his company, and the eviction of residents living in an unplanned settlement. Searching through archived newspaper articles I was able to ascertain the tycoon's high-level political contacts and find examples of other conflicts in which he was involved. In this way, I used multiple sources to provide an in-depth analysis of a transfer of state land to a prominent tycoon and the accompanying dispossession of a poor community, thus demonstrating the mechanics of a ubiquitous process of urban transition in 1990s Phnom Penh.

This 'detective' process of uncovering data enabled me to draw links between a complex web of companies and individuals, which is in particular evidence in Chapters 5, 6 and 9. Fact-checking data from multiple sources was an important aspect of this process because of the opaque nature of distributing titles and valuable areas of real-estate.

4.4 Household-level analysis of project implementation and outcomes

Household surveys are a useful tool to assess the outcomes of land policies (Varley, 1987; Payne et al., 2009; Van Gelder, 2010). Survey data enables comparisons to be made between those who have received titles and those who have not and between the experiences of respondents before and after titling. My household-level analysis is based on questionnaire data from three contrasting survey populations. I supplemented questionnaires with more in-depth interviews to gain a detailed understanding of the outcomes of titling in the survey sites. In this section, I first detail the criteria used to select survey sites, before providing an overview of the sites. I then explain my data collection and analysis methods.

4.4.1 Rationale for survey site selection

The rationale underlying survey site section was to capture a range of titling-related outcomes, highlighting the positive and negative aspects of the LMAP, and identifying the project's winners and losers. To achieve this, I selected three survey sites, which covered a variety of outcomes associated with the distribution of LMAP titles across Phnom Penh. I selected one survey site that was an unplanned settlement that had been excluded from titling. The exclusion of unplanned settlements from the titling process has been a defining problem of the LMAP; excluded communities are considered the main losers of the project (Grimsditch and Henderson, 2009). Therefore, exploring the experiences of this group has been a key aim of this thesis. I also selected an unplanned settlement that had been included in the LMAP and where residents had received titles. There has been no analysis of such areas so far in the literature, but highlighting the experiences of these residents is crucial if the full spectrum of LMAP-related impacts on residents of unplanned settlements in the city is to be captured. Finally, I chose one site located in a planned area of the city.

Planned residential areas account for the majority of title-related experiences in the city, yet this population has been largely ignored in academic debates on titling in Phnom Penh, and, indeed, internationally (Simone and Rao, 2012). To address this information lacuna, I wanted to assess what effect titles had on residents in such areas. As shall be discussed presently, I selected a planned site where a proportion of residents had received titles, and a proportion of residents had not received title because of bureaucratic constraints, but expected to in the near future. In this context, I was able to assess the difference title made to recipient households.

The sequencing of the LMAP's implementation also had an important bearing on site selection. For obvious reasons, survey sites needed to be in an area that had already been titled, which limited the pool of possible sites as much of Phnom Penh remained untitled by the time of fieldwork. In addition, I wanted to select sites where residents had received titles as early as possible, to maximise time during which changes in the area or in their behaviour could have become apparent. Two of the earliest areas to receive titles were the commune of Tuek Laark Muoy, where systematic titling had begun in 2007 and households had received titles in 2008, and the nearby Tuek Laark Bai, where titling begun in 2009, with households receiving titles in 2010. The relatively long period between (some) respondents receiving titles and fieldwork meant that there was a reasonable period of time for titles to have had an impact. After speaking to the commune chiefs I found two appropriate sites in these areas In Tuek Laark Bai there was a large unplanned settlement on a former greenfield site where residents had received titles, while in Tuek Laark Muoy there was an unplanned settlement adjacent to a railway line had been excluded from titling. I selected these two unplanned sites as fieldwork locations and a further planned area in Tuek Laark Muoy (Figure 4.1). Tuek Laark Muoy was selected because it was a planned residential area typical of central Phnom Penh, where residents had received titles towards the beginning of the project. It was also in the same district of the city as the two unplanned sites and so in a preferable location from a logistical point of view.

Figure 4.1: Location of survey sites
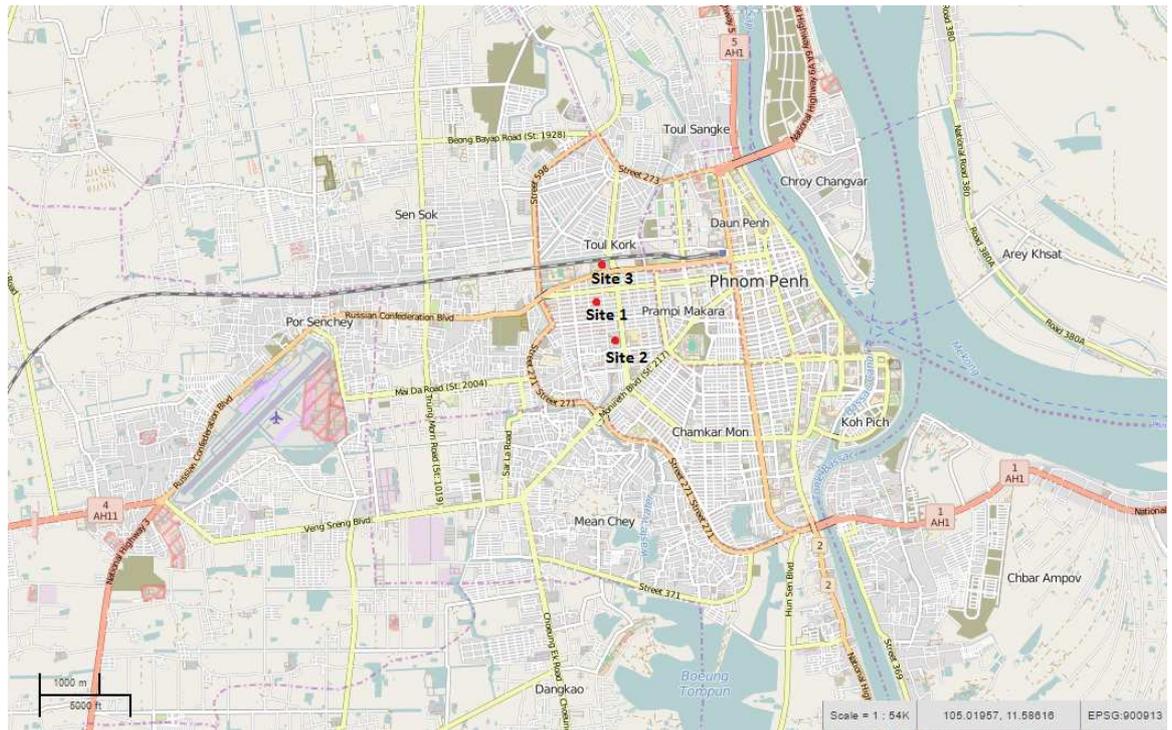
Source: Open street map

4.4.2 Overview of the survey sites

Site 1 – An 'ordinary' settlement where titling had taken place

Location: District Tuol Kork, Commune Tuek Laark Muoy, Villages 1 and 2.

Site 1 is a planned residential area typical of many neighbourhoods in Phnom Penh. The area included approximately 300 households and is in one of Phnom Penh's four urban districts, to the east of the historic centre. The commune was built between 1954 and 1975, as part of the expansion of the city sanctioned by King Sihanouk, and houses the Royal University of Phnom Penh, one of the great Van Molyvann-designed pieces of architecture in Phnom Penh. In 1975, like the rest of Phnom Penh, residents in the area were evacuated to the countryside and the area remained empty (like the rest of Phnom Penh) until the ousting of the Khmer Rouge regime in 1979. Most residents occupied their property for the first time in the 1980s or purchased their plot in the 1990s as many large plots were subdivided (see Chapter 7).

The population of Site 1 were engaged in a diverse range of livelihood activities, from low-income clothes washers living on side streets to higher-income shopkeepers living on the main streets. Many people were vendors in an open-air market located on a main street in Village 1. In recent years many households had supplemented their income by adding rooms to their property which they rented out to migrant workers and students.

According to village chiefs, between 60 to 80 per cent of households received title in 2008. The reason why some households had not yet received titles was that cadastral officials did not have the technical skills or regulatory instruments to create multiple titles for a single land parcel (i.e. in apartment buildings, a title for households on the first floor, a title for households on the second floor and so on). It was promised that these cases would be addressed in a second round of titling. While these households had not received titles, their land parcel (as oppose to their share of the building) had been registered in the cadastre, so it was not regarded as state or public land.

The distribution of titles in Site 1 was unrelated to household socioeconomic characteristics linked to tenure. This was an almost identical situation to the 'natural experiment' survey sample in Buenos Aries (Di Tella et al., 2007), which consisted of an unplanned settlement where a portion of residents had received titles and a portion of residents had the delivery of their titles delayed due to bureaucratic constraint, but expected to receive titles in the future. The authors note that such a tenure situation provides a useful context in which to isolate the difference titles make to a household's socioeconomic activities.

Site 2 –   an unplanned settlement where titling had taken place

Location: Khan Tuol Kork, Commune Tuek Laark Bai, Village 1

Site 2 is an unplanned settlement consisting of 211 households located just south of Tuek Laark Muoy. Like Tuek Laark Muoy, the area was originally built during the rapid expansion of Phnom Penh during the 1960s. Site 2 is located on what was once an open space and wetlands in an otherwise residential area. Settlers started to move to the area in the early 1980s, and gradually began reclaiming land from the lake and building makeshift dwellings from wood (see Chapter 7). During the 1980s and 1990s, the settlement was considered illegal by authorities as the land was claimed

by the Ministry of Culture and Fine Arts. An archived land dispute from 1992 shows that a restaurant and nightclub built on a portion of the land was forced to shut because the ministry claimed the plot was needed for the development of a cultural centre, although this planned construction never occurred (see Chapter 6).

Today the area is furnished with narrow paved roads and is connected to municipal electricity, water and sewerage infrastructure. The dwellings include a variety of structures, ranging from self-built shacks made from wood or low-cost alternatives to newly constructed structures made from concrete. Respondents reported a variety of low-income livelihood activities; common jobs included public sector workers (e.g. police officers, teachers), small business owners and informal sector workers (e.g. food-stall owners, motor-taxi operators) and other service sector employees (e.g. security guards, hotel staff).

Despite being considered an illegal settlement prior to 2009, the village was not excluded from titling when the commune was declared an adjudication zone by the authorities. Cadastral officials began registering residents' individual property claims in 2009 and households received titles confirming their legal ownership in 2010. As in Site 1, some households did not receive titles because of technical and regulatory constraints, such as those arising from multiple owners per plot. As a result, the village chief estimated that 50 per cent of households had obtained titles and that the rest would receive titles later in a second round of titling.

Site 3 – an unplanned settlement excluded from titling

Location: Khan Tuol Kork, Commune Tuek Laark Muoy, Village 15

Site 3 is an unplanned settlement of 257 households in the same commune as Site 1, Tuek Laark Muoy. The settlement is located in a former marshland area near the Royal University of Phnom Penh and close to the main railroad track out of Phnom Penh. It was settled in the early 1990s. According to the village chief, most of the population moved in between 1992 and 1995, either reclaiming vacant marshland or purchasing sub-divided plots. The properties are self-built and of a worse quality than Site 2, although residents had access to public electricity, water and sewerage (see Chapter 7). Residents worked jobs to those in Site 2, but there were fewer public

servants and business owners and more informal sector workers, such motorcycle-taxi operators, hawkers and other informal traders.

None of the residents in Site 3 had titles as the village was excluded from titling when the commune was declared an adjudication zone for systematic titling in 2008. Cadastral officials did not visit households in the area to assess their property claims and since then there has been no sign that officials intend to provide those in the area with titles in the future.

4.4.3 Data collection

The majority of my time on fieldwork was spent conducting household surveys. In total I conducted 204 questionnaires across the three survey sites at a rate of around five a day. Overall, during the fieldwork period I collected data from 92 households in Site 1, 64 in Site 2 and 48 in Site 3. I would have liked to have reached more than 60 households in Site 3, but there was a political issue which meant we were unable to continue surveying in the area. Our fieldwork was conducted during the very tense 2013 election period and the opposition party-affiliated village chief who granted our research was replaced by a governing party-affiliated chief, who no longer permitted us to carry out household surveys in the area during the pre-election period.

My strategy for implementing the survey included the following steps.

First I developed the questionnaire to cover issues related to the outcomes and implementation of titling, including access to credit, investment in housing and other issues (see Appendix 2). I then consulted researchers at CDRI with experience in implementing land policy-related surveys for their advice and feedback, and amended the questionnaire accordingly. I decided to keep many questions open and code them later, so as to better capture the potential diversity of perspectives that we might encounter. I also conducted numerous role-playing exercises with my research assistant, Vichet, to refine the survey.

I then met with the village chiefs of the respective survey sites and provided them with a letter written in Khmer introducing me and the research project. I asked for the basic demographic data for the area, details of common tenure documents, information about land conflicts and the issues related to the settlement's history. As members of their communities, the village chiefs were knowledgeable in this regard

and provided detailed histories of the area. I sought permission from each village chief of my intention to conduct a questionnaire in the area.

After obtaining permission from the village chief, Vichet and I then began carrying out the survey in the respective sites. We walked down streets, knocked on people's doors, introduced ourselves and asked if they were willing to be interviewed for the survey. In areas that were titled (Site 1 and Site 2) we collected responses for households that had received titles and for households that had not. If a person indicated a willingness to be interviewed, we presented them with a letter in Khmer explaining who we were and what we were doing and assuring them that their participation would be anonymous. We made it clear that this was a PhD research project the results of which would provide them with no direct benefit. Some households would say they were too busy or did not want to be interviewed, while others were happy to participate.

If someone agreed to be interviewed, Vichet would ask the questions in Khmer and fill out the questionnaire, and I would make additional notes separately clarifying where necessary. When there was an interesting answer we would deviate from the questionnaire for a while and continue as a semi-structured interview before then returning to the structured questions of the questionnaire. In this way, we were able both to collect survey data and gather more open-ended interview data from respondents. As well as survey responses, we collected interesting information on the history of the settlements, the rumours of developments and evictions and people's personal concerns and experiences of titling. Each interview usually lasted from 45 minutes to an hour. Some were shorter - if, for example, the respondent had just moved to the area, had not invested anything in the property and had no reported credit activity.

We selected times of day and week to conduct interviews to reach the widest possible sample. For example, we did not interview any households between 10.30am and 1.30pm because women would be at the market and then preparing lunch during these periods. Instead, we conducted fieldwork between 8.30am and 10.30am in the morning and between 2pm and 5.30pm in the evening when women as well as men would also be able to participate. We also conducted research on the

weekends to ensure we did not miss male and female respondents who were working during the week.

After each interview day we would return to the CDRI office where Vichet and I would go through the day's responses, clarifying any outstanding issues and writing up notes. This reflective process was very valuable in extracting accurate data from each interview and improving the implementation of the questionnaire. For example, when we first started carrying out the survey, we began by asking households about their socioeconomic characteristics, such as number of people in the household, profession, education etc. This strategy confused people, because we had told them we wanted to know about titling and they could not understand why we wanted detailed personal information. Their suspicions were heightened because of the looming election. In many cases, this first section of interview was quite tense and people asked us on many occasions why we wanted this kind of information. We therefore changed the sequence of questions, to start with questions directly related to titling. Respondents were much more comfortable talking about their experiences in this regard and rapport was strengthened during this line of questioning. We included the household characteristics questions at the end of the questionnaire as a 'last few questions', which greatly reduced suspicions, because respondents were by then satisfied as to our intentions.

4.4.4 Data Analysis

After the survey was completed, I developed a coding system for open-ended questions to enable data entry and proceeded to code all answers systematically. Once all the questionnaires had been coded, I created a database in the SPSS software programme and entered the data. During this process, I put in place mechanisms to minimise human error in data input, such as conditions which prevented conflicting responses being entered. Once all the data had been input and 'cleaned' I began analysis. I decided to use descriptive statistics so that the study could be understood by the widest possible audience and focused my analysis on how tenure security and the investment and credit-seeking behaviour of households had been affected by titling.

4.5 Ethics and limitations of the research

While I believe that my research methods were appropriate for this study, it is important to acknowledge their limitations and also consider the ethical implications of some of the techniques used.

An important data source for this thesis has been archived documents. As noted earlier in this chapter, such materials include land dispute cases from the UNTAC archives, articles from the main English language newspapers in Cambodia and also the WikiLeaks archives of US embassy cables. Relying on this archival material to paint a picture of historical and present-day land disputes can be problematic because of the political positions of those who have produced the material. In Chapter 5 in particular, I have drawn heavily on archived UNTAC documents. Using UNTAC civil administration case files in this way runs the risk of presenting Cambodian history from the perspective of the UN, and thus potentially missing competing points of view with regards to land-related issues. The propensity for some forms of archival material to espouse certain political or ideological positions is well documented in the literature (Ellis, 1992). In the case of UNTAC case files, however, I hope that the coverage of land conflicts is balanced: the material included the verbatim statements of all stakeholders involved in the conflicts, including residents' in unplanned settlements, and the tycoons and government officials whose actions were the subject of residents' complaints. These statements contained no interpretation by UNTAC officials and I believe, therefore, they constitute an accurate representation of the views of the various stakeholders involved in the land conflicts cited.

In addition to the 'traditional' forms of archival sources used in this thesis, I have also drawn on electronic archives, namely US embassy cables published by WikiLeaks. These cables are characterised by the political leanings of their authors, which are aligned with the strategic interests of the United States' government. Therefore, using the cables as a single source would be problematic because of the one-sided representation of events one would convey. Given these constraints, I have used US embassy cables as one of multiple sources of data to look at certain events, relationships and policies. In the main, I have not used the interpretations of US officials of events described in the cables, but have drawn on the factual content

contained therein. For example, in Chapter 5, I have used data from the cables to explore relationships between economic and political elites, rather than rely on their interpretations of these relationships in relation to Cambodia's governance structures. This kind of data is important because although at a superficial level the relationships between tycoons and officials are well known, the WikiLeaks documents provide in-depth accounts of these links garnered through high-level access afforded to top American diplomats. Where I have used the interpretations of officials, they have been clearly cited and not presented as fact. In Chapter 5, for example, I note that a World Bank official interpreted the close relationships between tycoons and officials as a sign that Cambodia had become a 'corporatist' state.

An important ethical consideration regards using US embassy cables related to the sensitive and often confidential nature of the material. This was particularly the case regards the Cambodian sources cited by US diplomats. Analysing the cables, I was surprised to see that the names of sources for some sensitive information had not been redacted by WikiLeaks. In many cases where a source was cited, the author of the cable had included the word 'PROTECT' in parentheses. Presumably, this was intended as a security measure to ensure the US embassy's sources were not divulged to the public and thus compromised and potentially put in danger. WikiLeaks had not taken the time to redact these names, some of whom were prominent human rights activists working in Cambodia's land sector. I was careful not to include any information from WikiLeaks that would compromise sources in this way.

During fieldwork my position as a western male affected my research strategy when working in low-income areas. As Gill Valentine (2005) observes, the positionality of the researcher is an important consideration when conducting fieldwork in developing countries. My position as a relatively wealthy western male may have affected some of my interactions with research participants. Respondents may have provided responses that they thought I wanted to hear, or felt compelled to provide me with information that they would rather not have, or omitted things that they may have believed would reflect badly on them. I took numerous steps to mitigate issues associated with my positionality. I tried to build rapport with participants by speaking Khmer (the main language in Cambodia). I attended Khmer language

lessons for over a year prior to fieldwork, and developed my vocabulary to understand issues around land conflicts, land documents, credit activity and housing investment, in addition to more typical conversational topics. If there were parts of conversations I could not understand, I would ask my research assistant Vichet to translate. My language skills enabled me to understand key issues during interviews and, in doing so, meaningfully interact with participants to foster a friendly atmosphere. Most participants seemed to find speaking to a foreigner in Khmer a novel and enjoyable experience, and would ask my questions about my personal life (e.g. whether I was married, if I had any siblings, why I came to Cambodia), which I answered. I should also mention that I had worked in Phnom Penh at a Cambodian organisation since 2009 and had developed an understanding of social and cultural cues. For example, if I could see a certain line of questioning was making a respondent uneasy I would cease.

I was clear with all respondents about the scope and aims of my research and my affiliations with UCL and CDRI. Most respondents were unaware of either organisation, although some officials were aware of CDRI because of other surveys implemented by the organisation in their areas. As noted earlier, I was very careful to make it clear that neither respondents nor their community would derive any direct benefit from participating in the research: I did not represent an organisation that would provide infrastructure upgrading or related activities. I did not y respondents for participating in the survey, or key informants for interviews, and on only one occasion was I asked for money. Doing so might have affected responses and could also have impeded the activities of others researchers unable to pay participants. Instead, on the advice of other researchers I gave participants a bar of soap on completion of the questionnaire as a token gesture of my gratitude for their participation. The exception for this was day-long focus groups and participatory assessments implemented during consultancy work, where participants were paid five dollars each per day to compensate for their time; this was the policy of the NGO in question.

Given the sensitive nature of my research, it is possible that some data contained in this thesis may not be completely accurate. In particular, the data about credit activity may under represent true levels of borrowing as some respondents seemed uncomfortable disclosing their financial situation. For example, I asked one older

respondent whether he had obtained a land title, to which he replied in the affirmative, noting that it was currently with the bank. Later, when I asked him whether he had taken any loan from the bank he became defensive and said that he had not. Others would ask why I would think they needed to take a loan out in a slightly defensive tone. Younger people were much more open about their credit activity – an outlook that may be linked to an emerging culture of increased borrowing from microfinance companies and banks (see Chapter 8).

The funding for this thesis came from a UCL Impact Award Studentship, which aims to support policy-oriented research; co-funding was provided by CDRI, a Cambodian policy research institute. These sources of funding had an effect on my research by encouraging me to conduct a policy-focused analysis. From the UCL side, the research was designed to meet two of the College's 'Grand Challenges' by identifying policies that contribute to sustainable cities and human wellbeing (two of UCL's five Grand Challenges). CDRI also supported the research on the basis that it would yield practical policy suggestions that could appeal to a Cambodian audience, including Cambodian researchers, civil society and policy makers. In addition to this core funding, my fieldwork in Cambodia was supported with a Royal Geographical Society Award. The Slawson Award is also designed to support research with high policy impact, and so further contributed to the policy focus of this research.

The policy focus of this research potentially narrows the scope of inquiry to the specific effects of titling in Phnom Penh. To mitigate this, I have tried to conduct a broad policy analysis that relates the impacts of titling at the household and city-wide scale in Phnom Penh to global processes of development policy generation. In doing so, I hope to have provided policy analysis that is relevant to Cambodia, but also speaks to larger debates about titling and international development interventions.

Chapter 5: The Exclusion of Unplanned Areas from Cambodia's First Round of Titling, 1989-2001

5.1 Introduction

In this chapter, I analyse the patterns of exclusion during Phnom Penh's first round of titling. This period began with laws promulgated as socialist rule ended in 1989 and finished with the donor-supported land reforms of 2001. I suggest that laws relating to property registration excluded residents in low-income, unplanned settlements from receiving titles. Instead, titles to the land on which unplanned settlements were built were often transferred to powerful officials and tycoons through patronage networks to solidify political and business relationships among elites. In addition, the state controlled access to titles in order to transfer prime real estate from urban populations and practices that it deemed illegitimate (low-income groups living in unplanned areas) to those it considered legitimate (tycoons investing in redevelopment projects).

'Unplanned settlements' refer to areas of self-built housing constructed as Phnom Penh re-urbanised following the fall of the Khmer Rouge and the end of their policy of de-urbanisation. Those who could not find housing built dwellings in areas the state considered 'unplanned' including the city's open spaces, rooftops or large buildings that had been left to decay during the Khmer Rouge era (Khemro and Payne, 2004; Urban Sector Group, 1994). As noted in Chapter 3, by 2000 this population was estimated at 175,000 residents in a city of around 1 million (Sovannarith et al., 2001).

The chapter is structured as follows. I begin by exploring the context in which the exclusion of unplanned settlements from titling occurred. I argue that patronage governance, rapid privatisation and a negative perception of the urban poor among elites left the assets of the poor vulnerable to appropriation. I then assess how these underlying causes of exclusion were represented in inequitable legal frameworks and the inequitable distribution of land ownership documents. I draw on data from a CDRI baseline tenure survey of pre-LMAP tenure documents to explore patterns of exclusion from titling in the commune of Tonle Bassac commune – an area

associated with unplanned settlements, redevelopment and land conflicts. I then shift scale to present case studies of specific land conflicts involving unplanned settlements. I draw on archived reports of land conflicts investigated by the UN Transition Authority in Cambodia's (UNTAC) Civil Administration in the period 1991-1993. I discuss two land conflicts involving residents of unplanned settlements and powerful individuals to reveal in detail how exclusionary laws, patronage governance and negative perceptions of poor communities resulted in the exclusion of residents in unplanned areas acquiring ownership documents and the transfer of their land to elites.

Through this analysis, I hope to contribute to the literature on post-socialist transition in Phnom Penh. It is widely acknowledged that transition from socialism to capitalism in Cambodia in the late 1980s and early 1990s was inequitable and dominated by powerful vested interests (Heder, 2005; Hughes, 2003). In this process, Simon Springer (2013) notes the key importance of the promulgation of inequitable laws by government to dispossess the poor of their assets. This chapter builds on Springer's assertion providing a detailed study of the mechanics of exclusion and dispossession in relation to laws relating to urban land ownership in the 1989-2001 period, drawing on an in-depth analysis of historical legal documents and archived land disputes.

5.2 Patronage, privatisation and poverty in Cambodia's land sector

In Chapter 3, I discussed the patronage mechanisms of governance that emerged in Cambodia following the fall of the Khmer Rouge. In this section, I provide a detailed analysis of how patronage governance synergised with privatisation reforms that occurred in 1989. In particular, I explore the symbiotic relationship between tycoons and government officials as two elite groups that dominated political and economic life in the country, and detail how this relationship came to define Phnom Penh's land sector.

5.2.1 Public and private sector elite patronage

Land privatisation in Phnom Penh was implemented in a context of patronage governance. The leaders enacting mark-orientated reforms in 1989 were the same

small group that had presided over the decade of Vietnamese-sponsored socialism of the People's Republic of Kampuchea (PRK), from 1979 to 1989. Patronage governance, as I have noted in Chapter 3, defined the PRK government from its inception. Key leaders had long personal relationships most had belonged to the same Khmer Rouge unit and defected to Vietnam prior to the 1979 invasion and overthrow of the Khmer Rouge. Once in power, they quickly exerted political control by installing former associates into key political positions. Party discipline was wielded, and loyalty bought, by harnessing patronage networks based on the distribution of food aid, control of forestry, mineral rich areas and other commodities and resources (Gottesman, 2004). Mutually beneficial political relationships centred on the distribution of state resources in return for political support and were underpinned by strong personal, often familial, bonds (ibid). Powerful politicians vied to consolidate strong networks in strategically important bureaucracies, such as the Ministry of Interior and the Ministry of Defence, to boost their personal power. Chea Sim and Hun Sen, former Khmer Rouge comrades, emerged as the most adept at building such networks and by 1989 had become the PRK's most powerful leaders. They were able to wield considerable influence over the state's most powerful bodies (Frings, 1994).

Market-orientated reforms represented a significant change in Cambodia's economy, but the PRK's legacy meant that patronage remained a defining trait of the political system. In 1989 Cambodia saw the departure of the Vietnamese troops and advisers that had upheld a socialist republic for a decade, the liberalisation of the economy after 15 of years of socialism, and even a change in name from the People's Republic of Kampuchea (PRK) to the State of Cambodia (SOC). Moulding this process, however, were the same leaders that had governed through the 1980s.

The dual forces of patronage and privatisation enabled key figures to distribute newly created assets to cement their power. A key reform involved the commodification of urban land, which was implemented through the promulgation of a government decree in April 1989. The act of land privatisation was not implemented solely as an economic reform to stimulate land markets, but enacted in such a way as to consolidate the power of the ruling elite (Frings, 1994; Gottesman, 2004).

The Cambodian government sought to leverage land privatisation to tighten their grip on power through consolidating patronage governance in two key respects.

First, the 1989 decree meant that land was transformed into a commodity that had been 'given' to the people by a new government seeking to cement its legitimacy (Ledgerwood, 2008). The act of 'giving' sought to confer the leaders' right to govern through mobilising traditional conceptions of patronage and power. For Judy Ledgerwood (2008: 217), by redistributing land the Cambodian People's Party were:

> seeking to enact, however uncomfortably, a series of actions and a ritual activity that would appeal to a Khmer public that was still (to varying degrees) steeped in a tradition of celebrating hierarchical arrangements of leadership, tied to the public demonstration of political, economic and social efficacy. They were demonstrating that there was an established political order, as per Khmer tradition, even if they were not royalty.

Second, the ownership rights to prime urban land were allocated in a way to strengthen patronage networks among the political elite. This practice was essentially a continuation of the patronage politics of the PRK period, when political alliances were forged through the distribution of state resources with high revenue-generating potential – such as forested areas – to important officials (Global Witness, 2007; Gottesman, 2004). When land was privatised, urban real-estate became one of the most important and valuable resources that could be distributed by the state to consolidate patronage networks (Ledgerwood, 2008).

Soon after Phnom Penh's land was commodified international capital began entering the city, inflating land prices and providing greater incentives for elites to accumulate urban real estate. In particular, the incentive for officials and tycoons to enhance their property portfolios increased greatly when staff from the UN Transition Authority in Cambodia (UNTAC) came to Phnom Penh in 1991. At the time UNTAC was the largest UN operation in its history. Thousands of international staff descended on the city looking for property to rent and, as a result, the price of Phnom Penh real estate increased dramatically. A 1993 UNTAC report (cited in Khemro, 2001: 58) found that property prices in the capital increased fivefold between 1989 and 1993 because of intense speculation resulting from rising rental

fees. In this climate, well-connected officials were able to mobilise their patronage networks to seize valuable pieces of land with impunity:

> a massive land grab began, especially in Phnom Penh. Some officials
> began to act as though state property and vacant private property (or
> property that could be rendered vacant by the use of force) was theirs to
> occupy, 'own', and therefore sell. (Engvall and Kokko, 2007: 7)

The capture of urban real-estate by elites was only one part of patronage governance associated with land administration. The other part was the transfer of these resources to business tycoons, who were able to extract more value from urban properties through realising their redevelopment potential. Key to facilitating the transfer of land in this way were the strong personal and professional relationships between prominent businessmen and top government officials. In leaked US embassy cables, a former Cambodia Country Director for the World Bank asserted that links between government and tycoons were so close that Cambodia had transitioned from a socialist to a 'corporatist state'.[1] She highlighted the shady practice of channelling public contracts through trust networks to prominent businessmen. The patronage networks between the economic and political elite mirrored those of top government officials that had defined Cambodia's political system during the socialist period. Many tycoons had close personal relationships to politicians, or held political roles themselves. Figure 5.1, adapted from US Embassy cables, details the close relationships between the country's top tycoons and high-ranking government officials.

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[1] US Embassy Cables, 09PHNOMPENH515, 27/07/09

Figure 5.1: Relationships between tycoons and officials

Tycoon	Description and relationship with government
L.Y.P	- Amassed a large fortune from importing and exporting cigarettes, generating electricity, and running casinos and resorts; - CPP Senator and advisor to Prime Minister Hun Sen; - on the board of the Cambodian Red Cross, headed by Hun Sen's wife; - Sihanoukville Governor Say Hak is his cousin.
M.R	- Founded Mong Reththy Group Co., Ltd, which initially exported rubber to Singapore, Malaysia, China, and other Asian countries; - went to school with Prime Minister; - a board member of the Cambodian Red Cross and serves as a CPP senator as well as advisor to Humn Sen.
L.C.H	- Managing Director of Attwood Import Export Co. - business associate of Tep Bopha Prasidh, Minister of Commerce Cham Prasidh's wife; - business associate of Ngyn Sun Sopheap, the wife of the Director of the National Department of Customs and Excise; - a board member of the Cambodian Red Cross.
Y.P and L.Y.P	- One of the most politically and economically connected couples in the country; - has access to at least 315,028 hectares of land for agribusiness; - very close to Hun Sen and wife; - son married to Lim Chhiv Ho's (see above) daughter.

Source: US Embassy cable[2]

As shall be demonstrated in later sections of this chapter, elite patronage networks both facilitated large-scale land transfers and were strengthened through them: permitting tycoons to access urban land through informal networks benefitted corrupt officials by providing a revenue stream and benefitted companies and individuals able to obtain legal ownership of plots with redevelopment potential at below-market rates.

5.2.2 The urban poor as an illegitimate social group

In a context of patronage and privatisation, the urban poor were a group whose assets were particularly vulnerable to elite capture. While the government 'gave' property to elites and to citizens whose political support it required, residents of unplanned settlements were viewed by the political class as an illegitimate group that should not be permitted to live in urban areas, never mind own prime urban real estate. The government's 2002 National Strategic Development Plan, a flagship government policy document published every five years, demonstrates a widespread negative perception of the urban poor:

> both the authorities and the better-off city dwellers tend to blame the poor for their wretched conditions and stigmatise the poor as socially undesirable, criminally inclined, even mentally defective. The usual response from middle-class people and from officials is that the urban poor should be sent back to the rural areas where they belong. (Royal Government of Cambodia, 2002: 85-86)

At the heart of the negative perception was a long-held dichotomous conception of the functions of rural and urban areas and their respective populations (see discussion in Chapter 3). On the one hand, rural areas comprised the vast majority of ordinary Cambodians – their labour driving rice and rubber production. On the other, urban citizens – particularly in the capital – comprised the country's political and economic elite. The urban poor disrupted this dichotomous conception of Cambodian citizenship as comprised of rural/masses urban/elite – hence the belief that poor rural migrants to cities should be 'sent back to rural areas *where they belong.*'

The unplanned settlements where low-income urban residents would often reside were aesthetically incongruous with the vision of capitalist urbanity that politicians were keen to promote. Following market reforms, elites wanted to project Phnom Penh as a global city which reconnected Cambodia into the global economy following years of isolation (Khemro, 2001; Shatkin, 1998). Modern urban development became a matter of national pride; unplanned areas were associated with poverty and disorder and became a source of embarrassment and shame for the government. Consequently, in the 1990s the Phnom Penh municipality embarked on a series of beautification projects (Urban Resource Centre, 2002). Officials promoted urban development along the lines of those characterising neighbouring metropolises such as Bangkok and Ho Chi Minh – the Prime Minister even bestowed a national award on the developer of the tallest sky scrapper (*Phnom Penh Post*, 5 January 2006). Because unplanned settlements did not fit with the image of a modern 'global' Cambodia that the ruling party sought to promote, many were demolished by the authorities in the name of development. In the two-year period from 1994 to 1995, for example, approximately 1,700 households were evicted in the course of 'beautification' projects across Phnom Penh (Sahakum Teang Tnaut, 2011).

In the remainder of this chapter, I shall explore how these underlying drivers of exclusion found expression in Cambodian land laws and property transfers.

5.3 Tools of exclusion: inequitable legal frameworks

The underlying drivers of exclusion were represented in the promulgation and implementation of land laws by the Cambodian government. In this section, I explore the legal frameworks developed by the government to exclude residents in unplanned areas acquiring ownership titles. I then provide an example of exclusion in the distribution of ownership documents in the commune of Tonle Bassac – a centrally located area that has historically been associated with unplanned settlements and government-sanctioned urban development.

5.3.1 Exclusion and the 1989 decree and 1992 Land Law

On 22 April 1989 the government of Cambodia issued a decree that in principle paved the way for all Phnom Penh households to obtain ownership titles for their property. The decree stated that the government would 'provide ownership to each Cambodian family occupying any house in any commune or district of the country'.[3] In theory the 1989 decree permitting land ownership in Phnom Penh applied to all families occupying a home. In practice, however, the government established procedures for registering ownership rights that provided a legal framework for the exclusion of those living in unplanned areas. Circular 05, promulgated in June 1989, was a key procedural document in the exclusion of those living in unplanned areas from receiving ownership documents. It established the process by which households could apply for land titles, making a distinction between those occupying housing in planned and in unplanned areas. Owners of planned housing – planned accommodation on planned streets – were automatically eligible for title and could begin the application process at their local commune office immediately.[4] By contrast, people living in unplanned areas were not automatically eligible. Instead, municipal authorities would decide whether those living in such areas would receive titles on a case-by-case basis.[5]

While Circular 05 did not deem ownership claims of residents in unplanned areas illegitimate by default, it introduced ambiguity as to their legality. Those living in unplanned areas were unable to obtain documents recognising their ownership at their local commune office and so existed in a state of legal limbo until their eligibility for title was decided by municipal authorities. Later, the 1992 Land Law formalised the ambiguous tenure of those with 'unclear ownership status'.[6] It was decreed that such households could have temporary possession rights conferred with a certificate of 'temporary occupation' granted by the commune.[7] In doing so, the state formalised a class of 'temporary' residents who had no rights to occupy their dwelling permanently and who could be – and often were – evicted.

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[3] Article 2, Sub-decree No. 25 ANK, State of Cambodia, 22 April 1989
[4] Article 4, Circular 05, State of Cambodia, 3 June 1989
[5] Prakas No. 2746, State of Cambodia, 2 August 1989
[6] Article 67, 1992 Land Law, State of Cambodia, 13 October 1992
[7] Article 67, 1992 Land Law, State of Cambodia, 13 October 1992

The categories of owner/planned and possessor/unplanned were associated with a variety of legal documents (Figure 5.2). In planned areas, the process of applying for title typically generated a number of official papers, which could be used as proof of ownership in lieu of a title. First, when an application for title was submitted at the commune office, applicants would receive a commune receipt to show that the authority recognised the applicant's ownership claim.[8] If the claim was supported, the application would be sent to a sub-committee formed of commune representatives and cadastral officials who would arrange for a visit to survey the applicant's plot; 10-15 days before the visit a notice would be posted in a public area and neighbours informed of the applicant's intention to obtain a title (Sovannarith et al., 2001). The survey team would then visit the plot and demarcate boundaries, and if there were no ownership or boundary disputes, a standard form would be completed and sent to district authorities; the applicant would receive a survey paper receipt with a stamp from the district (this document is commonly called *Slab Moan*, which translates as *chicken wing*, in reference to the printed feather emblazoned on the document). If the claim was deemed valid, the district chief could then approve issuance of a land title, and communicate this to the central cadastral authority, which would enter the ownership details into the national cadastre, and a land title would be printed and issued to the applicant (ibid.).

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[8] Prakas No. 2746, State of Cambodia, 2 August 1989

Figure 5.2: Routes to obtaining pre-LMAP tenure documents

Ownership Documents   **Possession Documents**

```
┌─────────────────────────────┐          ┌─────────────────────────────┐
│ Applicant applies to register│          │ Applicant applies to register│
│ land at commune office.      │          │ land at commune office.      │
└─────────────────────────────┘          └─────────────────────────────┘
              │                                         │
              ▼                                         ▼
┌─────────────────────────────┐          ┌─────────────────────────────┐
│ Commune affirms household's  │          │ Commune categorises plot as  │
│ right to apply for ownership │          │ temporary and issues a       │
│ documents and issues an      │          │ CERTIFICATE OF TEMPORARY     │
│ APPLICATION RECIPT.          │          │ POSESSION or NO DOCUMENT.    │
└─────────────────────────────┘          └─────────────────────────────┘
              │                                         │
              ▼                                         ▼
┌─────────────────────────────┐          ┌─────────────────────────────┐
│ Sub-committee consisting of  │          │ If household transfers a     │
│ officials from the commune   │          │ property they can apply for a│
│ and district cadastral office│          │ TRANSFER RECEIPT, which is   │
│ demarcate boundaries of plot │          │ signed by local authorities. │
│ and if no dispute provide a  │          │ Otherwise, a receipt is      │
│ SURVEY PAPER.                │          │ signed by the two parties and│
└─────────────────────────────┘          │ not local authorities.       │
              │                           └─────────────────────────────┘
              ▼
┌─────────────────────────────┐
│ Sub-committee submits decision│
│ to district cadastral to be  │
│ confirmed; it is then verified│
│ by provincial cadastral      │
│ office. Finally, the record is│
│ entered into the national    │
│ cadastral database and LAND  │
│ TITLE is issued.             │
└─────────────────────────────┘
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Sources: Sovannarith et al., 2001; 1992 Land Law; Circular 05 1989

Given the complex (and costly) application process, there were relatively few titles distributed in Phnom Penh. Between 1989-2001, 5,649 titles were distributed in a city which in 1999 included just under 170,000 residential land holdings (Sovannarith et al., 2001: 20, 39). Many in planned areas considered the survey paper receipt (*Slab Moan*) an adequate ownership document because it listed the

coordinates of the parcel and was signed and approved by district authorities (Figure 5.3). In some cases the survey paper receipt was preferred to a land title because it meant the property could be transferred informally without incurring a transaction tax. It was understood that the survey paper receipt could easily be converted to full title for a fee if necessary and therefore was considered *de facto* title.[9]

Often, those in unplanned areas were unable to mount even the first rung of the ladder to acquiring a title: they were prevented from obtaining an application receipt from the commune. Officials would refuse to provide an application receipt because it would signal that the commune recognised that the household had a legitimate claim to ownership.[10] Instead, applicants were provided with documents that confirmed their possession of the plot (Figure 5.2). 'Possession' documents found in the course of my PhD fieldwork in unplanned areas often included commune- or village-endorsed certificates of possession, making no reference to ownership, and were often hand-written roughly (Figure 5.3). Frequently, households used records of land transactions signed by the village or commune, contracts between buyer and seller not ratified by any local authority, and other documents recording a transfer of land 'ownership', such as inheritance or gift as proof of their tenure rights. In other cases, households with no tenure documents would rely on other official papers, such as resident permits, to prove their occupation.

The legal framework defined in the 1992 Land Law and previous decrees on ownership, therefore, created two systems of tenure. First, in planned areas authorities recognised households' ownership rights and provided them with official ownership documents (though not necessarily full title). Second, in unplanned areas, residents were denied ownership documents and only granted papers acknowledging their temporary possession.

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[9] Interview with Research fellow (Social Development unit), Cambodia Development Resource Instituted (CDRI), Phnom Penh, 20 February 2014
[10] Interview with Commune Chief, Commune Tuek Laark Bai, District Tuol Kork, Phnom Penh, 6 February 2013

Figure 5.3: Pre-LMAP tenure documents
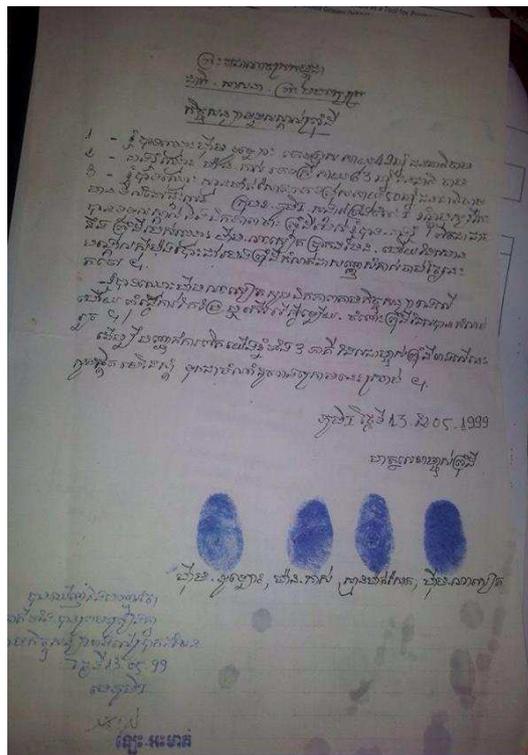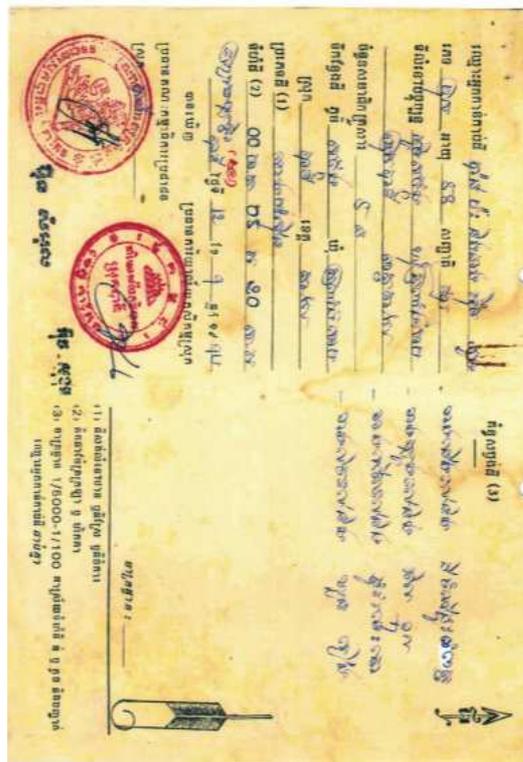
Note: Above: ownership document, survey paper receipt stamped by district authorities (*Slab Moan*). Below: possession document, handwritten letter that states that the named and finger-printed persons have occupied their property since 1999.

Source: PhD fieldwork

5.3.2 The distribution of tenure documents in Tonle Bassac

The commune of Tonle Bassac in central Phnom Penh provides a good example of how residents in unplanned areas were excluded from acquiring ownership documents, and the reasons underlying these exclusions.

The centrally located commune housed large unplanned settlements in the 1980s and 1990s, and was associated with rampant urban poverty. The presence of such settlements did not sit well with government officials: only a few decades earlier the same area had presented the pinnacle of Cambodian urbanism. During the rule of King Sihanouk in the 1960s and early 1970s the area was synonymous with Khmer modernist architecture and associated with national pride at a time when the nation had just gained independence from France (Nam, 2011; Simone, 2008). Many structures were designed by Van Molyvann in preparation for the GANEFO games – an alternative to the Olympic games for non-aligned nations. Planners intended the area to project to the globe the birth of a new nation with a rich history by marrying modernist architectural forms with nationalist symbolism. The commune housed several notable examples of Khmer modernist architecture, including the Bassac theatre, the Chaktomok theatre, the Hotel Cambodiana, the White Building (or *Bouding*) the Grey Building, the National Assembly and other government buildings.

One unforeseen outcome was that the open space incorporated in modernist designs (combined with the commune's central position) rendered the area a desirable location for poor migrants, who began to occupy the commune's derelict modernist structures and open spaces in the late 1980s and 1990s (Catalla, 2000; Khemro, 2001). In the eyes of the planners, this population did not 'belong' in Tonle Bassac and hindered the city's development: the people 'belonged' in rural areas not in central Phnom Penh, where they constituted a stark and very visible reminder of a poverty-stricken reality that leaders wanted to leave behind. Beng Hong Socheat Khemro (2001: 37), a high-level official at the Land Ministry and the son of a former governor of Phnom Penh, noted that authorities considered Tonle Bassac's unplanned settlements 'a disgrace to the city's image and the nation as a whole'.

This negative perception of residents in unplanned settlements in Tonle Bassac as illegitimate urban citizens meant that they were excluded from obtaining titles or ownership documents associated with them. The data in Table 5.1, drawn from a

Cambodia Development Resource Institute survey of pre-LMAP tenure documents, illustrates how residents of unplanned settlements in the commune relied on 'possession' rather than 'ownership' documents to secure their tenure. The data shows the tenure documents of respondents in two villages (an administrative unit below commune) in Tonle Bassac. Village 16 consisted mainly of self-built dwellings located in a large unplanned settlement; the village also included a small number of planned dwellings along a main road. Village 9 consisted solely of planned housing structures set in an established residential neighbourhood.

Table 5.1: Tenure documents in planned and unplanned areas

Tenure Document	Village 16 (unplanned)	Village 9 (planned)
Pre 2001 land title	1.5%	7.2%
Survey paper (*Slab Moan*)	--	82.6%
Application receipt	19.1%	4.3%
Letter of ownership transfer (commune level)	29.4%	5.8%
Letter of ownership transfer (village level)	29.4%	--
Letter of ownership transfer (not signed by authorities)	5.9%	--
No document	14.7%	--
Total	100.0%	100.0%
N	68	69

Note: Ownership documents are highlighted in grey

Source: CDRI survey of pre-LMAP tenure

In Village 16, the majority of households had some form of ownership document. Around 83 per cent had survey papers (*Slab Moan*) and 7 per cent had land title. From a legal perspective, 90 per cent of households had very secure property rights, with at least the coordinates and boundaries of their plots recorded in a document issued by district authorities (*Slab Moan*). By contrast, the majority of households in Village 9 had documents recognising only temporary occupancy. Nearly 60 per cent

of households had transfer documents stamped by local authorities – an even split between village- and commune-signed receipts. A significant minority – 15 per cent of all households surveyed – had no tenure documents of any sort. A portion of planned housing located in Village 16 probably accounted for the nineteen percent of households that had obtained commune-issued receipts for title and the single household had been able to acquire a land title.

When I visited Village 16 in 2013, I was told that residents had been systematically barred from obtaining land ownership documents over many years. [11] On many occasions, the village chief had enquired at the commune office about community members obtaining application receipts for title, but their applications were consistently refused. Residents were told by officials that they did not legally own the land and that the parcel belonged variously to the state or to a private company. According to residents the site was originally a greenfield site administered by Ministry of Defence. [12] In the 1980s military families were permitted by the ministry to build dwellings on the land. During the 1990s these families subdivided their property and sold it to new migrants. [13] The land title for the entire parcel of the area was thought to have been sold to a tycoon in the early 1990s, though details of the transaction were not made public and identity of the purchaser was unclear. [14]

5.4 Transferring real-estate via patronage networks

In the previous section I demonstrated how those in unplanned areas were excluded from legal ownership. In this section, I explore the processes through which their land rights were distributed to political and economic elites. I focus on two land conflicts to demonstrate how the process of transferring land among elites worked in practice. The first case involves a conflict between a high-ranking official and residents in an unplanned settlement, and the second, a conflict between residents and a tycoon. In this section, I draw on archival materials from the UNTAC period.

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[11] Interview with Village Chief, Village 16, Commune Tonle Bassac, 8 February 2013
[12] Letter from Director of Phnom Penh LMAP Project Management office to Chair of the Administrative Committee for Phnom Penh, 7 October 2009
[13] Interview with Village Chief, Village 16, Commune Tonle Bassac, 8 February 2013
[14] Interview with Village Chief, Village 16, Commune Tonle Bassac, 8 February 2013

5.4.1 A land grab by General Chao Phirun

The impunity with which officials appropriated valuable real estate was demonstrated in a 1991 land conflict involving an official from the Ministry of Defence and a community living in an unplanned settlement in central Phnom Penh.

The plot in question was a greenfield site administered by the Ministry of Defence where a low-income community of demobilised soldiers and their families had self-built dwellings. Residents claimed to have lived on the land since 1984, having received permission from their unit commander to build shelters on land close to where their unit was based. They had lived in the area without incident until receiving threats of eviction from a powerful official, Lieutenant General Chao Phirun, in 1991. Chao Phirun was Director General of the Department of Materials and Techniques – a powerful entity because it controlled the military's armaments.

In the face of threats, and believing Chao Phirun's claim to be illegal, residents lodged a complaint at the UNTAC provincial headquarters in Phnom Penh. The complaint appealed for assistance from the UN in the protection of residents' property.[15] During the investigation, Chao Phirun asserted that the plot in question was needed by the Ministry of Defence in the public interest, although no specific purpose was identified. He had sent a letter to the 23 families living on the plot in the name of the Department for Materials and Techniques, informing residents that their land was required by the military and ordering them to leave within 15 days. Each household would receive the equivalent of 450 USD in gold in compensation if they complied.

Residents alleged, however, that Chao Phirun was motivated by personal gain rather than the public good. They claimed he had a reputation for selling state assets to enrich himself and that their eviction was the latest in a long list of cases:

> The Director General of Materials and Techniques sold large areas of land, armament warehouses, car warehouses, materials warehouses that belonged to the military. He did so to serve the interests of a number of people, above all himself. We are aware that the Director General of Materials and Techniques took our land as his own property and he is

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[15] Letter sent from General Chao Phirun to residents, 6 January 1991

negotiating its sale with a businessman for the price of 1,200 *damlang* of gold [approx. 540,000 USD] [16]

Residents noted that the general had threatened a violent eviction if residents did not accept the offer of compensation and vacate the area.

Despite believing the action illegal, UNTAC was unable to protect the community from the threats of violence by such a powerful figure. Consequently, all but one of the threatened households left the land and squatted nearby.[17] It is not clear from archived documents what happened to the plot in question, but it is reasonable to assume that it was sold to a businessman, as the community suspected it would be, who then legally registered the land and received a title. Certainly by 2013 when I visited the site, which is located on Street 19 close to the Royal Palace, there were no signs that an unplanned settlement existed there.

The Chao Phirun case is emblematic of the patronage systems that defined land allocation in Cambodia. Determining ownership of the land involved many entities: the state, a powerful official, the UN, residents and, potentially, an unnamed businessman. The outcome of the dispute suggests power was concentrated in the elite, and resources were allocated through patronage networks: residents in an unplanned area supported by the UN civil administration were evicted, while a powerful official acquired the land by making a spurious claim to be acting in the public interest.

That the government allowed this appropriation to occur suggests that the support and loyalty of the powerful official was more important than that of the poor residents. Indeed, the *Realpolitik* of eliciting loyalty from strategically important military figures, including General Chao Phirun, was demonstrated five years later in 1997, as Prime Minister Hun Sen faced the biggest challenge to his rule. A political dispute turned into a military confrontation between troops loyal to Hun Sen and units loyal to the elected co-Prime Minister and FUNCINPEC party leader, Prince Norodom Ranaridhh Despite opposition from within his own party, Hun Sen was able to call on personal patronage networks in the military to crush the threat to his

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[16] Petition against eviction carried out by General Chao Phirun submitted to UNTAC Civil Administration Phnom Penh HQ ,6 June 1991
[17] Petition against eviction carried out by General Chao Phirun submitted to UNTAC Civil Administration Phnom Penh HQ ,6 June 1991

rule (Heder, 2005; Peou, 1998). Lieutenant General Chao Phirun threw his support behind Hun Sen during the conflict. He was accused of using his position in charge of Cambodia's arms deposits to funnel military equipment to troops loyal to Hun Sen (*Phnom Penh Post,* 28 June 1997). Hun Sen's military units carried out hundreds of extra-judicial killings against opposition party members, forcing the opposition leader Prince Norodom Ranaridhh to flee the country. Dissenting factions in Hun Sen's Cambodian People's Party were also silenced, as Hun Sen established himself as the undisputed 'strongman' of Cambodia's political system (McCargo, 2005).

5.4.2 Theng Bunma and the Thai Boon Rong Company

A 1993 land dispute provides an example of how well-connected private sector interests acquired property occupied by communities living in unplanned settlements. The case involved a business owned by the tycoon Theng Bunma, the Thai Boon Rong Company, which had acquired a reputation in the early 1990s for conducting dubious land deals. The company's dealings had drawn the attention of UNTAC officials, who thought it responsible for 'major land purchases throughout Phnom Penh'.[18] In a number of instances, residents in unplanned areas evicted as a result of these purchases complained to the UNTAC Phnom Penh provincial headquarters, appealing to their mandate to protect property from appropriation.[19]

The process through which the Thai Boon Rong Company acquired urban real estate reveals much about the informal process through which ownership rights were transferred among elites. In February 1993 UNTAC provincial headquarters in Phnom Penh received a complaint regarding an unauthorised eviction (i.e. one not carried out by the state) involving the Thai Boon Rong Company. According to investigators, a land dispute had begun two years earlier, when the company bought a 26,000 m^2 piece of land from Cambodia's Supreme Court in central Phnom Penh for 500,000 USD.[20] The Supreme Court had been allocated land by the central government in 1988 in order to build a new court building. However, the planned construction did not go ahead. Instead, lower-level employees from the court were

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[18] Letter from Eduardo Vetere, Director, UNTAC Phnom Penh Provincial HQ to Gerald Porcell, Director, UNTAC Civil Administration, 1 February 1993
[19] Letter from Eduardo Vetere, Director, UNTAC Phnom Penh Provincial HQ to Gerald Porcell, Director, UNTAC Civil Administration, 1 February 1993
[20] Prak Sok, Deputy Director of the People's Supreme Court, statement given to UNTAC Civil administration, 16 February 1993

permitted to build dwellings there. A resident of the area at the time, Mr Kim Sophat, testified to UNTAC civil authority investigators:

> I was transferred in 1988 to the Supreme Court … I had no place to stay in Phnom Penh and I knew that the Supreme Court had land located on the opposite side of the Chinese embassy. So I obtained verbal permission from the then Chief of the Supreme Court, Mr. Khang Saren, to stay in that land and so I went there on 6 August 1988.[21]

Residents lived in the area without incident until the Supreme Court began negotiations to sell the land to the Thai Boon Rong Company.

Negotiations were conducted through informal networks involving powerful officials. The key broker between the government and the company was the Deputy Chief of Cabinet of the Supreme Court, Mr Samreth Chhorn. The deal was brokered behind closed doors and there was no public announcement of the court's intention to sell the land, which might have enabled rival bids or allowed the sale to be publically scrutinised or challenged.[22]

The informal negotiations between the company and the court resulted in a legal process, which lent legitimacy to the transfer. The Supreme Court made a request to the Council of Ministers for legal authority to sell the plot to the company, and on 11 November 1991 the Vice-President of the Council of Ministers approved the Supreme Court's request and issued a decision permitting the court to sell the plot.[23] A few days later Khang Sarin, president of the Supreme Court, issued decision No. 1082/91, giving the court the legal mandate to (i) sell the 26,000 m^2 plot to the Thai Boon Rong company and (ii) remove all existing structures on the plot within 30 days of the announcement. [24]

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[21] Kim Sophat, Supreme Court official and resident affected by sale of land near Chinese embassy to Thai Boon Rong Company, statement given to UNTAC civil administration, 1993 (exact date not recorded)
[22] Letter from Eduardo Vetere, Director, UNTAC Phnom Penh Provincial HQ to Gerald Porcell, Director, UNTAC Civil Administraion, 1 February 1993
[23] Decision No. 1082/91, Supreme Court and General Attorney attached to the Supreme Court, 15 November 1991
[24] Decision No. 1082/91, Supreme Court and General Attorney attached to the Supreme Court, 15 November 1991

Residents living in the unplanned settlement only became aware of the process when the decision was issued by the court. The households living on the site refused to comply with a number of eviction notices and, eventually, in January 1993, the company decided to evict residents by force. The company evicted the residents without informing the municipality, even though by law the municipality had to issue and execute all eviction notices.[25] During the UNTAC investigation it emerged that the company had enlisted the services of Military Unit 246 as a private army; the unit had participated in the eviction brandishing AK47 machine guns.[26] UNTAC officials also noted with alarm that when Theng Bunma visited the UN office to give evidence as a civilian he was accompanied by an attaché of policemen as his personal bodyguards.

A striking aspect of the Theng Bunma case is the close links between patronage networks and the promulgation and enforcement of law to the benefit of elites. The most remarkable aspect of the case is that the country's highest judicial authority – the Supreme Court – played a central part in the dubious deal. It is reasonable to speculate that the Supreme Court claimed that it needed the land for a new court building in 1988, on the eve of land privatisation, in the knowledge that it would soon become a valuable asset. Once administrative control of the property was secured, its sale to a well-connected tycoon was brokered through informal channels hidden from public view. At the same time the legality of the sale was ensured by a decision of lawmakers at the Council of Ministers. This, in turn, vested in the Supreme Court the legal authority to demand unplanned households to vacate the area. Finally, an eviction was carried out by the company, in contravention of Cambodian law, and using military units accountable to the government. These enmeshed legal and informal processes resulted in the transfer of state land to a private investor, potentially enriching corrupt bureaucrats in the process, and illegally using state force-power to violently dispossess residents of their property.

Transferring land to well-connected tycoons enriched corrupt officials in the short-term, but also fed the longer-term patronage governance objectives of key political leaders. The then owner of the Thai Boon Rong Company, Theng Bunma, was close

[25] Letter from Eduardo Vetere, Director, UNTAC Phnom Penh Provincial HQ to Gerald Porcell, Director, UNTAC Civil Administraion, 1 January 1993
[26] Letter from Jesudas Bell, Deputy Director, UNTAC Phnom Penh Provincial HQ to Commanding Officer, Ghana Battalion, 23 March 1993

to Prime Minister Hun Sen and claimed to have personally financed the Prime Minister's 1997 coup, and even to have given the Prime Minister a bullet-proof limousine in the early 1990s (*Phnom Penh Post*, 17 May 1996; *Wall Street Journal*, 24 July 1997*).

Transferring urban real estate from poor residents in unplanned settlements to rich tycoons also fostered the process of urban transition that the government was keen to promote. As I noted earlier in this chapter, leaders wanted Phnom Penh to change from being the capital of a poor nation to a centre of global capitalism. Transferring land to tycoons like Theng Bunma was a key part of this process. He was an influential figure in bringing investment to Phnom Penh, upgrading its infrastructure and redeveloping central areas. He was also a conduit for foreign capital to enter Cambodia. One of his better-known ventures was partnering with the Intercontinental hotel brand to bring the first international hotel to Phnom Penh (*Phnom Penh Post,* 29 August 1997).

While UNTAC officials attempted to counter the role of informal networks in land distribution by providing support to the victims of land conflicts (Williams, 2009), patronage were so entrenched in the state apparatus that UN officials found they were powerless to protect the rights of vulnerable residents (Widyono, 2007). Top UN officials thought that going against these networks might jeopardise the entire peace keeping operation. The impotence of the UN operation in this regard eventually caused the head of the UNTAC civil administration, Gerard Porcell, to resign from his post in 1993 (ibid.).

5.6 Conclusion

In this chapter, I have explored why and how residents in unplanned areas were excluded from obtaining ownership titles to their plots between 1989 and 2001. I have suggested that titles were allocated through patronage networks and distributed to a political and private-sector elite to serve the strategic interests of government. Residents in unplanned areas who were prevented from receiving titles lived in a constant state of provisionality, which was formalised in laws relating to 'temporary possessors'.

The evidence presented in this chapter suggests that land titling was a deeply political process and that the pattern of its implementation was defined by the political realities of the time. Conflicts over ownership pitted residents in unplanned areas against a political and private sector elite. These conflicts were invariably won by elites, who gained prime-urban real restate by evicting residents from unplanned areas.

The conflicts over unplanned settlements in Phnom Penh can be viewed as a microcosm of broader patterns of urban governance at that time. Residents in unplanned areas were cast as second-class citizens denied the right to permanent accommodation in the city while elites enjoyed almost total control over such areas, protected by laws they themselves had promulgated. Titling was the primary mechanism by which elites asserted control of these urban spaces. In the next chapter, I chart how donor-funded land titling (and associated reforms) post-2001 changed the nature of conflicts over the ownership of unplanned spaces in the city.

Chapter 6: Donor-Funded Land Titling in Unplanned Areas of Phnom Penh

6.1 Introduction

In the previous chapter, I suggested that exclusionary tenure systems in the period 1989-2001 prevented those in unplanned settlements obtaining ownership documents. In this chapter, I turn to more recent, post-2001 tenure reforms. I assess whether city-wide, systematic land titling implemented through the LMAP and associated donor-funded activities have resulted in the continued exclusion of those in unplanned areas from receiving ownership documents, or whether previously-excluded communities have been able to access titles under the project. In doing so, I argue that the polarised representations of donor-funded land-titling programmes in the literature mask the diversity of their impacts and preclude the identification of strategies to promote the interests of marginalised urban communities in Phnom Penh.

Neoliberal economic theories define current policy agendas set by important international financial institutions. Prominent development economists have pushed an international policy agenda that seeks to construct efficient and equitable markets in the economies of the global south by building global-standard institutions (Stiglitz, 2001; Rodrik, 2006). In this context, the World Bank has promoted city- and country-wide land-titling to register and enforce private property rights in an efficient and equitable manner as a means to stimulate inclusive growth (Brandao and Feder 1995; Feder and Nishio, 1998; De Soto 2000; Deininger, 2003). Such programmes have become one of the most widespread World Bank global policy models (Gilbert 2001; Markussen, 2008).

Neoliberalism also constitutes the prevalent framework of analysis for scholars explaining socioeconomic systems in developing economies where international financial institutions have been active (Robinson, 2011), and in the analysis of land-titling projects specifically (Varley, 2010). Critics have argued that the global proliferation of 'best practice' institutional reforms have constituted a strategy to embed neoliberalism in socioeconomic systems across the globe (Fine 2001; Peck

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2010). The focus on deep institutional reforms, particularly by the World Bank, has promoted a pervasive neoliberal governance in states and populations across the global south, which often benefit elites and hurt the poor (Li 2005; Goldman, 2011). Land formalisation projects have been a policy tool that has organised urban space according to neoliberal theory (Roy 2005; Macfarlane, 2012).

In this chapter, I suggest that donor engagement in Cambodia's land sector has resulted in a global property rights system rooted in the theoretical frameworks of institutional economics: I trace the global hierarchies of power in the generation of development knowledge resulting in the Cambodian government's pursuing land titling. I then, however, seek to distinguish the hierarchies of power implicit in the mobility of land titling as a globally replicated neoliberal development intervention, from the policy's potential outcomes at the local level. In this way, I hope to capture the variety of effects of donor-funded land titling, including but not limited to the policy's neoliberal economic aspects.

I identify three effects of land titling in relation to Phnom Penh's unplanned settlements. First, I argue that in some cases entrenched power structures have reasserted themselves through the LMAP, resulting in the continued exclusion of the inhabitants of unplanned settlements from land ownership. Second, that the project has enabled some previously excluded communities to obtain land titles by creating spaces where the state and local residents interact cooperatively. Third, the donor-funded intervention has enabled local communities and civil society to challenge entrenched power structures by circumventing the state and appealing to the donor's compliance mechanisms in order to obtain legal ownership.

6.2. Neoliberal policy mobility and the LMAP

In recent years, country- and city-wide land-titling programmes have become one of the World Bank's most popularly replicated international development interventions (Gilbert, 2002; Markussen, 2008). The policy has received support from a range of multilateral and bilateral aid agencies and has been implemented in a range of settings across the globe (Hall et al., 2013). In the Southeast Asian region, two of Cambodia's three neighbours, Lao PDR and Thailand, received World Bank loans to

implement country-wide land titling during the 1990s; in the early 2000s, Cambodia joined this growing global trend (Hirsch, 2011).

6.2.1 Titling as a best practice international development intervention

The global proliferation of land titling and its application in Cambodia tie into wider narratives of neoliberal knowledge generation. At the global scale, the emergence of city-wide land titling as a mainstay of the global development policy roster reflects a paradigm shift in development economics that occurred in the mid-1990s. Drawing on the experiences of corruption that followed western-supported privatisation in Russia, key figures at the World Bank, most notably then chief economist Josef Stiglitz, argued that strong institutions are a key ingredient to create equitable and efficient markets (Stiglitz, 2001). The mantra of market primacy and state contraction associated with structural adjustment policies of the 1980s and early 1990s were replaced with targeted state-building exercises. Building global-standard institutions and promoting 'good governance' has come to define the global development policy agenda (Fine, 2001; Stiglitz, 2001; 2003; Rodrik, 2006).

Donor interventions to improve governance structures often consist of best practice frameworks promulgated by the global policy-making elite. City-wide land formalisation has emerged as one such targeted institution building exercise. The influential Hernando De Soto (2000) is often associated with the ascent of land formalisation programmes up the global development agenda. His ideas about institutional failure as the core constraint to an efficient and equitable land sector chimed with the World Bank's institutions focus.

Land titling projects aim to 'correct' land markets by installing formal institutional frameworks to enforce property rights in a standardised and predictable manner (Feder and Nishio, 1998; Deininger 2003). By requiring states to systematically and universally issue land ownership titles in accordance with best-practice procedures, titling in theory reduces opportunities for well-connected corrupt stakeholders to capture assets from vulnerable citizens (World Bank, 2002a; Deininger, 2003). The end result in urban areas – in theory – is an inclusive and equitable land market.

The global processes of development knowledge generation in which land titling is rooted have been criticised as perpetuating hierarchies of knowledge and power that

privilege the global policy-making elite. The fact that the good governance orthodoxy is rooted in the theoretical debates of a vanguard of development economists, many of whom are associated with the World Bank, has led to criticism about the power relations that generate orthodox development knowledge. A common criticism is that the generation of development knowledge is disconnected from the reality it seeks to change. James Ferguson (1994) argues, in his influential *Anti-Politics Machine*, that the World Bank tends to construct a technical discourse about national economies that has little basis in reality and is used primarily to justify policy interventions that fit the Bank's theoretical – and western power's strategic – prerogatives. The parallel trajectories of institutional economics and the global spread and identification of land titling as an urgent policy issue appear to support the point about the primacy of western knowledge in setting the global development policy agenda.

While ignoring local knowledge in policy generation, the World Bank has simultaneously developed strategies to co-opt local stakeholders to aid project implementation. A shift from laissez-faire development policies of the 1980s and 1990s to a focus on reforming institutions has enabled neoliberalism to adapt to a range of local contexts and to 'travel' across the world (Peck, 2010). In urban areas, such governance interventions have been active in 'redefining the art of government', allowing World Bank neoliberalism to 'shape' state-citizen relations according to economic theory (Goldman, 2012: 564). The World Bank's global mechanisms of knowledge generation, and the local participatory strategies that the Bank employs, enables neoliberal policy frameworks – such as property rights formalisation – to contribute to neoliberal governance, where both the institutions of the state and other forms of socioeconomic interaction are defined by the principles of neoliberal economics (Li, 2005; 2008).

6.2.2 Institutional development, policy mobility and the LMAP
Donor-funded land titling in Phnom Penh has followed the framework of global policy generation and localisation of policy implementation. The land titling framework has addressed a very real local problem in the high rates of land conflicts and the tenure insecurity that have plagued the city's poor, but the root causes and the solutions of tenure security have been identified using land titling theoretical knowledge.

The Bank determined the root cause of tenure insecurity to be weak local tenure regimes in dire need of structural reform (World Bank, 2002a). They suggested that a 'lack of formal recognition' enabled the politically well-connected to dispossess people of their land and that endemic land conflicts could not be reduced 'without better information on land use, clear policies and regulations, adequate capacity to resolve disputes, and, ultimately, demarcation of boundaries generally accepted by all' (ibid: 5). The expected outcomes of systematic land titling included 'increased tenure security, access to credit and opportunities to increase investment and productivity'; many beneficiaries would be 'poor and vulnerable' households (ibid.: 10).

Thus, the Bank engaged with salient local policy issues – powerful individuals grabbing land and inequitable and inefficient land conflict resolution mechanisms – in the context of established land formalisation theory. The *causes* of Cambodia's inequitable and inefficient land markets were found to be local institutions; the *solution* was to be the application of a global institutional framework; and the *outcomes* were determined by land-titling theory. Such discursive representations of Cambodia's land sector perpetuated a binary of local/bad and global/good, which has been identified as a defining feature of land titling discourse (Varley, 2002; 2010).

While the binary between local and global exists very much in the generation of Cambodia's land policy, in implementation strategies were mobilised to lessen the disconnect between local and global knowledge. A discursive attempt to frame global policy models as locally generated has been a theme of World Bank institution-building interventions, which have been keen to emphasise the local ownership of policy reforms. A key tool used by the World Bank to marry global theory and the interests of local stakeholders are Poverty Reduction Strategy Papers (PRSPs), which are developed by national governments with technical assistance from the World Bank and other donors. These documents are a standard World Bank tool to improve governance indicators by setting policy goals and performance indicators and linking achievements to future lending, thereby incentivising governments to adopt the reforms.

Cambodia's strategy paper, published in interim form in 2000, framed land titling theory within a discourse of local ownership: the foreword by the Minister for

Economy and Finance, Keat Chhon, emphasised the government's 'ownership' of the plan and the 'consultative' process and engagement with local stakeholders that led to the plan's formation (Royal Government of Cambodia, 2000: 2). But while invoking a participatory, 'local' discourse, the paper identified land reform aims that could have been extracted from a World Bank land titling textbook. Key goals included 'land registration, cadastral mapping, GIS/LIS, land valuation, and geodetic network' - these issues required the 'immediate attention' of policy makers (Royal Government of Cambodia, 2000: 20). In other documents, the Bank emphasised that the government had 'requested' such interventions in Cambodia's land sector, and that it had been 'overwhelmingly clear' to government that weak land administration was the leading cause of poverty in the country - again focusing on supposed local demand rather than a top-down approach (World Bank, 2002a: 4).

The World Bank was not the only institution to encourage the Cambodian government to implement land reforms. As noted in Chapter 3, the Asian Development Bank made the promulgation of a new land law to replace the 1992 Land Law a condition of future funding in 1995 (eventually leading to the emergence of the 2001 Land Law). In the latter half of the 1990s, the Finnish and German governments funded pilot systematic land registration projects, which included surveying, demarcating and registering public and private land and resulted in 80,000 land titles being issued for private plots. The pilot projects, in five rural provinces, were intended to develop technical expertise, institutional capacity and a better understanding of the administrative challenges of systematically registering land across the entire country; an academic paper was published describing the technical aspects of the project to better inform technical best practice which noted the pilots' success in distributing a large number of land titles efficiently and securing a positive response from project beneficiaries (Torhonen, 2004).

By 2001, the World Bank and other donors had laid the groundwork for significant reforms and the time came for the Royal Government of Cambodia to begin implementing them. In May 2001, the government issued a statement on land policy where it pledged to 'implement a coordinated set of laws, programs of work and institutional arrangements regarding land' through the Land Administration and

Distribution Programme (LADP), a 15-year programme to reform Cambodia's land sector, of which the LMAP would be the first component[27]

The LMAP entailed the complete modernisation of Cambodia's system of land administration and management using global standard techniques for surveying and registering land, building institutions that could effectively utilise this technology and enforcing the property rights that were registered. The Cambodian government was contractually obliged to implement the LMAP according to the World Bank Project Appraisal Document: in March 2002 the government signed a credit agreement with the Bank for 24.3 million USD to this effect (World Bank, 2002b). Other donors included the German and Finnish governments, each provided technical assistance amounting to 3.5 million USD, with the total cost coming to 33.9 million USD over the project's five-year duration (World Bank 2002a; 2002b).

6.3 Policy possibilities of donor-funded land reforms

The World Bank's agenda of institutional reform, contractually assured and incentivised by the promise of future funding, resulted in the adoption of a global-standard system of land administration by the Cambodian government. In turn, these governance structures redefined the everyday socioeconomic interactions in neoliberal terms. An important question then becomes 'how have neoliberal frameworks "redefined" state-society relations?' In this regard, it is important to consider the scope of possible policy outcomes of titling as predicted by planners

6.3.1 The possible outcomes of land titling

Proponents of titling view tenure in binary terms: either as local/ bad and global/good (Varley, 2013; 2010). This dichotomy not only serves as a theoretical tool, but also predicts policy outcomes at the local level. Neoliberal planners assume that installing the rules for efficient and equitable land markets to flourish will result in all market actors playing by these rules. That is to say, individuals transacting within land titling frameworks will respond rationally to the systems of incentives

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[27] Statement of the Royal Government on Land Policy, Royal Government of Cambodia, 1 May 2001

and disincentives embedded in the Bank's theoretical models. This benefits all market actions, including the poor.

The opposing view of titling sees the opposite tenure dichotomy: as local/good and global/bad (Varley, 2013; 2010). Here, the hierarchical, uneven power structures that have defined neoliberal policy mobility globally have been evident in representations of the consequences of such policies at the local level (Bromley, 2009; Porter et al., 2012). In this way, the policy possibilities of neoliberal development interventions are reduced to their neoliberal economic fundamentals, and tied to the interests of a global, neoliberal, policy making elite. The Bank's focus on good governance and the promotion of democracy, for example, have been viewed by critics as rooted in economic theory, and therefore associated with capitalist logic of neoliberalism – reproducing space in a way that serves global elites and excludes local communities (Fine, 2001; Springer, 2009).

These opposing positions on land titling are grounded in their respective theoretical analyses of institutional economics and/or neoliberalism. As previously discussed, critics of the Bank's best-practice doctrines have often drawn on the bank's theoretical focus, which, it is believed, pays little heed to on-the-ground causes of poverty. By the same measure, however, there have been some concerns that analyses of the localised outcomes of neoliberal policies are often coloured by broader theoretical arguments (Robinson, 2011). As a result, the possibility for positive policy outcomes for low-income residents at the local level from best-practice, neoliberal policy has often been negated (ibid). There has been a tendency, also, to universalise the outcomes of land titling, viewing global institutions as agents of economic imperialism and therefore bad and the local institutions they seek to replace as good (Varley 2010; 2013). Thus while the theoretical binary the World Bank harnesses predict the inevitability of *positive* policy possibilities, the inverse binary harnessed by criticisms of titling predict the inevitable *negative* policy possibilities. Both analytical frameworks use theory to universalise land titling outcomes, and, hence, risk misrepresenting the experiences of low-income dwellers in land titling frameworks (Varley, 2013).

The work of geographer Simon Springer (2009; 2013) engages with donor-funded titling in Cambodia – specifically the LMAP – and provides one example of the

application of this binary distinction in an assessment of the policy possibilities of titling. He argues that donor-funded land reforms *cause* evictions by simultaneously excluding poor communities from obtaining land titles and weakening their endogenous land rights by reinforcing a binary between formal and informal tenure systems (Springer, 2013). Donor-funded laws and institutions are *inherently* exclusionary, Springer argues, because of the capitalist logic that they embody. NGOs that pressure governments to implement land laws correctly are misguided and merely engineering consent for an inherently exclusionary legal regime. Indeed, Springer starts his analysis of Cambodia's donor-funded land laws by quoting Satan bequeathing humanity the power to make their own laws, which gives some idea of how he sees the power dynamics embedded in Cambodia's post-2001 land laws and the LMAP.

This kind of interpretation of the land law transposes the uneven power dynamics that explain the prevalence of land titling at the global level directly to the outcomes of the law at the local level. Or to put it another way, the outcomes and possibilities of donor-funded land reforms for unplanned communities have already been predetermined by the fact that these laws are impositions wrought on poor city dwellers who will inevitably suffer because of them: they will be excluded from formal ownership as elites use laws to formalise land. Thus, the uneven power dynamics that defined policy mobility at the global and sovereign levels are reproduced at the local level by donor-funded land titling.

The focus on theoretical analyses of neoliberalism, and predicting their effects on low-income groups as inevitably negative, has in some cases precluded engagement with researchers and populations in countries that are subjected to such policy frameworks (Parnell and Robinson, 2013). Many researchers based in the global south are engaged in policy debates which centre on identifying strategies to empower the vulnerable who have been subjected to such neoliberal frameworks – or as Ananya Roy (2005) puts it, to use the Master's tools to occupy the Master's house. To speak to these literatures, an alternative approach is open to the possibility that some aspects of donor-funded reforms can potentially benefit unplanned communities. One such approach may be to view neoliberal modes of governance not simply as a tool or strategy promoted by donors and the state to shape state-society relations, but also a concept that potentially enables some

elements of society, the NGOs and other actors that support them, to strategically influence the state in ways that better represent the interests of the vulnerable. Taking this approach, an important question becomes 'which (if any) aspects of donor-funded land titling could potentially by leveraged to the benefit of low-income urban communities?' To answer this question it is necessary to understand what donor funded institutions and policies say about the land rights of unplanned settlements. I shall now turn to this issue.

6.3.2 The LMAP as providing a legal basis for equitable tenure

A structural reading of the LMAP and associated reforms in Cambodia reveals frameworks that offer opportunities for residents of unplanned settlements to become legal owners of their dwellings. In this sense, the project has constituted a legal basis for equitable tenure – on paper at least.

The key law that underpinned the LMAP was the 2001 Land Law, which installed the regulatory foundations for titling in Phnom Penh. As noted in Chapter 3, the promulgation of this law was a perquisite of ADB funding and was developed with technical assistance from German government's bilateral aid arm GIZ. In principle, the2001 Land Law put those in unplanned settlements on the same legal footing as those in planned areas. The law stated that the *all tenure documents* issued prior to the promulgation of the 2001 law constituted proof of possession only – not ownership. The law, therefore, immediately dismantled the legal binary that existed between 'possessors' and 'owners' (see Chapter 5) by recognising the *de facto* ownership of informal tenure documents until such a time that property rights could be determined by cadastral officials. [28]

The law also determined that all ownership claims would be assessed in the same manner. Ownership could only be granted to 'possessors' if they met the criteria for 'legal possession' set out in the law. In Article 30 of the law, there was provided a universally applicable process whereby 'possession' could lead to ownership, with no distinction made between planned and unplanned areas:

> Any person who, for no less than five years prior to the promulgation of
> this law, enjoyed peaceful, uncontested possession of immovable

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[28] Article 39, 2001 Land Law, Royal Government of Cambodia, 30 August 2001

property that can lawfully be privately possessed, has the right to request
a definitive title of ownership.

Paper documentation or the registration of a possession right with authorities was not a prerequisite to convert possession to ownership, provided other evidence proved that the conditions of Article 30 had been met.[29] This, it was later established in sub-decree, could include oral evidence submitted by occupants, their neighbours and local authorities.[30] Those who had occupied their land for less than five years prior to 2001, but had enjoyed peaceful, uncontested possession, could apply to extend their possession until the five-year period was complete and ownership could be granted.[31] Residents who had purchased their property from someone who had occupied it prior to 2001 were also eligible for titles.[32] The requirement that occupation of a plot must have begun before 2001 to constitute legal possession was later superseded by Article 162 of the 2011 Cambodia Civil Code, which stated that occupants with 10 years of peaceful possession could acquire ownership irrespective of when their occupation began.[33]

In general, the provisions of the 2001 Land Law were of benefit to households living in unplanned areas. The law provided them *de facto* ownership status until their land rights could be assessed by officials associated with the soon-to-be-implemented land-titling project. In addition, the criteria for converting possession into ownership favoured unplanned communities in Phnom Penh because they were (theoretically) able to convert previously weak possession claims into legally registered ownership.

The criteria for legal possession also favoured residents under pressure from redevelopers or other powerful interests intent on capturing their property. To successfully challenge residents, a developer or other powerful actor would have to prove that their possession right constituted the stronger claim and met the criteria for legal possession under Article 30 of the 2001 Land Law, which included openly claiming ownership of the land for five years. If the residents had occupied the plot for more than five years, then they could have the stronger claim to the land than the

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[29] Article 42, 2001 Land Law, Royal Government of Cambodia, 30 August 2001
[30] Sub-decree No 46 ANK.BK, Sub-decree on Process to Establish Cadastral Map and Register, Royal Government of Cambodia, 31 May 2002
[31] Article 31, 2001 Land Law, Royal Government of Cambodia, 30 August 2001
[32] Articles 16 and 43, 2001 Land Law, Royal Government of Cambodia, 30 August 2001
[33] Article 162, Cambodia Civil Code, Royal Government of Cambodia, 22 December 2011

developer, even if the developer produced a pre-2001 ownership document for that land.[34]

The LMAP's systematic land registration constituted the primary route by which Phnom Penh residents would have their property titled. The procedures for systematic land registration, as defined in a 2002 sub-decree,[35] required the governor of Phnom Penh to declare an 'adjudication zone' in which survey officers would have the right to enter any immovable property for demarcation purposes and adjudication officers could summon concerned parties to present oral and documentary evidence related to ownership of the plot in question. Each eligible household would be provided with a land title showing the boundaries of their property and listing the owners of the parcel (Figure 6.1).

A key legal issue relating to titling in unplanned settlements involved state-owned property. As demonstrated in the preceding chapter, the transition from socialism to capitalism in the 1980s had resulted in many plots of urban land with no clear public use being administered by various state entities. Under the donor-funded tenure regime, households living on state land claimed by a ministry or official but with no clear public use – classified in the 2001 Land Law as 'state private' land – would have the right to convert their possession rights into ownership and to obtain land title.[36] This measure provided stronger legal tenure rights to residents of unplanned settlements living on land administered by a ministry than existed under pre-2001 land laws.

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[34] Interview with employee at donor organisation 2, Phnom Penh, 7 November 2013
[35] Sub-decree No 46 ANK.BK, Sub-decree on Process to Establish Cadastral Map and Register, Royal Government of Cambodia, May 2002; the process of Systematic Land Registration in relation to private property as defined in this Sub-decree is covered in detail in Grimsditch *et al.* 2011
[36] Article 17, 2001 Land Law, Royal Government of Cambodia, 30 August 2001

Figure 6.1: LMAP title

Note: The document details the address of the plot, the location of the plot and provides information about its boundaries. The owner's name(s) are listed on the back of the document.

Source: PhD fieldwork

For some residents, tenure remained legally insecure under the 2001 Land Law. Any parcel located on 'state public' land or on land that belonged to a monastery was not eligible for LMAP land title; this was unchanged from the 1992 Land Law. Occupants of plots on state public land would be 'forced to vacate the premises immediately … [and would] not [be] entitled to any indemnity for any works and improvements carried out on the immovable property'.[37] The 2001 Land Law envisaged that once all private parcels had been adjudicated and all state public land demarcated, residents would be classed either as owners or, if found to be living on state public land, as 'illegal occupants'.[38] Occupants whose tenure had been rendered 'illegal' because of the classification of their plots as state public land would be

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[37] Article 43, 2001 Land Law, Royal Government of Cambodia, 30 August 2001
[38] Article 34, 2001 Land Law, Royal Government of Cambodia, 30 August 2001

resettled and provided with a formal ownership title. The legal situation of those living on state public land improved in 2010, when Circular 03 was promulgated by the land ministry. The circular provided a range of tenure solutions for those living on state public land. These solutions included – where appropriate – the provision of titles, usufruct rights or relocation. There has, however, been no evidence of this circular being implemented anywhere in Phnom Penh. [39]

6.4 Old power structures, new frameworks

The outcomes of projects that involve the state codifying property rights can be mediated by uneven distributions of power embedded in the socioeconomic systems. In cases where powerful interests are opposed to extending ownership rights to unplanned areas, a reorganisation of the institutions of property rights does little more than change the frameworks through which an uneven distribution of power is expressed. Walt Ladejinsky (1977), an influential figure in post-second World War land reforms in East Asia, asserted that distributing property rights counter to the desires of elites was essentially a revolutionary act. Elites would see redistribution of their land rights as an erosion of their political power and not tolerate it unless forced to do so. Thus, even a progressive regulatory framework that promotes an equitable system of property ownership can be undermined by power structures embedded in state and society which will find ways around implementing such reforms.

In Phnom Penh, land titling has in some instances facilitated the continuation of an exclusionary neoliberal mode of land governance, which has benefited the rich and excluded low-income residents. Powerful stakeholders have ensured that reforms have not been implemented to the benefit of households living in unplanned areas if this act goes against their interests. Thus, the uneven power structures that caused exclusion under Cambodia's 1989-2001 tenure regimes have reasserted themselves under the post-2001 donor-funded frameworks, resulting in the continued exclusion of some unplanned areas from land titling.

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[39] Circular 03, Royal Government of Cambodia, 31 May 2010

6.4.1 Vested interests and titling

In areas where powerful actors have interests in urban real estate, the LMAP has not been implemented according to the law and, consequently, residents have been excluded from the project. In this regard, the military have been a particularly important actor in the distribution of land ownership historically in Phnom Penh (see Chapter 5), and have remained so under the LMAP. In areas of the city where the military – or powerful figures associated with the military – have ownership claims, residents have frequently been excluded from receiving titles.

The importance of the military in the distribution of land titles was demonstrated in a 2012 land dispute that pitted a local community against the Cambodian Air force. The dispute, in Phnom Penh's Dangkao district, gained international attention when President Obama visited Phnom Penh to attend an ASEAN summit. Representatives of some 210 households threatened with eviction displayed SOS messages pleading for help from the US President on the roofs of their dwellings, which were located under his flight path (*Daily Telegraph,* 15 November 2012). The community in question had been excluded from land titling on the basis that the area was state-owned land. However, NGOs considered the exclusion without legal merit and observed that the community should have had their ownership claims adjudicated by cadastral officials.

This case of exclusion is interesting because there appear to have been conflicting powerful forces at work behind scenes. According to leaked US embassy documents, Prime Minister Hun Sen personally asked officials on three separate occasions for the community to be given land titles. On each occasion this request was thwarted by generals who wanted the military to retain control of the land and who did not therefore allow land titling in the area.[40] It is hard to ascertain why exactly the Prime Minister wanted this community to gain land titles, but the fact that he did and that his requests were unheeded suggest two important points. First, the Prime Minister had some strategic interest in providing titles to the community. Given the history of Hun Sen's government in Phnom Penh's land sector, it is unlikely his interventions were motivated by altruism. It is more probable that the government was under pressure from donors, NGOs and others to implement titling according to the law.

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[40] US Embassy cables, 06PHNOMPENH1426, 9 August 2006

Second, the fact that the generals felt that they could defy a direct request from a self-styled 'strongman' Prime Minister who has ruled for close to thirty years shows how much influence and power they still wield behind the scenes in Cambodian politics.

This incident sheds light on the complex nature of the Cambodian state: it is not a unified entity with a common set of goals. Instead, its actions are determined by a number of powerful interests with, in this case, divergent agendas. While distributing land titles to an unplanned community was desired by some elements of the state, other elements were able to counter this. It also suggests that the laws associated with the LMAP have made it a little less straightforward for the state to exclude those from unplanned residents from acquiring ownership documents by providing a legal incentive for government to provide titles to such communities.

In the course of my research, I found that areas excluded from land titling often had connections to the military. Many of these areas had not received attention because their exclusion did not result in an immediate threat of eviction. One case I encountered was Village 15 in Tuek Laark Bai, comprising 900 households, where residents had enjoyed peaceful possession for over two decades. The village representative had no idea why LMAP officials left after adjudicating only a few properties in the area in 2009.[41] A commune official confirmed that the area had been excluded from systematic titling because the land belonged to the Ministry of Defence.[42] Concerned by the exclusion, village officials were preparing possession histories and collecting fingerprints from residents to petition the commune to contact relevant authorities at the time of fieldwork.[43] Similarly, many unplanned areas excluded from titling in Tonle Bassac commune had ownership histories that involved the military. It is hard to know how many of these islands of exclusion exist because the government have not permitted public access to the land register, even though this is required in LMAP project documents. But given the political power the military wields, it is reasonable to assume that there are other islands of exclusion dotted around Phnom Penh.

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[41] Interview with Village Chief, Village 15, Commune Tuek Laark Bai, Phnom Penh, 5 March 2013
[42] Interview with Commune Chief, Commune Tuek Laark Bai, District Tuol Kork, Phnom Penh, 6 February 2013
[43] Interview with Village Chief, Village 15, Commune Tuek Laark Bai, Phnom Penh, 5 March 2013

6.4.2 Strategic exclusions

The new reality of tenure associated with the LMAP has resulted in a change in tact from the brazen leverage of the law to disposes the urban poor in the pre-donor period. The LMAP legally requires the state to convert the possession rights of many households in unplanned areas to legal ownership documented with a title, thus preventing elites from capturing these assets. In addition, the increased number and capacity of NGO actors operating in Cambodia's land sector means that communities can enlist assistance of local and international advocacy NGOs to assert their property rights and support their demand for land titles. Facing legal challenges in courts and pressure from aid-giving countries and institutions forces the government to adopt a veneer of legality in exclusions. Officials achieve this by selectively implementing laws and procedures in a manner that, while not legalising evictions, at least makes the legality surrounding them complex and murky. As US officials have noted, this makes it is difficult for donors to intervene in cases because there are rarely legally 'clear cut' and occur in contexts where 'little legal guidance, and less implementation, exists'.[44]

In order to subvert LMAP procedures that run counter to powerful interests in this way, officials have developed a number of informal or extra-legal strategies to exclude those living in unplanned areas from receiving titles. A key mechanism that officials use to invalidate occupants' ('possessors') property claims is arbitrarily classifying and registering the land on which their dwellings are located as state public land. As noted in the previous section of this chapter, state public land cannot be privately owned. There are clear procedures in place to determine whether land fits into the state public category. However, officials have manipulated the process of classifying, demarcating and registering state-owned land, ignoring procedures which were designed to ensure transparency in the process. In this way, many residents living in areas with no discernible public use have had their possession claims undermined by the state.

The well-publicised eviction of the Group 78 community is a good example of authorities' selective classification of land as state public being used as a tool to limit access to titles. In this case, the Governor of Phnom Penh arbitrarily prevented

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[44] US Embassy Cables, May 2009, PHNOM PENH 000654

residents from obtaining titles by asserting the site in question had a public function.[45] It was claimed the parcel was once the site of a pre-war bridge (P*hnom Penh Post,* 16 June 2006). The use of the 'state public land' category in relation to Group 78 was problematic in many respects. First, the established procedures for classifying and demarcating state public land were not followed. Second, the claim that the site housed a pre-war (i.e. 1960s) bridge suggests that the public function of the parcel was at best tenuous and had not been in evidence for four decades by the time of the governor's intervention. Third, many residents had documents ratified by local authorities proving long histories of peaceful possession, in some cases dating back to the 1980s, indicating that the area had long been used for private residential purposes. [46] Had the LMAP been implemented correctly, the residents of Group 78 would have received titles. By classifying the land as state public, the government arbitrary, unfairly and without due process denied residents their right to titles, and they were duly evicted.

A second mechanism officials have used to prevent those in unplanned areas obtaining titles is 'provisionally' excluding households from the project. In these cases, residents with long histories of possession and strong ownership claims were not having their plots adjudicated by LMAP cadastral officials in the usual manner. A clear example of this process occurred in the commune of Tonle Bassac, which was declared an adjudication zone for systematic land titling in 2010. A letter from the LMAP Municipal Project Management Office to the municipality detailed areas in the commune to be provisionally excluded from systematic land titling and gave brief reasons for the exclusions.[47] The areas included:

- two unplanned settlements within the walls of monasteries, excluded because residents were living on monastery property;

- two rows of planned housing behind the Senate and Ministry of Agriculture, excluded because they were on state property;

- two unplanned settlements, excluded because they were located in a 'development zone';

[45] US Embassy Cables, 09PHNOMPENH509, 27 June 2009
[46] US Embassy Cables, 09PHNOMPENH509, 27 June 2009
[47] Letter from Director of Phnom Penh LMAP Project Management office to Chair of the Administrative Committee for Phnom Penh, 7 October 20

- a large 1960s apartment complex designed by Van Molyvann known as *the White Building* or *Bouding*, excluded for technical reasons.

In the exclusion of the settlements in the 'development zone' the hand of elites can be viewed most clearly. The affected communities, known as T85 and T87 after the military units whose families were first allowed to build makeshift dwellings in the area in the 1980s, had suffered a long history of exclusion. On paper, the LMAP should have benefitted these communities because many residents in the area had documents issued by local authorities showing long periods of peaceful possession – on average over 10 years – commencing before 2001, and, hence, very strong ownership claims. Though there was no legal justification for excluding residents in the two communities, powerful vested interests, in this case well-connected companies linked to the two parcels, were able to co-opt the state to represent their interests. In contravention of the law, residents were prevented from obtaining legal ownership of the property.[48]

The final provisional exclusion listed in the Tonle Bassac letter was *Bouding*: a rundown but culturally significant 1960s apartment block, home to 385 households. This case shows the government's strategic nous in framing exclusions as 'provisional' to avoid creating a large volume of land conflicts simultaneously, potentially causing unrest and resulting in pressure from donors. Ostensibly exclusion zones are only 'temporary' in nature and reflect administrative constraints, implying procedural rather than political causes of exclusion,[49] with the implication that these constraints may later be removed.

According to the exclusion letter, *Bouding* was excluded from systematic land titling for technical reasons. Taken at face value, this assertion has some merit. Until June 2009, three months before Tonle Bassac was declared an adjudication zone, there was no legal mechanism for titling private plots in apartment blocks such as *Bouding*. Sub-decree no. 126, on the management and use of co-owned buildings, stated that individual owners of plots within co-owned buildings could only obtain land title sporadically; it included no mechanism for properties in co-owned

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[48] Office of the Council of Ministers, Letter No. 07, from Deputy Prime Minister in Charge of the Council of Ministers to H.E. Governor of the Municipality of Phnom Penh, 7 January 2007
[49] Letter from Director of Phnom Penh LMAP Project Management office to Chair of the Administrative Committee for Phnom Penh, 7 October 2009

buildings to gain title through systematic land registration. Given these facts, it seems plausible that the provisional exclusion from land titling was, indeed, provisional: the legal instrument had not been created to title the households, but once it had the community could obtain land titles. Community leaders seemed to accept that the reason title was not given was because plots were in a co-owned building. A village chief stated he believed people in the area would eventually obtain land titles: 'it may take a long time. Maybe people in this village will be among the last people to get the titles'.[50]

The technical reasoning for provisionally excluding *Bouding* has provided officials with a plausible reason for withholding land titles from a large, low-income community living in an area with huge development potential. The *Bouding* plot occupies 22,492 m^2 of some of the most valuable real-estate in Cambodia.[51] While residents interviewed seemed to be cautiously optimistic that they might eventually get land titles, a closer reading of the tenure status of *Bouding* gives less cause for optimism. The sub-decree on co-owned buildings states that individual parcels can only obtain legal ownership documents once the entire parcel of land has been registered in the cadastre as a co-owned plot, which can occur during systematic land registration. The fact that the entire co-owned plot was excluded from systematic land titling in absence of any discernible legal or technical reason, thus precluding any households obtaining individual land title, raises questions about the authorities' intentions for the complex's future.

6.4.3 Titling as political theatre

The LMAP framework has been strategically used by the government to forward broader political aims. Specifically, by controlling the distribution of titles temporally and spatially, the ruling elite has been able to maintain and consolidate political power. In this regard, it is important to note that the significance of land, both culturally and socioeconomically, means that titles are recognised by the elite as an effective form of political currency. Much is made, therefore, of the act of 'giving' land titles to households, particularly to poor households in areas where disputes have occurred, with high-ranking officials or even Hun Sen himself in

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[50] Interview with Village Chief, Village 2, Commune Tonle Bassac, Phnom Penh, 1 April 2012
[51] Letter from Director of Phnom Penh LMAP Project Management office to Chair of the Administrative Committee for Phnom Penh, 7 October 2009

attendance. In other cases, Hun Sen has personally taken action at times against land grabbers, redistributing their land to the landless to increase his political standing. He forced prominent land grabber Lieutenant-General Chao Phirun (referred to in Chapter 5.4.1) to hand back over 200 hectares of rural land to the state with the intention that it be distributed to the land poor (*Phnom Penh Post,* 8 March 2007). Far from being the benevolent acts of a paternalist leadership, however, the times and places at which titles have been distributed appear to have been carefully calculated to contribute to the political aims of the ruling party.

The opportunistic nature of politicians is best illustrated by a 2003 announcement that authorities would work with a coalition of local and international civil society partners to distribute titles to and upgrade 100 unplanned communities in Phnom Penh. UN-HABITAT, one partner in the project, reported that at the launch of the policy, Hun Sen said: 'Why stop at 100 settlements? We propose to upgrade a further 100 settlements every year for the next five years, so that in the end, all of Phnom Penh's poor settlements will be improved and have land title'.[52] On 8 July 2003, the Council of Ministers sent an official letter to the Governor of Phnom Penh, requesting that three unplanned settlement sites be reclassified from state private land to a 'social land concession', meaning that communities' tenure was no longer illegal and paving the way for the extension of formal ownership rights to residents.[53] Then, on 27 July, Cambodians voted in the general election. Hun Sen and the CPP were returned to power with 47.35 per cent of the national vote. Soon after the election result, a land dispute began between members of the communities and a large real estate developer. The company had negotiated an agreement with supposed community leaders to transfer property rights to the company despite the fact that the leaders in question had no authority to broker such an agreement; eventually the residents were violently evicted in an action many NGOs considered illegal.[54] The 100 settlement upgrading project was not heard of again.

Another example can be found in 2011. In that year, the Prime Minister personally sanctioned the Order 001 project, the mandate of which has been to distribute titles

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[52] Cambodian Prime Minister launches slum upgrading campaign, 3 June 2003
http://ww2.unhabitat.org/cambodia.asp
[53] Letter from Council of Ministers No. 875 Sar.Cho.Nor to H.E. Governor of Phnom Penh Municipality, 8 July 2003
[54] Advisor, Cambodian Centre for Human Rights (CCHR), Phnom Penh, 10 September 2013

to small-holders living in areas also claimed by concessionaires and other types of state property. At the time the campaign was announced, there was considerable speculation that this project aimed to build support for his own re-election in 2012 (Grimsditch et al., 2014). This is supported by the fact that after the election was over the project never re-started, despite pre-election promises that survey teams would return (ibid).

As well as these temporal variations in the distribution of titles, there have also been spatial variations that are related to the government's political aims. A land activist with one of Cambodian's leading human rights organisations revealed in an interview with me that government had often used the distribution of titles to influence election results in areas where the opposition party posed a threat to the ruling CPP. [55] He reported cases where local officials have effectively held populations to ransom by delaying land titling until after election results, with the warning that voting for the opposition would result in their area being excluded.

The government's political use of titling has not gone unchallenged. The ruling party's broken pledges to those to which it has promised titles has enabled opposition leader Sam Rainsy to employ the issue of titling to challenge the narrative of a benevolent Prime Minister with increasing success. Most recently, the opposition has married the land issue with xenophobic rhetoric about Vietnamese land grabbing, particularly in rural areas along the Vietnamese border. In a case that led to his arrest, conviction and self-imposed exile, Rainsy argued that the government failed to issue land titles to farmers in border areas because officials were complicit in Vietnamese efforts to encroach on Cambodian territory. He even offered to return from exile and face charges if the government allocated title to two farmers who had helped him remove markers demarcating the Vietnamese border that allegedly encroached on their land (*Phnom Penh Post,* 23 February 2011). For some NGOs, however, Sam Rainsy's political hijacking of land disputes has also had a detrimental effect on community solidarity, action and outcomes, because the

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[55] Advisor, Cambodian Centre for Human Rights (CCHR), Phnom Penh, 10 September 2013

short-term interest of politicians in generating headlines conflict with the longer-term objectives of building consensus in the community and with local officials.[56]

6.5 Negotiating for title

The LMAP has converted possession rights to ownership rights in some unplanned settlements that, prior to 2001, were deemed unauthorised. In these areas, residents' ownership had historically been defined as illegitimate. Since 2001, however, the changing distribution of power in urban society, the changing legal frameworks through which tenure is asserted and the stakeholders promoting the interests of the poor within these legal frameworks, has meant residents in such areas have in some cases received titles. In this way, the LMAP has provided opportunities for previously excluded groups to obtain a permanent and legal right to the city.

6.5.1 Titling and the changing urban economy

The LMAP has occurred within a broader process of political and economic transition in Cambodia. Three of the four pillars of the economy – tourism, construction and garment manufacturing – demand a ready supply of urban workers, so the urban poor can no longer be painted as an illegitimate group from an economic perspective. Further strengthening the position of low-income urban residents are a decade of decentralisation reforms that have transferred administrative powers to the commune, thus increasing the political significance of local elections, creating a pragmatic need to keep low-income urban sections of the electorate on-side (Hughes, 2009). In some cases, the LMAP's implementation has reflected this changing context and has been successful in providing legal ownership to a previously marginalised population.

As well as providing a framework to extend titles to those in unplanned areas, donor-funded land titling has acted as a force in its own right by exerting pressure on officials to follow the law. Although such forces have not been sufficient to counter the strongest vested interests, in other places power structures have been renegotiated

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[56]Interview with Advisor, Community Managed Development Partners (CMDP), Phnom Penh, 27 May 2013

and the LMAP has facilitated legal inclusion of households whose tenure was once deemed illegitimate.

An unplanned settlement located in Village 1 in Tuek Laark Bai, housing around 300 families, provides one example of the LMAP being implemented according to project guidelines and to the benefit of the local population. Self-built housing began to appear in the area in the mid-1980s, first on the banks of a lake; residents gradually reclaimed the lake to create more residential space. The area was nominally administered by the Ministry of Culture and Fine Arts, but the land served no obvious public purpose and residents were allowed to remain there. When a large building housing a restaurant and nightclub was built on one section of the land in the late 1980s, however, a land dispute erupted between the restaurateur, who had leased his plot from the Tuol Kork district authorities, and the Ministry of Culture and Fine Arts.[57]

The Ministry of Culture wanted to evict all the residents and the nightclub and convert the entire area into a tourist development – a dubious assertion given its distance from the central historical district. A threatened eviction order against the residents was never forthcoming and the cultural centre was not built. However, the land remained under ministry control, and rumours circulated in the late 1990s to the effect that it was to be sold to a private company.[58] Whatever the exact legal status of the plot, the status of the residents was clear: in the words of the commune chief the settlement was 'unauthorised'.[59] Despite having similar ownership histories to the residents of other exclusion zones, the inhabitants of Village 1 were not, however, excluded when Tuek Laark Bai was declared an adjudication zone for systematic land registration in 2009, and many households received title.

In the case of Village 1, the legal provisions of the LMAP were respected by officials because the incentives to do so appear to have outweighed the incentives against doing so. Residents were also fortunate that their area had not been the subject of intense speculation by developers, and that the ministry responsible for the

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[57] UNTAC civil administration case TK07, Cambodia National Archives
[58] Interview, Chief of Village, Village 1, Commune Tuek Laark Bai, Phnom Penh, 21 February 2013
[59] Interview with Commune Chief, Commune Tuek Laark Bai, District Tuol Kork, Phnom Penh, 6 February 2013

parcel was of relatively little strategic importance compared with the Ministry of Defence, the Ministry of Interior and others.

6.5.2 The role of NGOs in negotiating for titles

In many cases, NGOs have been instrumental in bridging the gap between the interests of the state and those living in unplanned settlements and, through this process, gaining titles for residents of unplanned settlements. A proponent of this strategy is Community Managed Development Partners (CMDP), an NGO that works closely with the municipal- and commune-level authorities. CMDP are involved in community mapping, mobilisation of resources for upgrading and strengthening cooperation with local authorities in a strategy to enhance community negotiation positions.

Building relationships between NGOs, communities in unplanned settlements and government is epitomised by the work of the Urban Poor Development Fund (UPDF). The organisation was founded in 1998 by a memorandum of understanding between the Municipality of Phnom Penh, the Asian Coalition for Housing Rights and the Community Savings Network of Phnom Penh to mobilise resources for upgrading unplanned settlements (Phonphakdee *et al,.* 2009). The organisation has now become part of the state apparatus; it is based in the offices of the Municipality of Phnom Penh, and the chair of the board is the city's deputy governor, while Prime Minister Hun Sen makes a regular personal contribution to the charity (ibid).

Given their strategy of cooperation, however, these groups are reluctant to take on powerful vested interests. Neither CMDP nor the UPDF have been involved in pushing for in situ land titles in areas where powerful interests are involved. In these highly contested spaces, such organisations have been pursuing more modest aims, such as enabling a smooth relocation process and appropriate services at the relocation site. [60] Debates about the wisdom of securing land titles for unplanned communities using a strategy of cooperation vis-à-vis a confrontation with authorities has caused a fissure between advocacy NGOs, such as COHRE, Sahakum Teang Tnaut and sectoral NGOS, such as CMDP and UPDF. Advocacy NGOs argued that working with the government to relocate residents from controversial

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[60] Interview with Advisor, Community Managed Development Partners (CMDP), Phnom Penh, 27 May 2013

areas, rather than promoting collective action, such as petitions and protests, helped legitimise government actions.

Despite these criticisms, it appears that fostering cooperative relationships between local authorities and residents of unplanned settlements has in some cases been an effective route to them obtaining land titles. This type of relationship was evident in the previously noted case of Village 1, Tuek Laark Bai and was an important reason they received titles during the LMAP. The residents in the community had invested jointly with local authorities to pave streets, and install electricity and water in the years prior to the LMAP. Over time, the condition of housing in the area improved, with much of the investment occurring in the 2000s.[61] The fact that the area had been upgraded in partnership with commune authorities conferred a level of legitimacy to the settlement, which was represented in the language residents used to describe their tenure security. Residents did not consider themselves as living in a 'controversial area', although they did consider their housing 'unorganised'.[62] In the course of the research, I found that the term 'controversial area' was used exclusively for areas where residents' status was uncertain and eviction seemed likely.

In areas excluded from land titling, pursuing a cooperative working relationship with authorities was often viewed as a route to titles by residents. The chief of an excluded village in Tonle Bassac expressed hope that residents in his settlement would receive titles in the future because of the positive interactions they had recently experienced with local authorities. He noted:

> when officials came to distribute food to those who were being evicted at Koh Pich, I overheard the Prime Minister's wife ask to the Governor of Phnom Penh if our community would be evicted next. He said we would not since we already have paved roads and electricity. [63]

In settlements where evictions have occurred, local authorities often behave differently towards residents. In the case of Sambok Chap, also in Tonle Bassac and perhaps the largest unauthorised settlement in Phnom Penh in the early 2000s, the

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[61] Interview with Chief of Village, Village 1, Commune Tuek Laark Bai, Phnom Penh, 21 February 2013
[62] Interview with Chief of Village, Village 1, Commune Tuek Laark Bai, Phnom Penh, 21 February 2013
[63] Interview with Chief of Village, Village 9, Commune Tonle Bassac, Phnom Penh, 28 February 2013

interactions with local officials were characterised by indifference and violence. Most residents lost their homes in 2001 in a large fire that destroyed most structures in the settlement. An NGO worker who worked in the community at the time recalls that Molotov cocktails were thrown into the riverside settlement from boats in the nearby Bassac River as police looked on.[64] After the fire residents were not given help rebuilding and permanent building materials were prohibited. The local authorities provided no electricity or paved roads (Menzies et al., 2008). All households were eventually evicted and given plots of land in resettlement sites on the city's outskirts (see Chapter 9 for more details on this case).

6.6 Challenging established state land titling practices

The LMAP has also provided new ways in which marginalised communities can assert their claims to homeownership. As a donor-funded intervention, titling has provided additional policy spaces through which residents in unplanned communities can pressure the state to apply the law in a manner that benefits them.

6.6.1 Global advocacy networks

The globalisation of land governance in Cambodia has meant that extra-sovereign forces, particularly the World Bank, have influenced how land titling has been implemented by the Cambodian state. The Cambodian government is heavily dependent on technical and budgetary support from multilateral and bilateral donors to effectively carry out its functions, which gives donors a degree of power to influence policy and shape how it is implemented (Hughes, 2007; 2009). Appealing to bilateral and multilateral donors either directly or through global housing rights advocates, such as the Centre on Housing Rights and Evictions or Amnesty International, can augment traditional civil society activity by applying pressure to the state simultaneously from above, by influencing donor interactions with government, and from below, via more traditional grassroots campaigns.

Harnessing global aid networks to forward the interests of vulnerable residents has been recognised as a strategy that can potentially lead to more equitable forms of

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[64] Interview with Advisor, Cambodia Development Resource Institute (CDRI), Phnom Penh, 23 November 2013

neoliberal governance globally. James Ferguson (2004: 90) has argued that global advocacy networks have enabled local interests to link to global civil society movements to challenge what he calls the 'vertical topography of power' between state and society. In traditional models of civil society action, groups work between state and society to promote the interests of vulnerable groups. By linking the interests of vulnerable groups to extra-sovereign groups, and particularly groups that can influence government policy, civil society is able to subvert the 'vertical topography' of power and challenge state policies from above. Anaya Roy (2005) has noted the success of such approaches in India, showing how targeted advocacy spurred the World Bank to pressure the Indian state to meet resettlement requirements for a Bank-funded dam project. She grapples with the idea of subverting neoliberal governance by working within the frameworks constructed by what she calls the neoliberal 'masters', concluding that: 'the master's tools cannot dismantle the master's house, but perhaps when strategically used, they can allow those on the outside to occupy the master's house' (ibid: 155).

6.6.2 The Boeung Kak case

The LMAP has linked the property rights of residents of unplanned settlements to extra-sovereign powers that can apply pressure on the Cambodian state to respect the rights of marginal populations. Systematic land titling in Phnom Penh was funded by the World Bank and therefore had to conform to project environmental and social safeguards, and be implemented according to Cambodian law and the procedures detailed in project documents and specified in the credit agreement between the World Bank and the Cambodian government. To ensure that project conditions were met, the Bank and other donors monitored project implementation, producing dozens of aide-mémoires, releasing public statements and putting behind-the-scenes pressure on the Cambodian government to implement the project according to project guidelines.[65]

In some cases, there is evidence that extra-sovereign forces have challenged the vested interests of elites in relation to titling in unplanned settlements. The clearest example of this occurring is in the Boeung Kak area, a 133-hectare site that included

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[65] Interview with Former legal officer, Bridges Across Borders South East Asia (BABSEA), 8 April 2013

a lake and surrounding areas in the commune of Sras Chok (World Bank, 2010). By the time the area was declared an adjudication zone for land titling in 2006, the Boeung Kak site housed the largest area of unplanned settlements in the capital and included dwellings for approximately 4,250 families in 10 villages on open land around the lake or on stilts over the water (ibid.). The community claimed that housing began to appear in the mid-1980s, with the population density increasing over time as plots were subdivided and sold to new migrants (Grimsditch and Henderson, 2009; World Bank, 2010).

The legality of residents' tenure status and their eligibility for land title varied from household to household. While many had strong ownership claims and lived on land that they believed they owned and for which they had documents showing legal possession, many of those living on stilts over the lake had a far lower degree of tenure security. According to Article 15 of the Land Law, a lake is state public land and therefore cannot be owned by an individual or other entity. Despite the fact that those on stilts over the lake were living on land that was likely state public, they should have still had their claims adjudicated had correct procedure been followed. According to the Sub-Decree on State Land Management and the Procedures for Establishing a Cadastral Index map, all households, whether on stilts on the lake or on land surrounding the lake, should have had their property rights adjudicated by Cadastral officials.

Had systematic land titling gone ahead according to the recognised procedure, one would have expected a variety of tenure outcomes for Boeung Kak residents. Households located above the low water mark would have expected their possession to be converted to ownership if they fulfilled the criteria for legal possession. Households on stilts over the lake should have had their property rights considered in the demarcation of the borders of the lake, and if they were found to be living on state public land, the LMAP resettlement framework should have been deployed (World Bank, 2002a). Instead, when the commune of Sras Chok was declared an adjudication zone the entire 133-hectare Boeung Kak site was declared an exclusion zone where land titling would not take place. Officials claimed this was because the entire area constituted state public land: the 43 hectares of dry land, it claimed, were parkland, despite the fact that the supposed park had clearly not been in public use for well over a decade and that it was not registered as state land (Grimsditch et al.,

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2012; World Bank, 2010). Once the property claims of the residents had been voided, the government leased the entire 133 hectare site to a company called Shakaku, headed by a ruling party senator called Lao Khin Meng. Lao had strong links to powerful government figures and was described by US embassy officials as one half of 'one of the most politically connected couples in the country … [with] access to at least 315,028 hectares of land for agribusiness'. [66]

According to NGO observers the government-sanctioned lease agreement with Shakaku was illegal.[67] The law states that leases for state public land can only be granted when the lease would not affect the public function of the area.[68] Shakaku planned to fill the lake and build a commercial centre, clearly voiding the lake's public function. In addition, the law decreed that state public land could only be leased for a maximum of 15 years,[69] but Shakaku had obtained a lease for 99 years. In August 2008, the government attempted to retrospectively legalise the lease by decreeing that the lake no longer had a public use, thus giving the government the legal authority to convert the land to state private land, which, as the private property of the state, could be leased. A sub-decree was issued that converted the entire 133 hectares into state private land, thus legalising the lease to Shakaku.[70] The reclassification as state private land meant that, paradoxically, settlers on stilts over the lake acquired the right to convert their possession right to legal ownership – but, unsurprisingly, this did not occur.

6.6.3 Challenging state land titling practices

Until 2009, the Boeung Kak case seemed to be the latest chapter in a familiar story, concerning familiar stakeholders and issues. A well-connected tycoon was violating the possession rights of residents, with the government displaying a disregard for legal process and LMAP procedures. In 2009, however, an innovative advocacy strategy was employed by a coalition of human rights NGOs. During this period, I

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[66] US Embassy cables, 7PHNOMPENH1034, 9 August 2007

[67] Interview with Former legal officer, Bridges Across Borders South East Asia (BABSEA), 8 April 2013

[68] Article 16, Sub-decree No 129 ANKr.BK, Sub-decree on the Rules and Procedures on Reclassification of State Public Properties and Public Entities, 27 November 2006

[69] Article 18, Sub-decree No 129 ANKr.BK, Sub-decree on the Rules and Procedures on Reclassification of State Public Properties and Public Entities, 27 November 2006

[70] Sub-decree No. 108 S.E., Sub-decree on the transfer of Boeung Kak location from the State's public property to the State's private property, 7 August 2008

was based with the Centre on Housing Rights and Eviction (COHRE), which was part of a coalition of groups representing community, so was well placed to participate in, observe and document this strategy. The coalition developed an advocacy plan that circumvented the usual state-society continuum along which NGOs traditionally have operated. Instead of appealing to the government to halt evictions, they directed their advocacy efforts to the World Bank. In doing so, the coalition exploited the broad and sometimes divergent institutional apparatus of the Bank, which included the country office team responsible for administering the project, senior officials at the Bank's Washington HQ to whom country-level officials were responsible, and independence compliance mechanisms that monitored and evaluated World Bank projects and programmes.

In Phnom Penh, the World Bank was directly responsible for funding systematic land titling in the Boeung Kak area and other parts of the city (other donors provided funding for titling in other parts of the country and other aspects of the project, such as legal technical assistance). Advocacy NGOs, therefore, combed over project documents to assess the legal and procedural basis – detailed either in Cambodia's laws, or in LMAP planning documents – for excluding households from land titling in Boeung Kak. None was found. On that basis, the coalition drafted a letter in partnership with the community requesting a review from the World Bank Inspection Panel, a Washington-based independent compliance mechanism for the World Bank.[71] In the letter, the coalition asserted that all property claims in Sras Chok commune should have been assessed and adjudicated in a transparent manner; failure to implement the project accordingly affected households in Boeung Kak negatively.[72]

While it was the government that had failed to implement the project, the Bank was also culpable according to their own internal regulations concerning project monitoring. The Bank's Operational Directive 13.05 on Project Supervision notes their responsibility for monitoring projects and ensuring that borrowers implement

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[71]Interview with Former legal officer, Bridges Across Borders South East Asia (BABSEA), 8 April 2013
[72] Letter from COHRE to the World Bank Inspection Panel, Re: Request for Inspection Panel review for the Land Management and Administration Project, 9 September 2009

projects according to prior agreements.[73] The letter from the coalition alleged that the Bank failed to monitor the project and as a result the project was not implemented according to law and procedure. The Credit Agreement between the World Bank and the Royal Government of Cambodia placed an onus on the state to implement land titling according to law and procedure and on the World Bank to ensure that they did so (World Bank, 2002a).

The Inspection Panel agreed that there were grounds for a review on the basis that unplanned settlements had been excluded from land titling in contravention of procedures detailed in World Bank project documents and the Credit Agreement between the Bank and the Government. A review panel was formed, with Bank representatives and an external expert, and in 2011 the review found that the majority of the community's grievances were justified (World Bank, 2010). After negotiation with the government failed to resolve the issue of extending land titles to households living in unplanned areas of Boeung Kak, the Bank suspended all lending to Cambodia (excepting projects in progress).

Other regional powers were also important in applying pressure on the government. A well-known Chinese investment company that had partnered with Shakaku for the redevelopment project had a reputation built on a good record of due-diligence. The company became the subject of much negative press because of its association with the evictions, with the Chinese embassy in Phnom Penh the target of protests from Boeung Kak residents' groups. This pressure was successful and, behind the scenes, the Chinese company put pressure on the government to come to an arrangement with residents, threatening to withdraw funding if the matter was not resolved [74]

In addition, grassroots protest movements were effective in drawing the attention of the Cambodian public to the plight of residents. A particularly successful protest group, which received digital support from local advocacy NGOs, emerged from a women's sewing group led by local resident Tep Vanny (Brickell, 2014). The group led protests across the city leading to their arrest and subsequent calls for their release by human rights groups. Widely-circulated images of protesters being treated

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[73]http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0, ,contentMDK:20064744~menuPK:64701637~pagePK:64709096~piPK:64709108~theSitePK:502184 ~isCURL:Y,00.html

[74] Interview with employee at donor organisation 1, Washington D.C. (via skype), 11 December 2013

roughly by police contributed to an attitude of resentment towards the role of the authorities in the case and supported the narrative that the state and its elite benefactors were committing an injustice.

The multi-pronged advocacy strategy employed by Boeung Kak residents and their supporters resulted in positive outcomes for some of the residents. In August 2011 the government relented and promulgated a sub-decree that allocated 12.44 hectares of land to the residents that remained at the site. By the end of 2011, over 800 plots had been surveyed. The first batch of land titles was delivered to residents at a ceremony presided over by the Governor of Phnom Penh and the Director of the Land Management, Urban Planning and Cadastre Department – presumably in a bid to extract maximum political capital from the event. Although some families in Boeung Kak eventually received titles, the outcome for many residents has not been positive. Around 3,500 families had been evicted prior to the 2011 deal and provided with small plots in relocation sites on the city's outskirts, far from livelihood opportunities and with poor access to services.[75] A further 90 families who had remained on site have continued to be excluded from receiving titles under the new agreement, including those represented by the activist Tep Vanny. Thus, while Boeung Kak cannot be said to be a success story, it is a good example of how those excluded from acquiring legal ownership can (in some cases) successfully assert their rights in unexpected ways.

6.7 Conclusion

This chapter has explored the LMAP as a best-practice land titling intervention that has resulted in a variety of outcomes for low income residents of Phnom Penh. I have, first, highlighted the policy mobility of the project, arguing that the World Bank used a strategy that emphasised local ownership of the titling approach to enact the deep reform of Cambodia's land sector. I have gone on to assert that the outcome of this intervention has been uneven in relation to the distribution of titles to the

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[75] Interview with programme manager, Sahakum Teang Tnaut (STT), Phnom Penh, 9 September 2013

residents of unplanned settlements in Phnom Penh: some have benefitted from the project and received titles, while others have been excluded.

In exploring these processes of inclusion and exclusion, I have sought to challenge the view of titling as a projection of an intransigent neoliberalism across urban space. I have argued that such a view limits the scope of titling's policy outcomes to either universally positive or negative. Instead, I have viewed the LMAP as a dynamic framework through which the power relations associated with Phnom Penh's land sector have been expressed in a myriad of ways. This approach brings into view the variety of interactions that a donor-funded land titling framework may facilitate, the strategies of the different stakeholders to promote their own interests and the project's potential for redistributing power among them. In this context, the power structures that characterise political and economic systems can simultaneously be reasserted (see Chapter 6.4), renegotiated (see Chapter 6.5) or subverted (see Chapter 6.6).

Chapter 7: Titling, Tenure Security and Housing Investment

7.1 Introduction

Proponents of titling suggest that the insecurity associated with illegal tenure limits property investment (De Soto, 2000; Deininger, 2003; Feder and Nishio, 1999). They argue that titles confer legal ownership, thereby guaranteeing state protection of codified assets from appropriation (Beasley, 1995). In doing so, titling programmes provide recipient households with the security needed to invest in home-based entrepreneurial activity (De Soto, 2000) and/or housing improvements (Jimenez, 1983). The claim of a positive relationship between titles and housing investment was highlighted in policy documents relating to Cambodia's titling project. Increased investment at the household level was identified as a key performance indicator in the donor-funded titling project, the Land Management and Administration Project [LMAP] (World Bank, 2002a). In this chapter, I assess whether titles have met the expectations of planners to increase tenure security and investment at the household level in Phnom Penh.

In the first section, I question whether representations of titling in the literature fit the experience of the LMAP in Cambodia. To explore this question, I position city-wide systematic titling in Phnom Penh in the context of key debates around titling and investment to reveal points of similarity and disparity. I suggest that LMAP planners extended arguments made about titling in self-built areas, which are well documented in the literature, to planned areas. However, there exists little empirical work on how titling affects tenure security and investment in planned areas.

I then go on to test claims made about titling, tenure security and investment in self-built and planned areas of Phnom Penh using data from household surveys in Sites 1-3 and key informant interviews. I also draw on relevant sections of focus group discussions that I conducted with residents in unplanned settlements in the Phnom Penh district of Chbar Ampov as part of a consultancy project (see Chapter 4 for details). I find a complex relationship between the distribution of titles and reported investment. Titling seems to be related to increased investment in some contexts, yet there is also evidence of frequent, substantial investments in the absence of titles. These results suggest a more complex relationship between titles, tenure security and

investment than anticipated by LMAP planners. I explore this complex relationship by analysing how respondents' *de facto* and *perceived* security has influenced investment behaviour. I also broaden the scope of the analysis to reveal factors unrelated to tenure security that have influenced reported investment, including capital availability and the protection of property from crime or from environmental hazards.

I conclude that, although titles are linked with investment, there are many additional factors that have influenced respondents' tenure security and/or their investment behaviour. The complexity of investment decisions challenges the universalising arguments made about titles and investment – that titling untitled property will always lead to increased investment. Instead, I posit that a more context-oriented approach is necessary to determine the constraints to property investment at the household level.

I aim to contribute to the literature in two ways. First, I provide an example of titling and household-level investment at the city-wide scale – a topic that has not been addressed to date in the literature. In doing so, I hope to shed light on one of the most globally replicated international development interventions. I provide a critical appraisal of the LMAP's achievements in relation to empirical accounts of titling in the literature and attempt to account for the gap between project planning and observed outcomes. Second, I provide empirical support to arguments that assert the complex, varied and often context-specific determinants of tenure security and investment behaviour.

7.2 Land titling, security and housing improvements

Systematic, city-wide, titling in Phnom Penh differs from the types of titling presented in the literature on housing investment, which in the main relate to self-built settlements with irregular tenure. As a city-wide intervention, the LMAP expects to increase tenure security and investment in both planned and unplanned areas. I suggest that extending titling arguments to planned settlements is at odds with the conceptual underpinning of titling, which stresses changes in *de jure* tenure security. The wider scope of city-wide titling projects in comparison to those

targeting unplanned settlements also challenges predominant narratives about titling and housing investment made in the literature.

7.2.1 Titling, tenure security and institutional reform

Titling has been the World Bank's key policy tool to increase tenure security and housing investment in urban areas since the 1970s (Doebele, 1987; Jones and Ward, 1994). The policy is rooted in institutional economics, which emphasises the role of the state in protecting individual property rights as a precondition for investment (Acemoglu et al., 2001; North, 1990; Rodrik et al., 2004). The logic is simple: individuals or entities will not invest in an asset if it can be appropriated by others. Therefore, the state must introduce institutional mechanisms that guarantee the protection of assets if investment is to increase. Titling applies the two core principles of institutional economics – secure property rights and institution building – to land and housing markets (Besley, 1995). It does so by applying a binary conception of tenure as formal/informal, where formal tenure equates to legal/state protected/tenure security/investment and informal tenure equates to illegal/no state protection/tenure insecurity/limited investment (Varley, 1987; 2002; 2010). The role of planners is to remove informal tenure through institutional reforms, namely the issuance of titles for informally (or illegally) held properties (Brando and Feder, 1995; Feder and Feeny, 1991; Feder and Nishio, 1998). In urban areas, issuing titles to those with informal tenure is viewed as a guarantor of tenure security and a key tool for catalysing housing improvements and/or home-based entrepreneurial activity (De Soto, 2000; Field, 2005; Jimenez, 1983).

Critics, however, argue that there is limited evidence that titles are needed to increase tenure security or encourage investment (Gilbert 2002; 2012; Payne et al., 2009) Writing during a resurgence of titling programmes following Hernando De Soto's *The Mystery of Capital*, Alan Gilbert (2002: 8) noted that it was 'well recognised in the literature that security of tenure does not require the issue of full legal title.' Reviewing studies of titling a decade after De Soto's thesis, Gilbert (2012) found little empirical evidence that titling programmes increased tenure security and/or investment in the intervening period. He concedes a possible exception: the COFOPRI titling programme in De Soto's native Peru, where numerous studies have noted the link between titles and tenure security (Calderon,

2004; Kagawa and Turkstra, 2002), on the one hand, and increased investment, on the other (Field, 2005). Yet even in Peru some have disputed the foundational link between titles, tenure security and investment, noting that other, more appropriate policy interventions could have achieved better results (Fernandes, 2011).

Critics of titling do not dispute the importance of the state in determining tenure security, but argue that titling is not the only – or even the primary – indication of state recognition of individual ownership rights. For one thing, titles are not necessarily indicative of state protection unless they represent genuine political will (Cousins, 2008). Moreover, there are other actions of the state that are more important than titles in determining tenure security. Indeed, Geoffrey Payne (2004: 173) observes 'security of tenure depends not so much on legal status as on residents' perceptions of past and present government policy'. Payne's observation has been supported by empirical accounts of a variety of policies that have increased tenure security across the globe. In Mexico, Ann Varley (2002: 455) notes that 'most residents base assessment of their security of tenure on processes indicating official tolerance of their settlement', with the provision of services highlighted as a key indicator of state tolerance. In Vietnam, Annette Kim (2004: 300) emphasises the crucial role the state played in increasing tenure security by adopting policies such as 'higher land compensation rates, public demotions of officials who expropriate without a solid public interest reason, and allowing citizens to criticise local officials' management of land in state-run newspapers'. In Colombia, Gilbert (2002: 10) argues that tenure security 'depends less on the exact legal status and more on occupants' perceptions of the probability of eviction and demolition (enforcement); as well as the availability of services and passage of time'. If the state provides conditions of security then residents will invest irrespective of whether or not they have titles. In Mexico City (Varley, 1987) and Bogotá (Gilbert, 2002), for example, it was found that people would buy land with only a receipt of sale and start improving it without having their property rights clarified through official land titles.

The varied determinants of tenure security and investment have led to calls to broaden the debate from the legal tenure focus stressed by proponents of titling to include a greater range of factors (Van Gelder, 2009; 2010). To capture the range of factors that influence tenure security, Jean Louis Van Gelder forwards a tripartite model, which includes *de jure, de facto* and *perceived* security. *De facto* conditions

here refer to the actions of the state that determine residents real tenure security i.e. promulgation and enforcement of policies relating to tenure security of particular sub-groups of the urban population. *De jure* refers to the legal conditions of tenure security, which is represented as an illegal/informal/untitled/insecure or legal/formal/titled/secure binary by titling proponents, and as a 'spectrum' of legality in empirical accounts by Varley and others. As Varley (2002) has shown in Mexico and Payne and Khemro (2004) in Cambodia, for example, there are often a variety of tenure systems in developing country cities which embody a variety of formal and informal actors and operate on a continuum of legality rather than a binary of legal/illegal. Van Gelder (2010) asserts that *de facto* and *de jure* conditions affect investment through the proxy of residents' own assessment of these conditions. For Van Gelder (2010), residents' *perception* of tenure security, which can be influenced by *de facto* and/or *de jure* conditions, is the primary driver of investment.

Factors that are not directly related to tenure security may also have significant effects on household investment decisions. Gilbert (2012), for example, points out that many of those without titles are low-income households and lack the financial resources to invest in housing or entrepreneurial activity irrespective of their tenure status. In some cases, using titling logic to address investment constraints in such areas may result in skewed policy implications. For example, in reality residents without titles but with strong tenure security may not invest because of a lack of financial capacity. However, viewing the investment behaviour of such households through the lens of titling theory would miss this investment constraint: households that lack title for their plot are believed to suffer tenure insecurity by default, which would be assessed as the key constraint to investment. The disconnect between titling theory and reality means that titling policy may misdiagnose the problem and prescribe an inappropriate policy remedy that fails to produce the desired result (Gilbert, 2002; Payne et al., 2009).

7.2.2 City-wide titling

Almost without exception studies of titling, tenure and investment at the household level have focused on unplanned settlements. Much of the early literature on titling focused on the cities of Latin America, where large illegal settlements are often situated in peripheral areas. In these cases, the aim of policy makers was to extend

the rules of a pre-existing tenure system to pockets of illegality (Varley, 1987). Increasingly, however, titling programmes have not been confined to unplanned settlements. According to Jones and Ward (1994: 37), since the late 1980s an 'important reappraisal' of World Bank urban policies shifted lending from project-based (e.g. informal settlement upgrading) to city-wide land reforms intended to increase the economic efficiency of urban areas. As part of this shift, nation-wide systematic land titling programmes (covering both rural and urban areas) have become a ubiquitous World Bank approach, with billions spent on such programmes each year, particularly in areas where weak 'formal' institutions for registering ownership rights exist (Holstein, 1996; Markusson, 2008).

Systematic land titling programmes have spread across the globe to Asia (Hirsch, 2011), post-socialist countries (Ho and Spoor, 2006) and Africa (Briggs, 2011). In urban areas, the approach usually involves titling all property that is not registered in the national cadastral database, whether in unplanned, self-built areas or in planned residential areas. One of the earliest and largest systematic titling programmes, the Thai Land Titling Project (TLTP), for example, did not focus only on self-built unplanned settlements, but also involved clarifying the property rights of those in planned areas by unifying disparate mechanisms of ownership, including rights registered with different local, municipal and provincial authorities, into a single cadastral database (Rattanabirabongse et al., 1998). The Thai project is regarded by the Bank as a success story, credited with increasing security and investment across the economy (Bowman, 2004). The programme has become a best-practice model replicated across the globe, including in Cambodia's LMAP, where its success is cited as part of the rationale for the Cambodian project (World Bank, 2002a).

Despite the proliferation of nation-wide titling projects, there has been little analysis of what effects such programmes have (or even are expected to have) on tenure security and household-level investment across urban areas. While the debates around titling and self-built areas are comprehensive and well known, there is little attention paid to how titling may work outside unplanned settlements, in planned residential areas where residents may not have formal ownership documents (i.e. titles), but that are also targeted by systematic titling projects.

It is also unclear how arguments relating to titling in unplanned areas can be transferred to planned areas. In unplanned areas it is argued that titling increases tenure security by legalising ownership claims (Van Gelder, 2010; 2009). Yet planned areas, almost by definition, are legally recognised by the state even if residents have not applied for or received full legal title. Residents of such areas may enjoy high security of tenure but will still be targeted by systematic titling programmes if they do not have a title for their land. The rationale for and outcomes of titling in such places are little explored in the literature, yet such activities account for significant technical and financial resources of developing country governments and so must be interrogated.

City-wide titling also has implications for tripartite representations of tenure security, which consider titling as a *de jure* intervention in contradistinction to a *de facto* tenure intervention. Systematic titling programmes are a major undertaking on the part of government, which can typically take years or even decades to complete – the systematic titling programme in Thailand lasted twenty years, for example. The existence of such a programme can simultaneously act as a condition of *de jure* security for households that have received titles and *de facto* security for those that expect to gain them. In planned areas, where residents are considered legitimate owners, the existence of a systematic titling programme could significantly increase *de facto* security by signalling the state's intention to strengthen ownership rights.

7.2.3 City-wide titling in Phnom Penh

Cambodia's LMAP presents the opportunity to explore the relationship between city-wide systematic titling, tenure security and property investment at the household level. LMAP planners predicted that any household without title – whether in a self-built or planned area – would, after intervention, benefit from 'increased tenure security … and opportunities to increase investments and productivity' (World Bank, 2002a: 10). Some areas of Phnom Penh falling within the LMAP project areas were unplanned areas resembling the islands of illegality discussed in the titling literature. I was able to identify such areas through extensive key informant interviews with local officials (commune and village chiefs) across Phnom Penh. Examples include survey Sites 2 and 3 and Chbar Ampov, where pre-LMAP tenure did not provide state protection of property. Sites 2 and 3 were considered by authorities to be

located on state-owned land and, therefore, to be 'unauthorised' or illegal settlements.[76] The authorities did not usually grant documents recognising the ownership claims of residents in such areas. Also included in systematic titling were many planned residential areas. While many in such areas did not have full ownership titles, they had a variety of other documents showing state recognition of ownership claims and correspondingly high levels of tenure security. Survey Site 1 is typical of a planned residential area of Phnom Penh expected to benefit from the project. Site 1 was even included in a World Bank-funded baseline study with the intention that panel data would be collected after titling for comparison.[77] It was expected that titles would increase residents' security of tenure, which in turn would increase investment (World Bank 2002a).

LMAP policy makers made no distinction between titling in planned areas like Site 1 and unplanned areas. Instead, they deployed a dichotomous conception of tenure as formal/secure/increase investment vs informal/insecure/ limited investment. According to the Bank, some 75 per cent of land parcels in Phnom Penh were untitled at the time the project was launched including a range of settlement types (World Bank, 2002a). This 75 per cent consisted mostly of parcels in planned areas. A closer look at pre-LMAP tenure in planned areas, however, suggest a more complex links between tenure documents, security and investment than assumed by the LMAP formal/informal model.

In Site 1 most residents had strong legal claims to their land under both the 1989 sub-decree that privatised land ownership in Phnom Penh and the 1992 Land Law that followed shortly thereafter. These laws gave all Phnom Penh residents who did not live in unplanned areas the right to own their property (see Chapter 5). The laws also provided households with the opportunity to apply for titles. A CDRI survey of pre-LMAP tenure shows that prior to systematic land titling most households in Site 1 had already applied for titles under 1989 and 1992 legislation and most had obtained some document (though typically not a full land title) conferring a level of official recognition of their ownership rights (Table 7.1). Around 4 per cent of households had applied for and obtained a *commune-issued receipt* for their

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[76] Interview with Commune Chief, Commune Tuek Laark Bai, District Tuol Kork, Phnom Penh, 6 February 2013
[77] For unspecified reasons no post-titling follow-up survey was conducted.

application for ownership. This document meant that the commune-level authorities recognised the ownership claim of the applicant. The majority – ninety per cent – of households took an additional step in the application process at the district level (the authority between the commune and below the municipality) and applied for a *survey paper,* which included details of plot size and boundaries. Seven per cent of all households had completed the application process and obtained land title. Therefore, 94 per cent of households in Site 1 had applied for and been deemed eligible for a land ownership right guaranteed by a state entity. The remaining 6 per cent had obtained a receipt of ownership transfer stamped by commune authorities, which did not constitute any official recognition to their claim of ownership.

Table 7.1: Pre-LMAP tenure documents Site 1

Tenure document	Share
Pre-2001 land title	7.2%
Survey paper for pre-2001 land title (*Slab Moan)*	82.6%
Commune-issued application receipt for pre-2001 land title	4.3%
Letter of ownership transfer (commune level)	5.8%
Total	100.0%
N	94

Source: CDRI survey of pre-LMAP tenure

The case of the LMAP and investment in Site 1 presents an interesting counterpoint to examples of titling and investment in the wider literature, which focuses on islands of informality. The language used by the Bank – suggesting that increased investment in planned areas like Site 1 would be one of the 'benefits associated' with titles – implied that a relationship between titling and increases in city-wide investment at the household level was well supported in the literature. However, there is little or no previous research into how titling in such areas affects investment behaviour. There is, therefore, a disconnect between the claims about household investment made in the titling literature and those made in LMAP documents concerning planned urban areas.

In addition to the lack of precedent in other contexts, LMAP planners also conducted little research on pre-LMAP tenure systems in Phnom Penh. Although the Bank did commission a baseline study in 2005, which included data on tenure and investment, the project had already been running for three years by that point. No analysis of pre-LMAP tenure systems and the security they offered was conducted prior to project planning. Instead, planners represented pre-LMAP tenure through a binary of titled/untitled as determinant of tenure security/insecurity. Close examination of tenure systems in the survey sites, however, questions a key assumption underpinning this binary that *all* those without titles suffered tenure insecurity. Can arguments used in relation to titling in unplanned settlements be applied to Site 1 when the fundamental assumption of titling – that informal tenure is associated with tenure insecurity – is not present? Exploring the question of titling, tenure security and investment in planned areas, neglected by the existing literature, is important because a key aim of the LMAP was to improve these two indicators in such areas. Analysing project goals against project outcomes has important implications about how other such programmes are planned and implemented around the globe.

7.3 Patterns of investment and titling

In the previous section, I have argued that both the orthodox titling literature and LMAP policy documents asserted the presence of title as the primary determinant of tenure security and investment. In this section, I explore the effects of title on tenure security and property investments in both planned and unplanned areas. I assess *frequency* and *scale* of investment in relation to the distribution of titles across and within survey sites. I find that while there have been both frequent and large reported investments in the absence of titles, titles seem to be related (in some areas) to more frequent and larger-scale investments.

7.3.1 Titling and the distribution of investments across survey sites

The overall distribution of investment across the survey sites suggests that titles are not a precondition for investment. The majority of respondents in both titled (Sites 1 and 2) and untitled (Site 3) areas reported making investments in their property (Table 7.2). However, respondents in Site 3 reported property investments most

frequently, despite the locality being regarded by authorities as an illegal settlement and excluded from systematic titling. Similarly, focus group participants in Chbar Ampov estimated that around 50 per cent of households in their community had invested in their property, despite the fact that no residents had received titles.

Table 7.2: Households reporting investments Sites 1-3

	Site 1	Site 2	Site 3
Have invested	59.8%	60.9%	66.7%
Have not invested	40.2%	39.25%	33.3%
Total	100.0%	100.0%	100.0%
N	92	64	48

Source: PhD fieldwork

To measure variations in the scale of property investment across the survey sites, I used the proxy of building quality. During fieldwork, it became apparent that indicators associated with the quality of structures were more useful in determining the scale of investments than measuring the capital value of investments. Often respondents seemed unsure of and/or reluctant to disclose the total cash amount of their investments. Housing quality, on the other hand, was the tangible end result of a respondent's cumulative property investments. Housing in the survey sites covered a variety of structures, which can broadly be categorised as professionally built and self-built (Table 7.3). These categories were not mutually exclusive. Construction of self-built housing was often carried out by construction workers – who were frequently residents of the sites themselves. However, professionally built dwellings were easily identifiable because of the common shop-house design they shared, which indicated a level of professional design and planning beyond not found in self-built housing (Figure 7.1).

Table 7.3: Housing types Sites 1-3

		Description	Site 1	Site 2	Site 3
Professionally built	**Wooden house**	Large, professionally designed and built wooden structures. Living spaces elevated on stilts to protect from floods and to keep cool. Predominant housing type in Site 1 before 1979.	6.5%	--	--
	Mixed wood and brick house	As 'wooden house', but ground floor converted into brick/concrete living area.	7.6%	--	--
	Shop-house	Professionally designed and built housing common in central urban areas. Often terraced. Ground floor open-plan living space often used as commercial premises during day.	60.8%	29.7%	22.9%
	Villa	Large, detached, professionally designed and built structures.	3.3%	--	--
	Apartment	Singe unit in co-owned pre-Khmer Rouge professionally designed and built structure.	19.6%	14.1%	--
	Warehouse	Professionally designed and built commercial unit without residential space.	1.1%	--	--
Self-built	**Wooden self-built**	Predominantly made of wood and/or other low-quality materials (e.g. thatch, tarpaulin, corrugated iron). Self-built with/without assistance of construction workers but not professionally designed. Often modified over a period of years	1.1%	7.8%	27.1%
	Mixed materials self-built	As above but structure includes some concrete and brick, usually as foundations/ground floor.	--	45.3%	37.5%
	Concrete/ brick self-built	As above but structure predominantly concrete/brick.	--	3.1%	12.5%
Total			100.0%	100.0%	100.0%
N			92	64	48

Source: PhD fieldwork

Figure 7.1: Examples of housing types in the survey sites
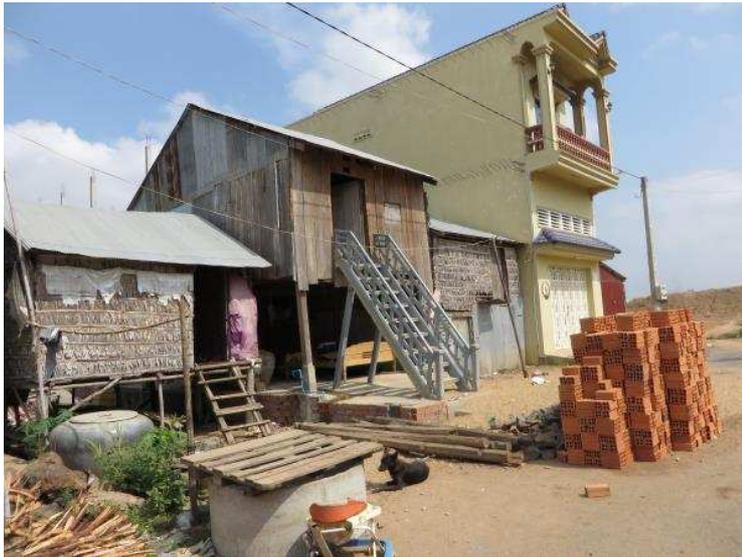
Notes: Left to right, wooden self-built, mixed-materials self-built, shop-house professionally built)

Source: PhD fieldwork

At the aggregate level, the distribution of housing types across the survey population – though varied – suggests substantial investments by residents in all sites irrespective of the distribution of titles. Untitled Site 3 and Chbar Ampov, which were unoccupied peripheral areas in 1979, had become densely populated and included a variety of house types by the time I undertook my fieldwork. In Site 3, around three-quarters of the properties were self-built, with over one-quarter constructed from wood or other less durable materials (Table 7.3). However, nearly one-quarter of dwellings were shop-houses, indicating that some residents had invested significant resources in constructing a professionally designed and built dwelling. In Chbar Ampov, most houses were of poor quality, constructed from non-durable materials. Some respondents, however, had strengthened the foundations of their properties with concrete.

In the titled Sites 1 and 2, there was evidence of more substantial investments in property. In Site 1, a residential area constructed by urban planners in the 1960s and the only planned survey site, respondent housing was almost without exception professionally built (Table 7.3). Most of these professionally built structures were constructed in the post-Khmer Rouge period. Before these investments, housing in the area had mostly consisted of wooden structures located in large plots and built in

the 1960s and early 1970s; a few of these structures remained at the time I conducted the fieldwork still remained. The high proportion of respondents living in shop-houses or apartments – over two-thirds of Site 1 respondents – implies large-scale investment in the area over the past three decades (i.e. post-Khmer Rouge).

The range of housing in titled Site 2 also suggests substantial property investment by residents. It should be noted that prior to 1979 there was no housing in the area, only a lake and scrub land. By 2013, the area was densely populated with residents housed in a range of structures (Table 7.3). Just under one half of respondents lived in shop-house properties. The remainder lived in self-built dwellings, which were usually good-quality structures made with more durable materials, such as brick-built walls and concrete floors. The most prevalent dwelling type was 'self-built mixed materials', which accounted for the homes of around 45 per cent of respondents; these structures tended to be solidly built. There were few properties made only of wood and/or other low-cost materials.

Overall, the frequency and scale of investment across survey sites suggest that areas where residents received titles saw larger investments than those where residents did not. While suggestive, there findings are by no means conclusive. Variations in investment behaviour could be the result of the different socioeconomic characteristics of the residents of the respective sites and their different (pre-LMAP) tenure status. I shall now focus my analysis on Sites 1 and 2, where residents of the respective sites had similar socioeconomic and pre-LMAP tenure characteristics.

7.3.2 Pre- and post-titling investments in areas where titling occurred

Data regarding pre-and post-titling investments in titled Sites 1 and 2 show that a substantial number were made prior to titling in project beneficiary areas. Records of investment over time in Sites 1 and 2, where (some) residents received titles in 2008 and 2010, respectively, reveal a number of investments made before these dates (Figure 7.2). Over 50 per cent of investments reported in Site 1 and over 70 per cent in Site 2 were made prior to titling (N=59 and N = 41, respectively). Titling does appear, however, to have coincided with a spike in reported property investment in Sites 1 and 2 between 2011 and 2013. In Site 1 there were 2.5 reported investments per year pre-LMAP compared with 4.7 post-LMAP, and in Site 2, 2 and 3 reported investments per year, respectively. The increased frequency of investment post-

LMAP suggests that titles may have had a positive effect on respondents' propensity to invest.

Figure 7.2: Number of reported investments by year Sites 1-3
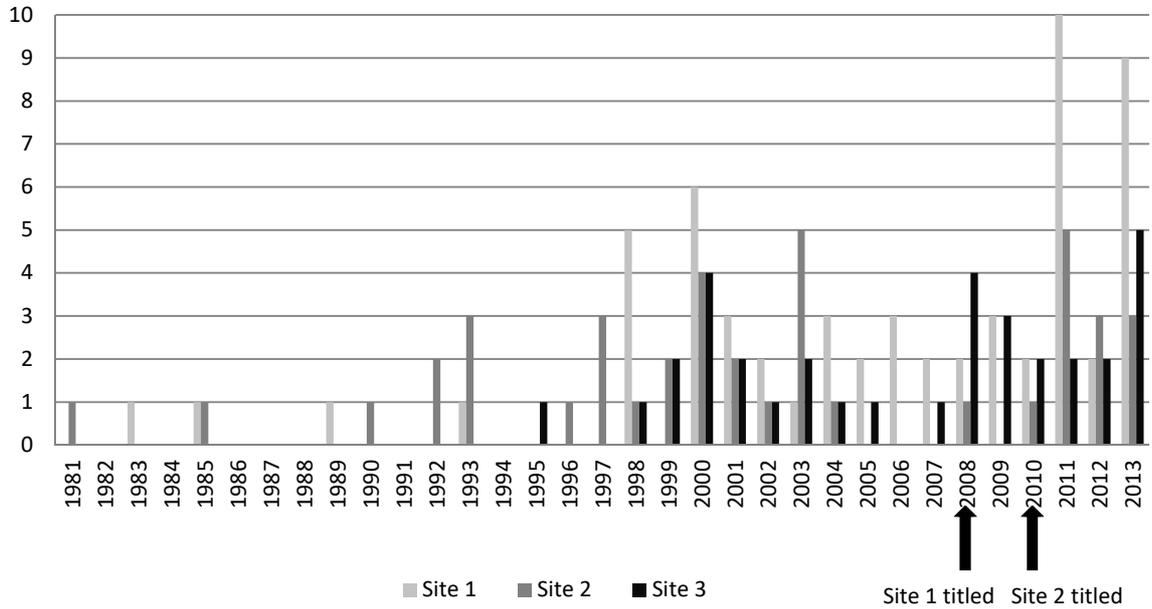
Breaking down investments over time in Sites 1 and 2 by scale reveals that many substantial property investments were made prior to residents receiving title. Over two-thirds of reported investments made prior to land titling in Site 1 involved respondents building a new structure or undertaking major reconstruction of their property for residential, business or rental purposes (Table 7.4). Just under one-fifth of investments involved minor modifications to facilitate commercial activity. The remainder also involved small modifications, but in this case to improve living conditions. The proportion of investments reported as 'major' in this area was greater in the pre-LMAP than post-LMAP period in Site 1 and about equal in Site 2, suggesting that pre-LMAP tenure did not constitute a barrier to large-scale investment in the area. However, there was a much longer reference period during which 'major' pre-LMAP investments were observed (1979-2007 rather than 2008-2013 for post-titling). Viewed as investments per year, there was a far higher frequency of 'major' investments in the post-LMAP period than the pre-LMAP period in both sites.

Table 7.4: Pre- and post-LMAP investments Sites 1 and 2

Scale of investment	Site 1		Site 2	
	Pre-LMAP	Post-LMAP	Pre-LMAP	Post-LMAP
Major (re)construction to improve household living conditions	35.5%	21.4%	33.3%	33.3%
Major (re)construction for residential and rent or business	32.3%	32.1%	6.7%	--
Modify property to start on-site business	19.4%	35.7%	--	25.0%
Upgrade property to improve household living conditions	9.7%	3.6%	53.3%	33.3%
Upgrade property to improve living conditions and to rent	3.1%	7.1%	6.7%	8.3%
Total	100.0%	100.0%	100.0%	100.0%
N	31	28	30	12

Source: PhD fieldwork

The data for pre- and post-titling investments in Sites 1 and 2 suggest that pre-LMAP tenure did not constitute an insurmountable barrier to large-scale investment in either site. However, after titling both the frequency of investments in general and the frequency of major investments in particular increased in both sites, suggesting that titling was associated with increased investment. It is important to note that a proportion of respondents in both sites did not receive titles post-LMAP. To investigate the effects of title on investment at the individual household level, I shall now view post-titling investments in Sites 1 and 2 by recipient and non-recipient respondents.

7.3.3 Post-LMAP investments by recipient and non-recipient households

In Sites 1 and 2 only a proportion of households received title because of the nature of LMAP procedures, making it possible to compare investment patterns in households with and without titles. This comparison is similar to Van Gelder's natural experiment (2013), where there exists an uneven distribution of titles across

households with similar socioeconomic characteristics. As Van Gelder (2013: 2) notes, this situation means that the 'allocation of property rights is orthogonal to dweller characteristics and therefore exogenous'. In other words, the effects of title on investment can be isolated from other factors because conditions are the same across the respective sites. Disaggregating post-LMAP investments (post 2008 and 2010 in Sites 1 and 2, respectively) in this way reveals that those without titles invested more frequently per household (Table 7.5), suggesting that those with title were no more likely to invest than those without.

Table 7.5: Households reporting post-titling investments Sites 1 and 2

Proportion of households who invested	Share
Respondents with title	21.6%
Respondents without title	36.3%
Total	100.0%
N	156

Source: PhD fieldwork

With regard to scale of investment, however, there are clear differences between the investment behaviours of respondents in receipt of title and those not. Respondents with titles tended to make larger investments than those without (Table 7.6). Nearly two-thirds of investments by recipient households involved major reconstruction for residential and/or capital-generating purposes, compared to one quarter of investments reported by non-recipients.

The differences in investment behaviour of recipient and non-recipient households in titled areas strongly indicate that titles increased the probability that such households would make large-scale investments in upgrading their dwelling. Proponents of titling would argue that this relationship is the result of *de jure* changes in tenure at the household level. While this conclusion seems plausible on the basis of data presented, there could be other factors that also explain the observed patterns of investment. In the remainder of this chapter, I shall attempt to delink titles from investment to address the varied determinants of respondents' investment behaviour.

Table 7.6: Post-LMAP investments made with titles Sites 1 and 2

Scale of investment	Investment made without title	Investment made with title
Major (re)construction to improve household living conditions	18.8%	29.2%
Major (re)construction for rent or business	6.3%	33.3%
Modify property to start on-site business	43.8%	25.0%
Upgrade property to improve household living conditions	25.0%	4.2%
Upgrade property to improve living conditions and to rent	6.3%	8.3%
Total	100.0%	100.0%
N	165	24

Source: PhD Fieldwork

7.4 Investment and perceptions of tenure security

As we have seen, planners believe that titles give homeowners the confidence to invest in upgrading their dwellings by legally protecting their ownership rights (Field, 2005; Jimenez 1983). However, others have argued that residents' *perceived* tenure security is the fundamental factor influencing investment decisions (Van Gelder, 2009). Perceived security refers to residents' own judgement of their tenure situation, which is often based on broader considerations than an appraisal of their legal status. Many studies have emphasised that the condition of *de facto* tenure security often provides residents with a perception of strong tenure security – even in the absence of *de jure* tenure. *De facto* security can be determined by the policies or actions of governments towards low-income settlements in a given locality over time, the socioeconomic characteristics of residents and the prevalence and nature of land conflicts (Gilbert, 2002; Payne, 2005; Varley, 1987).

7.4.1 Interactions with powerful interests

A variety of interactions with the state and/or other key stakeholders (such as tycoons) were important in determining respondents' security of tenure. A crucial determinant of tenure security related to eviction orders and/or land conflicts. According to a local official, residents in Site 1 enjoyed a high level of security because they have not faced competing ownership claims from powerful interests.[78] Respondents would often note that the area was not a 'controversial area'. As noted in Chapter 6, the term 'controversial area' was significant as it denoted residents' perceived security in relation to land conflicts affecting other Phnom Penh localities where the state and/or powerful business interests allied against the claims of residents. Respondents in Site 1 believed that they were the rightful owners of their land and had no reason to suspect their ownership claim would be challenged and, therefore, no reason to fear that assets that they had invested in would be appropriated. Similarly, residents in Chbar Ampov, while recognising their settlement was 'unorganised' (i.e. self-built), asserted that there had been no competing ownership claims from powerful interests, and did not consider their settlement a 'controversial' area.

In contrast, residents in Sites 2 and 3 had been party to disputes over their right to own – and even occupy – their land. Respondents in Site 2 reported that during the 1980s and early 1990s the authorities' refusal to recognise their ownership rights and talk of planned redevelopment in the area led them to feel insecure. These threats, however, had diminished by the 2000s. During a key informant interview, an elderly and long-time resident of the area, intimated, 'there were rumours of eviction in the 1980s and early 1990s but since then we have had no one telling us we are not allowed to live here'.[79] Residents' perceptions of tenure security were based on 'rumours' of an eviction; when the rumours ceased, residents ceased to worry, even though their tenure was illegal until they received titles in 2010. By the time I visited in 2013, residents no longer considered their tenure at risk.

In Site 3, the threat to residents' tenure was clear and present. Community members had been informed by authorities that they lived illegally on state-owned land and

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[78] Interviews with chiefs of Village 1, 2, 4, 7 and 10, Site 1, various dates February-April 2013
[79] Interview with Resident, Site 2, Questionnaire number 103, Phnom Penh, 21 July 2013

would be evicted; they remained under the threat of eviction when I visited the area in 2013. Numerous other unplanned settlements on the same stretch of railway line had already been removed in well-publicised evictions by the time I interviewed respondents, setting a strong precedent for the evictions of all communities on tracks earmarked for rehabilitation. These factors caused residents to perceive their tenure security as very weak, which in turn limited investment in housing. One respondent, who appeared despondent and distressed by their predicament, noted: 'why should I spend money on my house now when the government say that I am here illegally and they want to destroy my house?'[80]

Negative interactions with the state did not, however, necessarily preclude housing investment. For example, several large investments were reported by Site 3 respondents whose tenure status was precarious. I asked one woman, who had told me she felt scared that she would soon be evicted, why she nonetheless invested 20,000 USD in constructing a shop-house. She responded that she 'had taken a risk' and felt that the property might strengthen her bargaining position with the authorities if/when an eviction notice was served.[81] While the government are not legally obligated to compensate people who live illegally on state land, they will often offer a sum based on appraisal of the value of the structure to be demolished.

7.4.2 Positive relationships with local authorities

In other cases, positive interactions with the state had increased respondents' perceived security of tenure and, in turn, affected their propensity to invest. Service extension seemed to be a particularly important catalyst to perceived security and investment in Site 2 and Chbar Ampov. In Site 2 key infrastructure was funded through a partnership between commune authorities and a community savings group. This arrangement demonstrated a degree of official acceptance of residents' right to live there. Joint community-state investments are a strategy often used by NGOs working in Phnom Penh's unplanned settlements, with the dual aim of upgrading service infrastructure and building a cooperative relationship between communities and local authorities (see Chapter 6). During the 1990s and 2000s, residents in Site 2 felt increasingly more secure because joint investments to extend sewage and

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[80] Interview with Resident, Site 3, Questionnaire number 164, Phnom Penh, 15 October 2013
[81] Interview with Resident, Site 3, Questionnaire number 141, Phnom Penh, 3 October 2013

drainage to their area and to pave the roads signalled their changing relationship with local authorities.[82] Thus, while titles legalised residents' ownership claims, community perceptions of official recognition of their tenure rights had already been high for a long while. Much property investment detailed in Section 2 of this chapter occurred in the 2000s, during the period when services and utilities were extended to the area.

Similarly, in Chbar Ampov, the community cultivated strong relationships with local authorities. The commune had funded construction of a dyke to protect the flood-prone site and had built up the road by over a metre to make it more flood-proof. Focus group participants identified these key investments as catalysts for their housing investment. One participant even argued that the substantial investment of public funds in the area made eviction less likely.[83] In comparison, in some areas where residents were threatened with eviction, officials would refuse to invest in services and prevent residents from building structures from brick and concrete (see Chapter 6).

Residents in Site 1 had the clearest sense that their settlement was viewed as legitimate by the state. Crucially, many had pre-LMAP tenure documents that conferred a high level of tenure security. In addition, respondents' perception of their security of tenure was strong because they identified as an organised, planned community in contradistinction to the inhabitants of 'unorganised' or unplanned areas. This self-perception as being legitimate urban residents in the eyes of the state ties into arguments made in Chapter 5 about how legitimate and illegitimate urban residents were constructed by the state in policy documents and laws of the 1990s. Given this confident perception of their ownership rights it seemed to Site 1 respondents as highly unlikely – even incomprehensible– that evictions would affect them, either pre- or post-LMAP.

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[82]Interview with Resident, Site 2, Questionnaire number 122, Phnom Penh, 22 September
[83] Focus Group Discussion, Chamrouen community, Chbar Ampov, Phnom Penh, 17 February 2014

7.5 Investment motivations beyond tenure security

Arguments linking titles and investment highlight security of tenure. However, security is not the only consideration informing investment behaviour. In the survey sites residents mentioned a variety of other factors during interviews. These included protection against potential intruders or hazards such as floods and fires, as well as the availability of capital to fund housing improvements.

7.5.1 Protection from crime

A key concern and motivation for upgrading across all sites related to personal security. In the early 1980s, as Phnom Penh repopulated following the Khmer Rouge, migrants found a city where conflict and instability resulted in a legacy of run-down housing. A survey conducted in 1983 noted that the Khmer Rouge had destroyed or badly damaged up to 80 per cent of the city's housing in the period 1975-1979; during this period the entire civilian population of Phnom Penh had been relocated to rural areas (Beng Hong, 1984). After the Khmer Rouge fell, these dilapidated units were occupied by migrants to the city, most of whom were low-income farmers and refugees who had been displaced by war (Khemro, 2001; Khemro and Payne, 2004; Mysliwiec, 1988).

In Site 1, some of the first residents to move to the area recalled that the dilapidated structures they had occupied offered little protection from the lawlessness that reigned across the city in the 1980s and 1990s.[84] Some of the earliest residents in Site 1 reported occupying large wooden houses that had been constructed in the pre-Khmer Rouge era but were forcibly vacated during the exodus from Phnom Penh, their former residents presumed murdered. By the time migrants began to occupy the area in the early 1980s, the houses had fallen into disrepair and the large plots on which they were built had grown dense with foliage.[85] Concerns over personal security compelled residents to build concrete structures, which were considered much safer. One elderly female respondent noted:

> I lived in this house when I came to Phnom Penh in 1979. It was a
> wooden house at that time. During the Pol Pot era a high-ranking official

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[84] Interview with resident, Site 1, Questionnaire number 23, Phnom Penh, 11 June 2013
[85] Interview with Resident, Site 1, Questionnaire number 15, Phnom Penh, 6 June 2013

lived in this house and it was considered a beautiful house. When I could afford it I built a concrete house in its place. I did this because of my personal security; there were a lot of thieves around during the night and a wooden house provides little security. [86]

The modern shop-houses that replaced wooden structures in Site 1 and, to a lesser extent, Sites 2 and 3 were practically impregnable: all windows were barred, all doors had steel shutters and all vehicles were parked in the ground floor living/commercial space at night. Lower-income respondents in Sites 2 and 3 and in Chbar Ampov added bars to their windows and erected boundary walls protected with barbed wire or broken glass embedded in cement.

Increased personal security was also viewed as a driver of positive change in itself, particularly in low-income areas. Site 2 was once viewed as an undesirable, sparsely populated and dangerous place to live. As the area became more populated, it came to be perceived as safer, prompting further migration to the area and yet more housing investment. One respondent, who had moved to Site 2 from a rural area of Takamao province in 1981, emphasised the issue of personal security in her perception of the settlement's development over time:

> In the 1980s the area was not safe and most of the buildings were small shacks. A nightclub was opened on the land and sex workers who worked in the nightclub lived in the area; this made it more dangerous. The nightclub shut down in the late 1980s and the area became safer and a nicer area to live in. More people came to live here during that time and people improved their houses and built additional rooms for their families.[87]

7.5.2 Fire and natural hazards

Residents in all three survey sites and in Chbar Ampov stated that an important reason for upgrading their properties from wood to concrete was the threat of fire. In Site 1, respondents noted that house fires were common during the 1980s – electrical fires from poorly-maintained equipment, fires resulting from the spilling of hot coals

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[86] Interview with Resident, Site 1, Questionnaire number 14, Phnom Penh, 6 June 2013
[87] Interview with Resident, Site 2, Questionnaire number 192, Phnom Penh, 1 November 2013

and, in one case, from a hand-grenade explosion. In densely packed unplanned areas, the threat of fire was even more severe because it could spread easily from house to house and fire engines were unable to enter narrow streets to tackle blazes. A fire in Site 3 in 1998 had destroyed many homes, for example, and residents had been obliged to rebuild from scratch. [88] Those who lived in wooden or other poor-quality dwellings were most at risk of fire damage and thus had the most incentive to upgrade their homes.

Flooding was also cited as a reason to strengthen and modify housing by respondents living in flood-prone areas. Respondents in Site 2 and focus group participants in Chbar Ampov were particularly affected by floods, as both areas were former wetland areas. Respondents in Site 2 often stressed 'building up the ground' to a higher level than the flood waters as their first and most important housing investment.[89] The effect of flooding over time had diminished in Site 2 because authorities had installed drainage and paved roads. In Chbar Ampov, however, there was no drainage and flooding was still a problem, causing five deaths by drowning in the two years prior to fieldwork and contributing to a recent cholera epidemic.[90] Respondents saw elevating their living space above the flood water line as a crucial investment to protect life and property. Those who could afford it had erected concrete pylons on which living spaces sat 2-3m above ground-level during the dry season. The next investment priority was laying concrete foundations in which the pylons could be set. Those set in earth were liable to be weakened by floodwaters, potentially destabilising elevated living areas.

For some respondents – including those reporting particular concern about their security of tenure - the need to protect life and property against environmental hazards outweighed fear of eviction. One respondent in Chbar Ampov had invested in erecting concrete pylons, laying concrete foundations and strengthening her living area; but she said she did not feel she had strong ownership rights as she had no land ownership documents. When I asked why she had invested, she replied 'today I

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[88] Interview with Resident, Site 3, Questionnaire number 89, Phnom Penh, 14 July 2013
[89] Interview with Resident, Site 2, Questionnaire number 145, Phnom Penh, 3 October 2013
[90] Focus Group Discussion, Chamrouen community, Chbar Ampov, Phnom Penh, 17 February 2014

worry about the flooding and protecting my house and family, and tomorrow if they try to evict me I will worry about that.[91]

7.5.3 Availability of capital

A major determinant of investment across all three sites was the availability of capital. In Site 1 there was greater availability of capital relative to the other survey areas. A key mechanism through which capital was accrued by some of the earlier residents was through sub-division and sale of their plots. One informant, who had lived in Site 1 since 1981, asserted that substantial development occurred in the area after private property was introduced and ownership transactions were made legally possible in 1989, noting the 1990s as a period of particular change.[92] During the 1990s sub-division and sale of property occurred as land prices increased, attracting new residents who often bought vacant plots of land and invested in building new homes. According to the survey data, around 70 per cent of Site 1 respondents had acquired their property through purchase, with the median year of purchase being 1993.

Changes in plot dimensions over time give an idea of the scale of the sub-division and housing investment in Site 1. Many of the original residents had occupied large plots when they migrated to the city. One elderly man who moved into the area in the early 1980s remarked how different it was then: houses occupied large plots surrounded in areas of grassland and scrub. The long-time resident was one the few people that I interviewed who still lived in a traditional wooden house in ample grounds. He stated his plot was 500 m^2 – a size, he asserted, that was considered average in the 1980s.[93] By the time of my survey, however, large plots such as his were the exception rather than the rule. By 2013, repeated sub-division meant the median plot size had reduced to 70 m^2. Plots in the area had been subdivided so much that side-streets, known as 'z' streets, had been built to provide access to homes built on the smaller plots resulting from subdivisions (Figure 7.3). It seems possible that the previously noted increase in investment post-LMAP in Site 1 was

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[91] Focus Group Discussion, Chamrouen community, Chbar Ampov, Phnom Penh, 17 February 2014
[92] Interview with Resident, Site 1, Questionnaire number 62, Phnom Penh, 30 June 2013
[93] Interview with Resident, Site 1, Questionnaire number 3, Phnom Penh, 21 May 2013

also caused by increased capital availability, since residents already had high security of tenure. In the next chapter, I chart the role credit played in this process.

Figure 7.3: Street map of Site 1

Note: 'z' streets marked as red dots

Source: Open Street Map

The availability of capital was also a determinant of housing investment in low-income Sites 2 and 3 and Chbar Ampov. In these sites scarcity of capital constituted a constraint on upgrading. While there was some evidence of sub-division in unplanned areas, the capital generated was limited by comparison with that generated from the same process in Site 1 because as peripheral and/or unplanned settlements the land values were lower. There was no evidence that the process freed up capital for property investment in the unplanned sites. For some, capital availability was the overriding determinant of investment behaviour. When I asked the village chief whether he thought land titles had encouraged investment he replied 'people invest if they have money – it doesn't matter whether they have title or not'. The chief was amused by the suggestion that there existed a more significant constraint to housing improvement than availability of capital.[94]

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[94] Interview with Village Chief, Village 2, Commune Tonle Bassac, Phnom Penh, 1 April 2012

7.6 Conclusion

The analysis in this chapter leads to three key conclusions relating to titling, tenure security and investment. First, there is convincing evidence that the LMAP contributed to increased housing investment in project beneficiary areas. Increased investment by recipients was visible both across and within survey sites. Across survey sites, it was clear that residents in titled areas invested more in housing and home-based entrepreneurial activity than residents of areas excluded from titling. Within survey sites that had been titled, the number and scale of investments increased post-LMAP and residents who received titles as a result of the LMAP invested greater resources in their property.

Second, the links between titles, security and investment in Phnom Penh are more complex than described by titling models. It not clear that the increased investment associated with LMAP was caused by titles alone. Rather, titles worked as one of a number of factors affecting residents' perception of their security of tenure, which in turn affected their investment behaviour. In addition, there were factors other than tenure security, such as availability of capital, which played an important role in respondents, investment decisions. The relative importance of the multiple determinants of tenure security and investment was closely related to the circumstances of the individual and the area where they lived.

Third, it is of crucial importance to note that those with the highest tenure insecurity and lowest levels of investment were excluded from the LMAP (Site 3 and Chbar Ampov). The benefits of the project were limited to areas like Site 1 and 2, where residents enjoyed high *de facto* security prior to the LMAP.

These conclusions have important implications for the planning of systematic titling projects. The LMAP's characterisation of the title/untitled distinction as the primary indicator of tenure security often misrepresented the nature of the residents' tenure status. Rather than uniform, the relative importance of titles influencing respondents' investment behaviour was highly context dependent in the survey sites. Policy makers should also be sensitive to the complex links between titling, security and investment in a variety of contexts, rather than assume that providing titles to households will always increase investment. In this regard, conducting research into the nature of tenure documents, tenure insecurity and housing investments prior to

implementing a titling project may yield information useful for the planning process. In Phnom Penh, such an approach would have, perhaps, led to the project focusing resources on areas of high tenure insecurity and low investment where titles would potentially pay the greatest dividends in terms of increasing tenure security and investment.

Chapter 8: Titles and Access to Credit

8.1 Introduction

Titling projects aim to provide recipients with legal ownership documents that formal credit providers will lend against. With this barrier to access removed, planners expect the provision of formal credit to increase in areas where property rights have been formalised (De Soto, 2000; Feder and Nishio, 1998). In this chapter, I suggest that the relationship between titles and borrowing activity is not always as uniform as titling theory predicts. In exploring titles and credit activity, I draw on data from the three Phnom Penh survey sites and key informant interviews. I also use data from focus group discussions with residents in the peri-urban commune of Chbar Ampov. These discussions were conducted as part of a separate project, but yielded important information about microfinance borrowing in low-income populations (see Chapter 4).

Following this introduction, I contrast representations of titling and credit markets in the literature with respondents' experiences of borrowing in the survey sites. I suggest the binary of formal/informal categorisation of lenders used in the literature is not sufficient to describe lending practices in the survey sites, which exist more on a continuum of lenders embodying a variety of lending practices. I then go on to explore how titles have intersected with these diverse lending practices, highlighting a range of borrowing behaviours that are closely linked to households' socioeconomic characteristics. I find that titles have been incorporated in the credit seeking strategies of some respondents, but appear unimportant for others, who have been able to obtain formal credit without using titles as collateral.

Through this analysis, I hope to contribute to the literature in four ways. First, I critique the formal/informal distinction as a framework to assess the effect of titles on borrowing. I suggest that the distinction is limiting in the case of Cambodia because of the presence of lenders who do not fit well into either category. Second, I explore how titles have affected the reported credit activity of respondents located in planned as well as unplanned areas. Third, I provide empirical support for arguments that dispute the primacy of collateral in accessing formal sector loans, revealing a range of factors that also contribute to credit activity. Fourth, I offer an account of

how titles interact with the lending practices of microfinance companies, which are fast becoming the ubiquitous credit source in many developing economies.

8.2. Titles, trends in borrowing and the structure of credit markets

In this section, I explore the characteristics of credit markets in the survey sample. I find that formal sector borrowing has increased substantially over time, whereas credit activity in the informal sector has been low. I then explore the different types of formal and informal sector lending and the role of titles in facilitating these divergent borrowing practices.

8.2.1 Titles and aggregate borrowing trends

Before exploring titles and credit in the survey sites, it is useful to outline briefly how formal and informal lending institutions are defined in the literature, and how titles are thought to intersect with these different forms of borrowing. 'Formal credit' refers to 'official' sources of credit (Bromley, 2009; De Soto, 2000; Payne et al., 2008). While no definitive criteria are offered for what constitutes 'official' credit, the term is usually used in reference to banks and other lenders licensed by the state to lend money. By contrast, 'informal' or 'alternative' sources of credit are not 'official' credit providers. Proponents of titling often conflate informal borrowing with high-interest moneylender loans (De Soto, 2000). However, studies have highlighted an array of informal loan sources available to low-income urban residents, including friends and family, community savings groups or rotating credit and savings associations, community-based micro-credit organisations and Non-Governmental Organisations (Payne et al., 2008).

According to the classic argument associated with authors such as Hernando De Soto (2000), households without titles have no choice but to borrow from informal lenders at usurious interest rates, because formal lenders will not lend in the absence of secure collateral. With titles, recipients can access formal sector credit at lower interest rates, rendering informal lenders largely redundant and resulting in the formalisation of credit markets (De Soto, 2000; Feder and Nishio 1998). Empirical studies   have shown, however, that titles have little effect on access to formal credit

in low-income communities, which continue to rely on informal or alternative borrowing mechanisms (Gilbert, 2012; Payne et al., 2008, 2008; Varley, 1987).

Using these conventional definitions of formal and informal credit, a striking aspect of borrowing in the survey sites is the lack of loans obtained in the informal sector, either before or after titling (Table 8.1). I was surprised by the relative absence of informal loans, particularly in Site 1, because baseline data I obtained for the same area from a 2005 CDRI survey of pre-LMAP tenure systems (which included some of the same households as I interviewed in 2013) showed substantial informal credit activity during the period 2003-2005. In my questionnaire, I had attempted to obtain data relating to this kind of historical borrowing. I had asked respondents to report and provide dates for all credit activity since they first moved to the property. Most respondents had lived in Site 1 since the mid-1990s, so I expected to hear reports of informal loan activity.

Table 8.1: Borrowing activity Sites 1-3

Credit Activity	Share
Received formal credit	28.3%
Received informal credit	2.5%
Received formal and informal credit	1.0%
Did not seek a loan	66.7%
Turned down for a loan	1.0%
Turned down for formal credit but received informal credit	0.5%
Total	100.0%
N	204

Source: PhD fieldwork

The only explanation for the absence of such loans in respondents' accounts of their borrowing is that they had simply forgotten about the loans or did not consider them important. The informal loans reported in Site 1 in the 2005 survey were relatively small – a few hundred dollars at most – and had been obtained in the period before formal credit was widely available. During the 2013 survey, the response to questions about informal credit was normally 'I have not borrowed from moneylenders but from the bank'.   Another possible reason for the seeming

underreporting of historic informal loan activity was that formal credit had almost completely replaced informal credit in the survey sites and most people associated loans with formal loans.

While formal sector borrowing was prevalent, there were 'alternative' forms of credit in the form of savings groups operating in Site 2 and Chbar Ampov. However, these groups did not appear to support private lending to individuals. Instead, loans were used to fund infrastructure upgrading, neighbourhood security patrols and other community-oriented activities.

A second striking aspect of the data was that respondents who had accessed formal sector credit had frequently done so without using a title as collateral. Breaking down credit activity by site over time reveals that a proportion of formal borrowing occurred before either Site 1 or Site 2 had been titled, or, in the case of Site 3, in the absence of titles (Figure 8.1). In Chbar Ampov too, focus group participants asserted that residents had been able to access formal credit despite not having titles. Again, this is at odds with the belief that titles are a precondition for accessing formal credit (Feder and Nishio, 1998).

Figure 8.1: Formal loans over time Sites 1-3
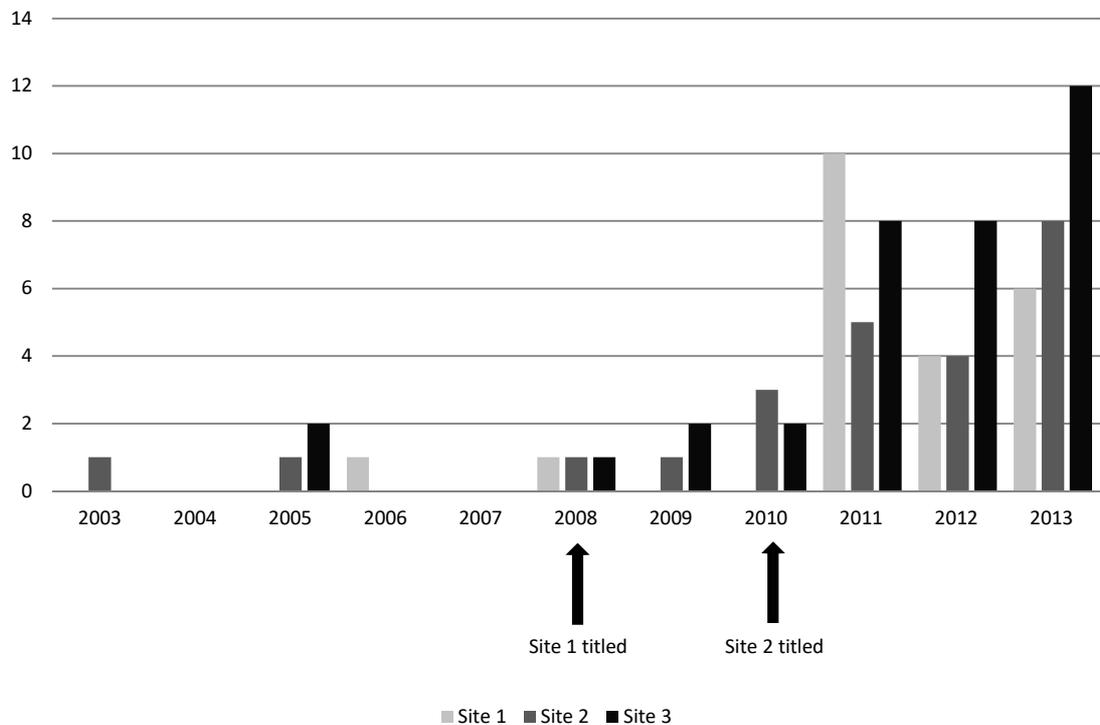
Source: PhD fieldwork

Titling in Sites 1 and 2, however, did coincide with a period of rapid growth in formal credit disbursement. In Site 1 there was a three-year lag between titling in 2008 and increased activity from 2011, which may have been the result of the financial crisis that beset the country in 2009 (Figure 8.1). After 2011, however, there was a steep rise in the number of formal sector loans reported by respondents. In Site 2, there was also a sharp increase in borrowing after titling occurred in 2010. While the experiences of respondents in Sites 1 and 2 suggest titles may have been a factor in changing borrowing patterns, the reported credit activity of respondents from Site 3 raises questions about this interpretation. In Site 3 there was a similar spike in loans from 2011 despite the fact that no respondents had received titles. Similarly, in Chbar Ampov, focus group participants reported that, although they did not have titles, residents had borrowed from formal credit institutions with increasing frequency since 2005.[95]

Data concerning the collateral used to access formal sector loans also suggest a complex relationship between titles and borrowing patterns. There is evidence that titling played some part in the changing borrowing behaviours of some respondents: titles were used as collateral for a number of loans from 2011-2013 (Figure 8.2). In most cases, however, a tenure document other than title was sufficient collateral to access formal credit and, in some cases, the lender disbursed loans without any tenure document reported as collateral. These results do not give any strong indications that titles *caused* an increase in credit growth, but suggest a more complex relationship, where titles may be tied up in the extension of formal sector credit, but cannot fully explain it.

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[95] Focus group discussion, Vealsbov community, Chbar Ampov, Phnom Penh, 13 February 2014

Figure 8.2: Documents used as collateral for formal sector loans Sites 1-3
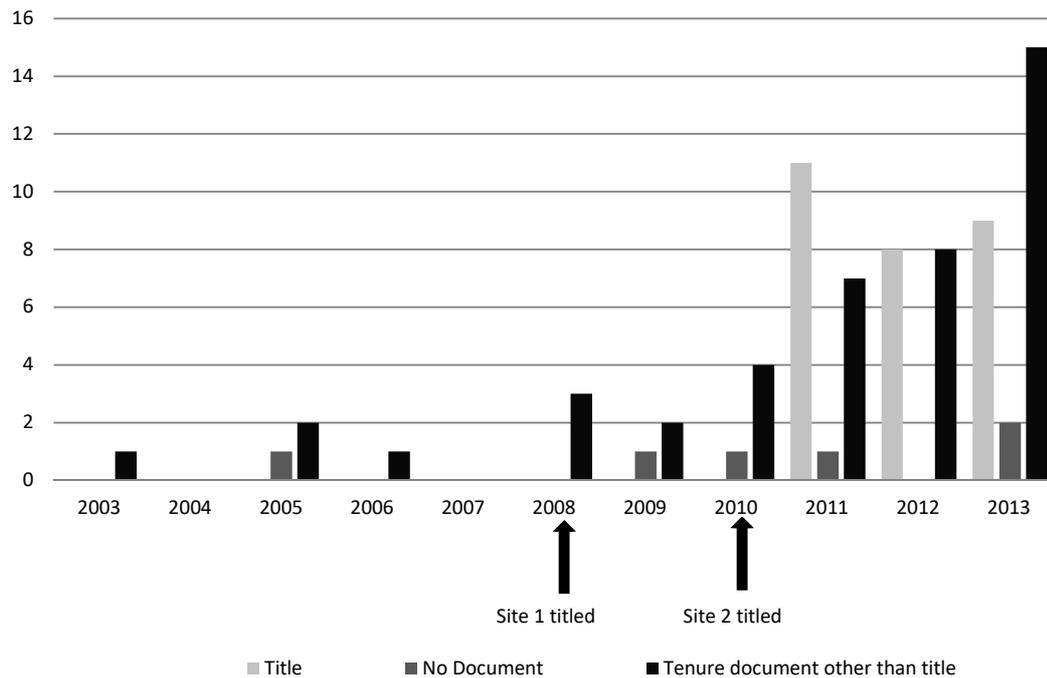
Source: PhD fieldwork

8.2.2 Titles and the different types of formal sector credit

Proponents of titling treat 'formal credit' as a homogeneous group of lenders with standardised lending criteria. In this uniform landscape, title is predicted to have a uniformly positive outcome in removing collateral constraints to credit access (Feder and Nishio, 1998). Empirical studies that question the role of titles in increasing access to formal credit have not offered an alternative perspective, because the lenders in these particular empirical settings have often included large, established, public or private banks (Field and Torero, 2003). In Phnom Penh, however, the ambiguous relationship between title and lending hints at a more complex landscape of formal credit provision than typically encountered in the literature.

A clearer view of the role of titles in access to formal sector credit emerges when the different types of 'formal' borrowing reported are disaggregated. Respondents reported obtained loans from one of two types of formal lender: microfinance institutions or banks. The widespread use of commercial microfinance institutions has emerged only recently and do not therefore feature in the titling literature. In Cambodia these lenders are licensed by the government to lend money at interest and

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thus fit into the category of 'formal' credit. According to an expert on Cambodia's banking sector, the key difference between banks and microfinance institutions is that the former are licensed to provide loans, accept deposits and provide means of payment (e.g. bank cards), while the latter are licensed only to provide loans.[96] The microfinance sector has rapidly expanded in Cambodia in recent years, and is now viewed as a key source of credit for low-income households (Bylander, 2014; Bylander and Hamilton, 2015).

The characteristics of bank lending and microfinance lending differed considerably in the survey sample. Bank loans were usually obtained from one of the large high-street banks, including Canadia Bank, ACLEDA, ANZ Royal and ABA. Those borrowing from microfinance institutions reported a bewildering variety of lenders. In Chbar Ampov, for example, a community with 46 member households reported loans from at least eight separate microfinance institutions.[97] Across the country, the Microfinance Association of Cambodia lists 47 licensed loan operators on its webpage.

The relationship between titles and these different types of formal credit was uneven. Analysis of the type of collateral used to access loans shows that titles were more important in obtaining credit from commercial banks than microfinance institutions (Table 8.2). Around 84 per cent of commercial bank loans were obtained with a title used as collateral. In contrast, around 90 per cent of reported microfinance loans were obtained without title collateral. Despite this overall trend, a substantial number of microfinance loans were also supported by titles, and commercial bank loans by documents other than a title. In general, microfinance loans were smaller and subject to higher rates of interests in comparison to bank loans, which were commonly associated with loans of tens of thousands of dollars. The results also highlight the importance of titles within the categories of bank and microfinance lending: when titles were used as collateral by customers of either banks or microfinance companies, the sums borrowed tended to larger and the rates of interest charged lower. I will now examine the role of titles in these different forms of lending in more detail.

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[96] Programme Coordinator (Economics unit), Cambodia Development Resource Instituted (CDRI), Phnom Penh, 8 July 2013
[97] Focus group discussion, Vealsbov community, District Chbar Ampov, Phnom Penh, 13 February 2014

Table 8.2: Formal sector loans and loan collateral Sites 1-3

		Title	No document	Other tenure document	N
Commercial bank	Share	84.0%	--	16%	25
	Mean amount	21,000 USD	--	3,375.00 USD	24
	Mean interest rate	1.31%	--	2.00%	22
Microfinance institution	Share	10.4%	12.5%	77.1%	48
	Mean amount	6,070 USD	2,133 USD	2,718 USD	48
	Mean interest rate	1.4%	1.77%	1.91%	36
All	Share	35.6%	8.2%	56.2%	73
	Mean amount	18,129 USD	2,133 USD	2,459 USD	72
	Mean interest rate	1.32%	1.78%	1.98%	58

Source: PhD fieldwork

8.2.3 Titles and bank loans

To assess the impact titles have had on the lending activity of Cambodia's banks, I requested and was able to secure interviews with leading figures in the banking sector. Through these interviews, I learnt that having a land title as collateral was a key requirement for the disbursement of larger loans. Established, well-known banks based their lending practise on global banking norms and would usually not accept any tenure document other than title as collateral.[98] Many would not accept 'soft titles' – tenure documents issued by local authorities – in the absence of a land title. As the head of mortgages for one of Cambodia's largest banks noted:

> we don't touch soft title because there's an unknown factor. The
> unknown factor is that someone else might claim possession rights or

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[98] The exceptions were small loans offered by the microfinance business of ACLEDA, Cambodia's largest lender. However, the bank required title for sums over 10,000 USD (Interview with Vice-President and Head of Mortgages ACLEDA, Phnom Penh, 5 September 2013).

ownership rights or any types of right at all to that land. If anyone has got another claim on that land it could go into a court case that could go anywhere up to five years.[99]

From the bank perspective, titles remove uncertainty about plot ownership because they constitute definitive legal proof of the ownership claim of an individual or organisation. Only one entity, the General Department for Cadastre and Geography at the Ministry of Land Management, Urban Planning and Construction, can issue titles; the details of the plot owners are also digitally stored in the land registry, maintained by the same department. Banks have confidence in the integrity of this institution: they believe it can be trusted not to issue multiple ownership documents for one plot. Titles are considered '99 per cent safe'. [100]

The provision of titles to larger sectors of the population has, therefore, resulted in increased lending by banks. Assessing the change that titling has made to the expansion of credit markets in Phnom Penh, an influential figure in Cambodia's financial industry noted:

> the 'big end 'of town in Phnom Penh has tended to have hard titles and they have been able to access credit with it at a pretty cheap rate for a while. What has happened now is smaller borrowers – who used to have a hard time getting credit – now have title and are beginning to access credit more and are a very attractive market for banks who are competing to get them as clients.[101]

Bank loans have not extended as far as to residents of unplanned residents, however, even in cases where residents have land titles as collateral. There are two key reasons for this. First, the explosion in small microfinance companies catering to low-income borrowers means that breaking into this market is difficult for larger banks. Instead, most established banks market themselves, as one banker put it, to 'middle market' customers and do not engage with low-income borrowers.[102] The exception to this trend is ACLEDA, which is Cambodia's largest bank with an established microfinance arm. Second, the more formal lending criteria at larger

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[99] Interview with Head of Mortgages, ANZ Royal Bank, Phnom Penh, 25 June 2013
[100] Interview with Head of Mortgages, ANZ Royal Bank, Phnom Penh, 25 June 2013
[101] Interview with former CEO, ANZ Royal Bank, Phnom Penh, 19 July 2013
[102] Interview with former CEO, ANZ Royal Bank, Phnom Penh, 19 July 2013

banks means that many low-income borrowers do not meet the bank's requirements to obtain a loan, even if they have sufficient collateral. For many banks an applicant's ability to pay back the loan is 'the most important lending consideration'.[103] Many low-income households may lack financial record-keeping relating to income and expenditures, making it difficult for lenders to assess whether or not a loan applicant would be able to meet repayment requirements.

The reluctance of banks to lend in unplanned areas was reflected in the survey data. Only one respondent in an unplanned site was able to use their title to access a large (over 10,000 USD) loan. The respondent owned a large plot of land and derived an income from renting to 16 tenants. Even in this case, the loan was obtained from a microfinance company rather than a bank. Two other respondents had tried to use their title as collateral for a large bank loan but were turned down on the grounds that they could not provide evidence of their ability to repay the loan. Not surprisingly, a reason Site 2 respondents often gave for not attempting to use their title to get a bank loan was that they did not think they would be able to prove to the bank that they could pay it back. Thus income rather that collateral was a constraint to respondents with title attempting to access bank loans in Site 2.

These supply constraints are not unique to Cambodia. A number of studies have noted similar bank lending practices across the developing world (Gilbert, 2012, 2002; Payne, 2001; Payne et al., 2009). They too stress non-collateral lending requirements as key barriers to low-income households accessing bank loans.

8.2.4 Titles and microfinance loans

Commercial banks disburse credit and enforce contracts in line with orthodox notions of formal credit providers found in the literature. The lending activity of microfinance institutions, however, differs from common representations of formal credit in several respects. Through interviewing microfinance lenders, I learnt that many microfinance companies do not use the same 'official' procedures as banks to administer loans, such as executing repossession orders through the courts. Instead, microfinance companies harness local institutions, such as commune and village

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[103] Interview with former CEO, ANZ Royal Bank, Phnom Penh, 19 July 2013

authorities to guarantee loans and enforce loan contracts.[104] Enforcing loan contracts is achieved by mobilising local institutions to put pressure on the household to meet repayments, including, in some cases, obliging households to sell their house if they cannot service their debt.[105]

The use of local institutions to enforce contracts means that there is little need for microfinance companies to use titles as collateral. Focus-group discussions with very low-income communities in the peri-urban commune of Chbar Ampov revealed that participants with no tenure documents could access microfinance using identity cards as collateral. They reported that brokers would visit their community and go from house to house actively trying to sell loans to respondents – '100 per cent' of households had taken up these loan offers. Many had borrowed from more than one lender to pay outstanding debts. In other areas, respondents accessed loans with bespoke documents provided by the village or commune office.[106]

The conditions attached to some microfinance loans have more in common with informal moneylender loans than bank loans. Loans usually involve small sums lent at high rates of interest. In Chbar Ampov, for example, focus group participants reported that the average loan was 250-500 USD at rates of 2.5-3 per cent interest per month, equating to an APR of 35-45 per cent.[107] These high rates constitute a major expenditure for low-income residents: one elderly woman who worked as an informal garbage collector noted that she spent 23 USD a month on repayments.[108] Such high interest rates – while not as high as those charged by moneylenders – are not what one would typically understand as a low-interest formal credit.

While many microfinance lenders incorporate informal lending procedures, it is important to stress their diversity. There were also examples of microfinance lending that more closely resemble formal credit. Loan characteristics reported by respondents in Site 2, for example, were very different from those reported by focus group participants in Chbar Ampov. In Site 2 the loans were larger, and interest rates

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[104] Interview with Branch Manager, Y.C.P. Microfinance, Phnom Penh, 3 September 2013

[105] Interview with Resident Site 2, Questionnaire number 84, Phnom Penh, 13 July 2013

[106] Focus group discussion, Vealsbov community, District Chbar Ampov, Phnom Penh, 13 February 2014

[107] Focus group discussion, Vealsbov community, District Chbar Ampov, Phnom Penh, 13 February 2014

[108] Focus group discussion, Vealsbov community, District Chbar Ampov, Phnom Penh, 13 February 2014

lower, and a tenure document was used as collateral for three quarters of the loans reported (and title, for one in four loans) (Table 8.3). Often, loans in Site 2 were from well-known lenders such as ACLEDA's microfinance arm. Such loans were not available to very low-income groups or those with insecure property rights. Focus group participants in Chbar Ampov, for example, reported that they were refused credit from ACLEDA because they lacked tenure documents that the bank would accept as collateral and were unable to satisfy the lender of their ability to service a loan.

Site 2 provides an interesting insight into the difference titles make for low-income residents of unplanned settlements where microfinance is ubiquitous. Among respondents, titles seemed to be associated with larger loans at lower interest rates, though the sample was small (Table 8.3). Given that the distribution of titles in Site 2 was not related to household socioeconomic characteristics (see Chapters 4 and 7), it appears that title may facilitate access to larger, lower-interest loans independently of borrowers' socioeconomic characteristics. Title-recipients may obtain preferential loans conditions because they are able to access the services of reputable lenders.

Table 8.3: Collateral used for microfinance loans Site 2

	Title	No document required	Tenure document other than title	N
Share	25.0%	25.0%	50.0%	16
Mean amount	5,088 USD	1,950 USD	3,125 USD	16
Mean interest rates	1.55%	1.95%	1.86%	16

Source: PhD fieldwork

The lending practices of microfinance companies in the survey populations appear to challenge the formal/informal categorisation of lenders. Microfinance loans constitute 'formal' credit because the institutions in question are regulated by the state. However, in a context of unorthodox 'formal' lending practices, some reported microfinance loans are at odds with common understandings of formal credit in the titling literature. The use of local institutions to enforce contracts has less in common with lending practices of banks, and more with the lending practices of

moneylenders. This divergence between accounts in the literature and the experience of respondents suggests that a reconceptualisation of credit markets in cities of the global south and the role of titles in mediating borrowers' access to them may be necessary.

8.2.5 Titles and moneylender loans

While moneylender loans were not common in any of the Phnom Penh sites I visited, in research I have conducted as a development worker in other Cambodian cities, I have encountered very high levels of debt to moneylenders. In some cases, default and repossessions had occurred when title had been used as collateral for a loan. These cases of repossession, which were facilitated by 'formal' titles but enforced by 'informal' moneylenders, also challenge the application of the formal/informal binary in relation to Cambodia's credit markets.

I found many cases of moneylender loans in a low-income community in the city of Kampong Cham where titles had been used as collateral. Focus group discussions revealed that residents were unable to access microfinance and instead borrowed from an informal moneylender, who operated from a stall at the local market. [109] The community had all received titles and without exception had used them as collateral to obtain loans from this moneylender, for which she charged ten per cent interest per month. Seven of 43 households in the community had defaulted and had their property repossessed but even though title had been used as collateral, repossession was not enforced through the courts. Instead, the moneylender obtained a document signed by the village chief, which stated that ownership of the property had been transferred to her and attached the document to the title. Legally speaking, the moneylender did not in fact own the property after this 'repossession', because the only way to transfer ownership is through the land ministry after paying a four per cent transaction tax.

Irrespective of the legality of the repossession, the consequences for the borrowers were dire. One elderly woman with terminal diabetes had borrowed money using her title, but mounting medical costs meant she could not afford repayments. Eventually

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[109] Focus Group Discussion, 42 Knong community, Kampong Cham, 24 February 2014

she lost her home and when I visited the community she was accommodated in a two meter squared thatched structure with no electricity, water or sanitation system.

The experience of Kampong Cham residents suggests that titles have little effect on how moneylenders repossess the assets of low-income defaulters; local institutions rather than the courts are used to execute repossessions. In this context, titles may in fact be of benefit to vulnerable borrowers, because those who have had their titled plot repossessed through local procedures remain the legal owners of 'repossessed' plots. Having to go to court to repossess property – and incurring the associated costs – may be viewed as undesirable by moneylenders, particularly when loan amounts are small. Moreover, low-income borrowers may benefit from titles by accessing loans at reasonable interest rates from well-regulated microfinance lenders as has been observed in Site 2, which is far better than the moneylender alternative. Moneylender loans offered far worse terms than any microfinance institution and offered little scope for government oversight or regulation.

8.3 Socioeconomic characteristics and household borrowing

In this section I explore respondent borrowing in relation to key household socioeconomic indicators. In doing so, I question the assertion that credit activity is primarily a function of collateral, as posited by proponents of titling. As I have suggested in the previous section of this chapter, titles and other forms of collateral are important in credit activity, but their effects are mediated by other factors, such as ability to service loan repayments. In this section, I explore these other factors that mediate borrowing in more depth. First, I assess how indicators related to household economic characteristics affect their loan activity. I then focus on household demographic characteristics, highlighting gender of household head as a key variable that affects credit activity.

8.3.1 Household economic characteristics and credit activity

The literature suggests that a household's economic characteristics can have important implications for its borrowing activity. In particular, a number of studies have asserted that for low income households accessing formal credit may be difficult irrespective of collateral requirements because they do not have the income

to meet repayments (Gilbert, 2002; Payne, 2001; 2004). The results from the survey populations support the point that a household's economic status influences their borrowing activity, although the results suggest a more complex relationship between economic status, titles and borrowing than asserted in the literature.

To assess the links between economic status and borrowing I differentiated respondents' wealth by their housing characteristics and the location of their dwelling.[110]   I found that in general, better-off households living in professionally built housing borrowed larger amounts, paying less interest and using title as collateral more often compared to lower-income residents living in self-built dwellings (Table 8.4; see Chapter 7 for discussion of 'self-built' and 'professionally built' housing). However, those living in self-built accommodation borrowed far more regularly than those living in professionally built structures.

 The location of a respondent's home was also linked to the supply of credit. Like building quality, the location of respondents' dwellings varied significantly and was associated with their economic status. Site 1 was a desirable, planned residential area close to markets, schools and hospitals; Site 2 was centrally located and had received titles and state assistance in infrastructure development, but remained, in the words of one resident, an 'unorganised' area;[111] Site 3 was state-owned land adjacent to the city's main railway line, with predominantly poor-quality housing and unpaved roads– self-evidently an undesirable residential location. Borrowing activity varied markedly between locations. Respondents in Site 1 borrowed the least frequently, but obtained higher loan amounts, at lower rates of interest (Table 8.6). The proportion of respondents reporting credit activity was higher in Site 2, and higher still in Site 3. Average loan amounts were lower in Site 2 than Site 1, and lower still in Site 3, while interest rates were higher in Site 2 than Site 1, and higher still in Site 3.

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[110] Indicators directly relating to wealth include household assets, income and expenditure. However, because of time constraints and difficulties with accurately measuring such indicators, proxies were used. After considering a range of proxies, including education attainment and livelihood activities, I decided housing quality and location provided the best indication of economic status, because, for most respondents, land and housing was their most valuable asset.
[111] Interview with Resident Site 2, Questionnaire number 90, Phnom Penh, 16 July 2013

Table 8.4: Housing type and borrowing Sites 1-3

	Professionally built	Self-built	Site 1	Site 2	Site 3
Received credit	27.1%	41.9%	27.1%	29.7%	45.8%
Did not receive credit	72.9%	58.1%	72.9%	70.3%	54.2%
Mean loan size	12,351 USD	2,813 USD	15,542 USD	3,783 USD	2,073 USD
Mean interest rate	1.64%	2%	1.67%	1.77%	1.94%
Borrowers using title as collateral	53.3%	15.8%	76%	36.8%	--
Total	100.0%	100.0%	100.0%	100.0%	100.0%
N	129	74	92	64	48

Note: 'Received credit' refers to the percentage of households that reported one or more loans either currently or on any previous occasion. Mean loan size and mean loan interest refers to *all* loans.

Source: PhD fieldwork

The trend between housing quality, location and loan activity was also in evidence in Chbar Ampov. Residents there appeared to be the worst-off finically relative to respondents in Sites 1-3: their dwellings were often low quality and were located in a flood-prone area far from the city centre, with high rates of poverty and very limited infrastructure. Focus group participants reported far higher rates of borrowing than Sites 1-3: it was reported that all households in their community had accessed loans. The loan amounts were smaller than in Sites 1-3 – on average 250 USD per loan – and interest rates higher at around 2-3 per cent per month. No households in Chbar Ampov had a land title to use as collateral.

The survey data also revealed that a household's economic characteristics had an impact on how loans were used. Respondents living in professionally built housing often used their titles to access loans to make a one-off large investment in their

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property. Over half the borrowers living in such structures had used credit to invest in their home, either to upgrade their accommodation and/or to generate capital from their home (Table 8.5). These respondents sought large bank loans for which title was a prerequisite. By contrast, those living in self-built dwellings usually took out smaller loans for off-site business activities for which titles were not a requirement. Such activities usually involved buying goods wholesale to sell or investing in agricultural land owned by the family. A portion of these smaller loans were also used to upgrade self-built homes (Table 8.5).

Table 8.5: Housing characteristics and loan use Sites 1-3

	Professionally built	Self-built	Site 1	Site 2	Site 3
Develop property to improve living conditions	13%	17.1%	6.9%	12.5%	23.5%
Develop property to provide rental accommodation	15.2%	2.4%	20.7%	4.2%	2.9%
Develop property to improve living conditions and provide rental accommodation	15.2%	--	17.2%	4.2%	2.9%
Invest in starting on-site business	15.2%	2.4%	24.1%	--	2.9%
Off-site business investment	39.2%	61%	31.1%	58.3%	61.8%
Other	2.2%	17%	--	12.6%	5.9%
Total	100.0%	100.0%	100.0%	100.0%	100.0%
N	46	34	29	24	34

Source: PhD fieldwork

Location was also strongly associated with loan use. Typically, respondents from Site 1 borrowed to invest in the economic functions of their home (Table 8. 5), possibly because of the greater scope for home-based commerce in the area. Site 1 was a commercially vibrant district located on busy city-centre streets lined with shops, restaurants and cafes – one survey street even hosted a lively market. In

addition, there was a strong rental market in Site 1, because the area was close to the Royal University of Phnom Penh and conveniently located for other service-industry jobs in central Phnom Penh. In Sites 2 and 3, home-based economic opportunities were much more limited. While there was some demand for rental units, this was limited compared with Site 1. Moreover, the warren-like structure of Sites 2 and 3 and their location away from main thoroughfares meant there was little commerce aside from a small number of shops serving local needs. Respondents often borrowed smaller amounts to pursue off-site business opportunities (Table 8.5)

Location had particular significance in borrowing patterns for residents of Chbar Ampov. There, microfinance loans had become a coping mechanism to deal with localised flooding. During times of flood, credit was readily available from visiting brokers acting for microfinance institutions. Loans were usually used to buy food or for health care or to purchase housing materials following flood damage. Microfinance institutions had become entrenched in the livelihood strategies of Chbar Ampov residents during times of flood; many had accrued multiple loans concurrently and some used new loans to pay old debts. Some households, however, had used loans to build houses from brick or to strengthen the foundations of their home to make them less vulnerable to flood damage. As previously noted, all loans in Chbar Ampov were obtained without titles.

Focusing in on the loan activity of those living in self-built housing in Sites 2 and 3 reveals large variations in borrowing patterns according to asset wealth, represented by the construction quality of a respondent's dwelling. Those who lived in self-built dwellings made from wood took loans averaging less than 800 USD, while those living in mixed material self-built properties borrowed on average 3,500 USD; those who lived in brick/concrete self-built housing borrowed most – 4,100 USD on each occasion (Table 8.6). In addition, borrowers who lived in better quality (mixed material and brick/concrete) houses borrowed more often to upgrade their living conditions than those in low-quality (wood) houses. That loans were used to upgrade living conditions lends some support to argument linking credit and housing improvements (Field and Torero, 2003). However, titles were relatively unimportant in securing these loans for upgrading of self-built homes in the survey sites: they had only been used as collateral for one out of the seven such loans.

Table 8.6: Loan use by construction quality of self-built housing Sites 2 and 3

	Wood	Mixed Materials	Brick/concrete
Develop property to improve living conditions	9.1%	20.0%	20.0%
Develop property to provide rental accommodation	--	4.0%	--
Invest in starting on-site business		4.0%	--
Off-site business investment	63.6%	56.0%	80.0%
Other	27.3%	16.0%	--
Mean loan size	777 USD	3,426 USD	4,100 USD
Mean interest rate	2.29%	1.80%	1.73%
Used land title as collateral	18.0%	18.0%	--
Total	100.0%	100.0%	100.0%
N	11	25	5

Source: PhD fieldwork

8.3.2 Employment status and credit activity

The employment status of respondents – as self-employed or in wage labour – also had an important effect on their borrowing activity. One might expect self-employed applicants to have a harder time obtaining formal credit due to difficulties convincing lenders of their ability to service debt. Those self-employed in low-income occupations, such as informal garbage collectors or hawkers, might have a particularly hard time obtaining loans because of their low and variable incomes, and the lack of documentary proof of their earnings (Payne, 2001).

In some respects, the survey results conform to expectations that those in wage labour can access formal sector credit more easily. Out of respondents who had accessed bank loans, those in wage labour accessed larger amounts more frequently than those who were self-employed (Table 8.7). Presumably, better-off households in wage labour were more easily able to satisfy banks of their ability to pay back the

loan and, hence, could borrow larger amounts. This finding supports information provided by key informant interviews with bankers cited earlier in this chapter: that proof of a potential customer's ability to service is the key factor on which lending decisions are based.[112]

Table 8.7: Borrowing and employment type by lender Sites 1-3

	Received bank loan		Received MFI loan	
	Wage-labour	Self-employed	Wage-labour	Self-employed
Per cent of households	14.1%	11.5%	12.7%	20.7%
N	71	87	71	87
Mean loan size	21,909 USD	15,350 USD	1,925USD	3,224 USD
Mean interest rate	1.20%	1.50%	1.83%	1.95%
Borrowers using title as collateral	90.9%	80.0%	9.1%	8.0%
N	11	10	12	27

Source: PhD fieldwork

In comparison, amongst those who took out microfinance loans, self-employed respondents reported borrowing more often and in larger amounts than those who drew a regular income. Often, those who were self-employed in low-income Sites 2, 3 and Chbar Ampov were more vulnerable than those in wage labour because of their unsecured and unpredictable income. For such respondents, credit appeared to act as a livelihood support mechanism in the absence of any state-provided social protection. In Chbar Ampov, for example, focus group participants noted that 80 per cent or more of working-age people living in their community worked as informal garbage collectors – a very low-income profession – yet all households in the community had accessed microfinance loans. In addition, during the flood season, when garbage workers could not ply their trade for long periods and thus had very limited income, borrowing was highest.[113] Microfinance loans were readily accessible for vulnerable households because providers often conducted only rudimentary checks of an applicant's ability to repay the loan. Microfinance lenders

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[112] Interview with Head of Mortgages ANZ Royal Bank, Phnom Penh, 25 June 2015
[113] Focus Group Discussion, Veaslbov community, Chbar Ampov, Phnom Penh, 13 February 2014

would often only check if an outstanding debt was already on their books in which case a loan application would be rejected. However, with no centralised system aggregating microfinance borrowing, indebted applicants simply borrowed from another of the many lenders operating in their area. Because microfinance institutions conducted only basic assessments of an applicant's ability to service debt, their lack of proof of income – or lack of income in general – did not constitute a constraint to borrowing.

The differences in loan availability between waged and self-employed respondents were mirrored in differences in loan use (Table 8.8). Borrowers in waged employment used loans to improve living conditions three times more frequently than those who were self-employed. The relatively high proportion of waged respondents investing in home improvements, rather than capital generating activities, suggests that for this group loans were not as important in livelihood strategies as they were for the self-employed. About three-quarters of self-employed borrowers invested in capital-generating activities. Often these investments were small-scale off-site business investments, suggesting that loans were important to sustaining livelihood activities of lower-income groups. In addition, over 15 per cent of self-employed borrowers used loans for 'other' purposes, including health, education and debt repayments. In Chbar Ampov, residents' jobs as low-paid, self-employed garbage workers had a significant impact on their credit activity: loans were usually used to meet income shortfalls, particularly in the wet season when work was not available and expenditure was high.

Table 8.8: Employment type and loan use Sites 1-3

	Wage labour	Self-employed
Develop property to improve household living conditions	28.6%	10.5%
Develop property to incorporate rental units	14.3%	7.9%
Develop property to improve living conditions and incorporate rental/ business units	7.1%	10.5%
Invest in starting on-site business	10.7%	2.6%
Off-site business investment	39.3%	52.6%
Other	--	15.8%
Total	100.0%	100.0%
N	28	38

Source: PhD fieldwork

8.3.3 Household structure and credit activity

There was been little discussion in the titling literature of how attributes of the household – such as gender or age of household head – affect credit activity. However, household structure has important implications for livelihood strategies and may therefore be linked to borrowing activity, including use of title to access credit.

I assessed a variety of household indicators against credit uptake. Household size had no discernible relationship with loan uptake and use, with the proportions of respondents reporting borrowing and other loan characteristics, such as interest rates, use of title collateral and loan amount, remaining constant irrespective of number of household members. A possible reason for this was that the majority of households had five, six or seven members, a small range in which to observe any differences. Similarly, age of household head appeared to have only a marginal effect on borrowing patterns. Gender of household head, however, had a substantial impact

on reported credit activity (Table 8.9). Respondents from female-headed households reported borrowing more often, and borrowing larger sums at lower rates of interest, than was the case for couple headed-households or male-headed households.[114] They also tended to use titles as collateral more often. In Chbar Ampov, however, focus group participants did not note any differences in borrowing patterns based on gender of household head.

Table: 8.9: Gender of household head and borrowing Sites 1-3

	Couple	Female	Male
Received credit	32.7%	40.4%	11.1%
Mean loan size	4,858 USD	15,109 USD	3,000 USD
Mean interest rate	1.77%	1.52%	1.65%
Borrowers using title as collateral	34.0%	45.5%	--
N	147	47	9

Source: PhD fieldwork

There is evidence that the high proportion of women-headed household accessing formal-sector credit is a relatively recent phenomenon. Data from a pre-titling CDRI survey in Site 1 (there is no baseline data available for Sites 2 and 3), suggests that in 2005, relatively few female-headed households obtained bank loans compared to couple-headed households (Table 8.10). Instead, women-headed households obtained loans most frequently from moneylenders and, as a result, borrowed far smaller sums at high interest rates than their couple-headed counterparts. The mean sum obtained by women-headed households was 577 USD per loan, in comparison to 6,538 USD per loan in couple-headed households. Interest rates reported by couple-headed households were on average 0.95 per cent per month compared to 2.77 per cent per month in female-headed households.

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[114] 'Couple-headed' household refers to those where respondents identified a husband and wife or siblings as joint household heads. 'Female-headed' household refers to those headed by a woman without a resident partner. In most cases the women in question were widows. 'Male-headed' households refers to those headed by a man without a resident partner.

Table: 8.10: Gender of household head and borrowing pre- and post-titling Site 1

	Gender of household head	Loan source				Total	N
		Bank	Microfinance institution	Money-lender	Friends or family		
Pre-LMAP	Couple	26.9%	--	3.8%	69.2%	100.0%	26
	Female	7.7%	--	53.8%	38.5%	100.0%	13
Post-LMAP	Couple	57.9%	10.5%	10.5%	21.1%	100.0%	19
	Female	77.85%	11.1%	--	11.1%	100.0%	9

Notes: Male-headed households were not defined as a distinct group in the 2005 survey so 2013 data relating to male-headed households have not been included in this comparison

Source: PhD fieldwork and CDRI survey of pre-LMAP tenure

After titling, female-headed household borrowing in Site 1 shifted to microfinance lenders and banks, and mean loan size soared - from 577 USD to 33,111 USD between the 2005 and 2013 surveys, while monthly interest rates declined from 2.8 to 1.3 per cent. The small sample of loans obtained by female-headed in Site 1 indicates that titles were important for such households accessing large formal sector loans. Of the nine female-headed households in Site 1 that obtained a loan, eight used their land title as collateral to borrow money from a bank, including loans of 90,000 USD, 70,000 USD, 50,000 USD, and 30,000 USD, two loans of 20,000 USD, 12,000 USD and 3,000 USD. The one female-headed household not to use a land title as collateral – the plot not titled because it was a co-owned plot – borrowed 3,000 USD from a microfinance institution.

Across all survey sites, gender of household head was also linked to loan use. Both couple-headed and female-headed households borrowed with similar frequency to invest in the capital-generating potential of their home, though more of the former invested in improving their living conditions (Table 8.11). Respondents from female-headed households borrowed for a broader range of reasons, including meeting the cost of their children's education, health and repaying existing loans (represented in the 'other' field in Table 8.11). Borrowing to cover household expenditures suggests that a substantial proportion of the reported loans to female-

headed households may be to alleviate economic hardship after covering essential costs, rather than productive loans.

Table 8.11: Gender of household head and loan use Sites 1-3

	Couple	Female	Male
Develop property to improve household living conditions	21.0%	8.3%	--
Develop property to incorporate rental	6.5%	16.7%	--
Develop property to improve living conditions and to incorporate rental/business units	9.7%	4.3%	--
Invest in starting on-site business	9.7%	4.2%	--
Off-site business investment	51.6%	41.7%	100.0%
Other	1.6%	21.0%	--
Total	100.0%	100.0%	100.0%
N	62	24	1

Source: PhD fieldwork

Loans seemed to be particularly important for female-headed households because they tended to earn money from their own businesses rather than waged employment, and so often needed a source of capital to sustain or expand their income-generating activities. In unplanned areas (Sites 2 and 3), loans were usually small amounts from microfinance institutions used to sustain or expand capital-generating opportunities outside the home. Credit was particularly important for these female-headed households because they more often relied on informal activities for income – mainly hawking and other forms of street selling. Around 95 per cent of women household heads in Site 2, and 90 per cent in Site 3, were self-employed in the informal sector, compared to around 63 per cent of the heads of couple-headed households in both sites.

While in unplanned Sites 1 and 2, the heads of female-headed households worked outside the home, in Site 1 much of the economic activity of female-headed households was home based. Around 70 per cent generated income from their

property, either by renting rooms or running a business from their home. Given their reliance on their home to generate income, there was a strong incentive for women heads of household to maximise their capital-generating potential through investments in their home. Couple-headed households in Site 1, on the other hand, often enjoyed a dependable income from regular employment and thus had less incentive to borrow. The most frequently cited occupation of the head of household in couple-headed households was employment in the public sector, accounting for nearly 40 per cent of respondent households. One female respondent in a couple-headed household remarked 'why would we need to take a loan out when my husband has a regular income?'[115] Many households worried about the risk of losing their property: an oft-heard sentiment was 'I would not use my title to access credit unless it was in an emergency'. Couple-headed households appeared to have little incentive to take such a risk.

The importance of titles in obtaining loans to support the livelihoods of women household heads in Site 1 is illustrated by the case of Savin. Savin reported that she was a widow who purchased a property in a side street (a 'z' street) in the area in the 1990s. She had previously been interviewed in 2005 as part of the CDRI pre-LMAP tenure survey, and I was able to locate this transcript in the CDRI office archives. At that time, she told CDRI field researchers that she was the head of a household of ten and lived in two-storey, three-roomed house. She used the ground floor to run a small gambling business, which was her primary source of income. In the year prior to the 2005 survey, she had taken three loans from moneylenders to expand her business: one of 1,200 USD, another of 1,000 USD and a final loan of 800 USD, each with a monthly interest rate of five per cent. In the 2005 survey she 'strongly agreed' with the assertion that she had not accessed formal credit because of collateral requirements.[116] By 2013, when Savin was interviewed again during my fieldwork, she had received a land title. She had acquired title in 2008 and was upbeat about its usefulness for accessing credit. No longer running a gambling business, she had a small grocery shop on the ground floor, operated a motorbike-parking business and rented rooms to tenants. She reported that in the year of the survey (2013) she had borrowed 50,000 USD from ABA bank using her title as

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[115] Interview with Resident, Site 1, Questionnaire number 70, Phnom Penh, 7 July 2013
[116] Interview with Resident, Site 1, Questionnaire number 19, Phnom Penh, 8 June 2013

collateral at an interest rate of 1 per cent per month.[117] She borrowed this money to develop rental accommodation to take advantage of the increasing demand from migrants and students at the nearby university. Using this money she had added a further three floors to her house – making a total of five floors – and converted the accommodation in order to let it. During the latter stages of building she ran out of money and had to borrow 20,000 USD at around 2 per cent per month interest rate from a family member. She reported that she had twenty tenants renting rooms, generating 800 USD per month from her rental activity.

While land titles have afforded opportunities to some female-headed households, there are also risks associated with accessing large, title-facilitated loans. The risks of such borrowing were well demonstrated in an interview I conducted with another recent widow, who was called Nee. She was 55 years of age and a public high school teacher – normally a relatively poorly paid job yielding only 100-150 USD a month in 2013 values – who had bought a house on a large plot in 1984. She had recently split her property into two separate plots and transferred ownership of one to her son. Together, they had taken bank loans from ACLEDA against both properties, using the (separate) titles as collateral: the two loans totalled 100,000 USD. When applying for the loans, they had told the bank that they would build a new property with accommodation for tenants, as many others in their neighbourhood had done. However, whereas Savin was able to get a return of 800 USD a month on an investment of 70,000 USD, Nee only obtained 350 USD per month from her tenants. Her son had used some of the money that was obtained ostensibly for housing improvements on paying for his college degree, leaving a smaller pot from which to invest.

The reason for the differing fortunes of Nee and Savin can largely be put down to business acumen. Savin had built a no-frills structure crammed with rooms that she filled with migrant workers and students. Nee, on the other hand, had built a large, ornate, double-fronted house and provided accommodation for just one family, and her son had diverted some of the money to other ends. Both Nee and her son have to work hard to make the repayments and it was clear during our meeting that the debt weighed on her mind.

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[117] Interview with Resident, Site 1, Questionnaire number 54, Phnom Penh, 27 June 2013

8.4 Conclusion

In this chapter, I have shown that representations of credit markets in the titling literature do not match respondents' experiences of borrowing in the survey sites. According to the formal/informal binary structure of credit markets, which underlies the titling model, the uneven distribution of titles in the survey population is a constraint to formal credit extension. However, I found no such clear divide between formal and informal lenders, but rather a spectrum of lending activities encompassing both formal and informal lending practices. 'Formal' microfinance institutions have used 'informal' means of enforcing loan contracts and thus lessened the need for title as collateral. Therefore, possessing an 'informal' tenure document does not preclude access to 'formal' microfinance loans. By the same measure, having a 'formal' title does not automatically provide the recipient access to all types of formal sector credit: less well-off respondents who had acquired a title were still unable to obtain a bank loan because of their low and/or irregular income.

The impact of having a title has not, therefore, been as straightforward as suggested by earlier work. Instead, household socioeconomic characteristics have defined credit activity in a context of diverse lenders and the uneven availability of titles. Consequently, tiles have made a difference to the borrowing of some recipients, but not others. Titles have primarily used to access certain types of credit: large loans demanded by middle-market customers to invest in their property. Within the middle market, those who use their property for capital-generating purposes and have received title have both the incentive and the means to acquire large loans. Women-headed households appear prominent in this group because they often use the home for capital-generating activity. In this subgroup, some have used titles to increase their income and asset base significantly. In some cases, taking out such large loans against their property may leave them at risk of default and, potentially, repossession in the future.

For less well-off respondents, title was not so important for loan-seeking households. Credit was widely available and easily procured from microfinance institutions, often without the need to satisfy formal collateral requirements. Microfinance loans included a variety of loan types and uses. In unplanned Sites 2 and 3, such loans were often used for off-site investments in income-generating activities and to a

lesser extent for home improvements. These microfinance loans shared many of the characteristics of 'informal' loans: they were small, high-interest and easily acquired, and they seemed to be associated with poverty rather than prosperity. Indeed, residents in Chbar Ampov, the most marginal of all the sites, reported the widest coverage of microfinance loans: *all* households in the site were reported to be borrowers.

The increasing availability of both titles and microfinance across Cambodia poses important questions about the vulnerability of low-income defaulters. Titles are thought to increase security to lenders because legally codified assets are easier to seize in case of default. Therefore, titles should make it easier for lenders to repossess the assets of vulnerable defaulters. The survey results do not, however, support this hypothesis. In some cases, microfinance companies seem to find it easier to recover their money by pressuring respondents to sell their land, rather than the potentially costly process of going to court and transferring ownership. In some cases, titles may increase security for low-income defaulters by legally codifying the property rights of vulnerable residents, as highlighted in the case of moneylender repossessions in Kampong Cham. In such cases, titles provide security by making it *more* difficult for creditors to seize assets. These finding runs counter to the orthodox interpretations of titling and credit in two respects. First, titles are typically thought to provide security to lenders rather than defaulters, but my findings suggest that in some cases the reverse is true. Second, it is believed that lenders disburse credit when they are certain they can legally seize defaulters' assets, but my findings that the absence of such conditions may not restrict lending if borrowers can enforce contracts through other means. Overall, the findings suggest that current understanding of titling and credit markets are limited and are a topic in need of further investigation.

Chapter 9: Titling and Urban Transition in Phnom Penh

9.1 Introduction

Since city-wide titling began in 2001/2002, the social fabric of Phnom Penh city has changed markedly. Tens of thousands of lower-income households have been displaced; in their place stand modern condominium and commercial developments. This chapter explores how titling has intersected with this urban transition. In doing so, it presents a case study account of a ubiquitous international development intervention that has restructured property relations across cities in the global south, and provides insights into the impact of the intervention on low-income communities.

In this chapter, I hope to speak to key debates about titling and urban transition in the literature. First, I look at the LMAP in relation to debates about titling and transition based on exclusion – where unplanned settlements are systematically excluded from obtaining ownership and their parcels transferred to 'productive' owners (Yiftachel, 2008). In doing so I return to the commune of Tonle Bassac to assess its most recent transition – from site of low-income unplanned settlements to high-end condominiums – and analyse the role of titling in this process.

Second, I explore the LMAP in relation to discussions on titling and transition based on the inclusion of unplanned settlements. These studies assert that formalisation results in processes of gentrification or downward raiding as housing costs increase and low-income title recipients are bought out by better-off incoming residents (Payne, 2001). I examine these debates by presenting a household-level analysis of transition in communities that have received title, drawing on questionnaire responses from Sites 1 and 2. I assess if titling has been related to property transactions and/or if it has affected people's perceptions of their property's value.

Third, I view titling in Phnom Penh in the context of debates that emphasise alternative tenure solutions to secure low-income urban groups place in the city that do not involve the provision of individual land titles. I present a case study of the Dey Krahorm community, where a communal tenure solution was implemented by authorities instead of titling.

Finally, I consider why LMAP titles have come to be associated with tenure security in Phnom Penh. I note how the social and cultural aspects of the LMAP have resulted in the project's high policy mobility, suggesting that LMAP titles have become deeply integrated into many aspects of Cambodian life. I draw on survey data to demonstrate how these social and cultural shifts have been represented at the household level.

9.2 Tenure security and market-based evictions

According to its proponents, a key role of titling is to extend the benefits of economic development to include households living in informal areas. Registering informal property turns 'dead capital' into a fungible asset that can be used to access credit and services and sold to realise its formal-sector market value (De Soto, 2000). Titles are believed to encourage entrepreneurialism, to drive up living standards and to enable low-income recipients to participate in land markets on equal terms (Deininger, 2003). Critics argue, however, that the interaction between market and low-income communities resulting from titling is inequitable. Titling should be viewed not as an attempt to improve the lot of low-income communities 'but as an action orientated around control and power' (Porter, 2011: 118). In this view titling projects reproduce the rules of neoliberal capitalism across urban space and, in doing so, leave low-income owners vulnerable to forces that displace them from central urban locations (McFarlane, 2012; Roy, 2005)

9.2.1 Titling and market-related displacements

City-wide land formalisation can cause displacement by *excluding* low-income populations from formal ownership (Springer, 2013; Yiftachel, 2009). In this process, unplanned settlements are strategically excluded, but only to be formalised at a later date, once low-income populations have been removed. The purpose of such exclusions is to facilitate the smooth transfer of large parcels of urban real-estate to economically 'productive' urban uses, such as condominiums, malls or other characteristic urban landscapes of global capitalism. Often, the funding for large-scale projects comes from transnational companies wishing to invest in assets that are secured by the same global-standard regulatory frameworks that have excluded unplanned settlements (Goldman, 2011).

Displacement can also occur by the *inclusion* of low-income groups in titling. Most studies charting this process have focused on unplanned settlements that have been subject to formalisation projects (Durand-Lasserve, 2007; Payne, 2001). In these cases, individual households in unplanned settlements receive titles only to then be displaced by a process of 'downward raiding' by middle-income buyers (Payne, 2001: 423). There have been few empirical studies capturing this process in action (Gilbert, 2012; Lemanski, 2014), although there are examples of population transitions where formalisation has been implemented as part of upgrading or rehousing interventions (Kuyucu and Ünsal, 2010; Lemanski, 2014). It is not clear from the literature, however, whether titling as a standalone intervention engenders social transition in the areas affected.

By the same logic, it is thought that landlords may put up rents after titling, thus forcing out low-income tenants. There are, however, no available examples of rental price increases occurring as a result of titling alone, but rather when titling has occurred as a package of reforms. An often-cited example (Briggs, 2011; McFarlane, 2012; Payne, 2001) is a case study of Cairo presented in a 1992 doctoral thesis by Daef (1993 cited in Payne, 2001), which found that 26 per cent of low-income tenants in an unplanned settlement that received titles as part of an upgrading project moved out because of increased rents. Again, it is not clear whether titling alone is responsible for increased rental costs. Aside from this, I could find no other examples of increased rental costs associated with titling.

The *expectation of inclusion* may also encourage market-induced displacement. Homeowners yet to receive title may be targeted by unscrupulous individuals who grab or purchase their property before title secures and increases its value (Goldman, 2011; Hirsch, 2011). The point here is about access to information: low-income households may not be aware that the legal status of their property is going to change and prices increase; individuals with better information may exploit this knowledge gap for financial gain. In Mumbai, for example Goldman (2011) notes that informal brokers purchase plots of land that are likely to be reclassified and dramatically increase in value, displacing poor residents with limited access to information in the process. As a result, the transition from low-income urban areas to high-tech company industrial area occurred rapidly, with middlemen cheating low-income residents out of the potential transaction revenue.

In response to the threats posed by titling, a growing literature has put forward customary and/or communal tenure as an alternative approach to securing tenure for those in unplanned areas (Hunt, 2004; Khemro and Payne, 2004). Various studies have noted that customary tenure systems insulate low-income groups from market forces. Many of these studies have focused on Sub-Saharan Africa, where strong endogenous tenure systems have evolved over decades and draw strength from the cultural norms they embody (Bromley, 2009; Toulmin, 2009). Strengthening such tenure systems, for example through a government-supported moratorium on evictions, protects low-income communities from property appropriation and insulates them from market-related displacement (Payne, 2005).

9.2.2 How does titling in Phnom Penh relate to titling and urban transition debates?

The literature suggests that low-income urban populations are removed from urban spaces by market processes operating at two scales. In city-wide titling projects, centrally located, low-income communities are simply excluded and removed. In community-scale titling, inclusion in the project can change the social fabric of low-income settlements over time by replacing the original residents with higher-income groups. The LMAP has elements of a city-wide project and one that is targeted at certain unplanned settlements and therefore relates to both these strands of debate.

As a city-wide project, the LMAP has aimed to systematically title every eligible property in the city. In giving the state the power to reorganise property rights on this scale, the project has provided opportunities for elites to distribute ownership documents to represent their interests. In Chapter 6, I detailed how these interests frequently involved preventing those in unplanned settlements gaining titles. I described the informal processes by which the state excluded certain unplanned communities from titling. In this chapter, I will explore how these informal processes have also been mobilised to transfer urban real estate to a neoliberal elite, hastening an inequitable urban transition.

As a donor-funded project, the LMAP required the government to systematically title *all areas* where residents had legal ownership claims. In this way, the Cambodian state is to some extent been constrained in its ability to exclude, and some unplanned areas have received titles (see Chapter 6). Therefore conditions for community-scale

market-induced exclusions as a mode of urban transition are present in Phnom Penh. Here we can view a different mechanism through which titling may promote neoliberal displacement: by providing unplanned settlements with titles, increasing housing costs and initiating a process of 'downward raiding' and/or pricing out low-income tenants. By presenting an analysis in the context of inclusion in titling, this chapter addresses the lack of empirical data about titling as a standalone intervention in the process of urban transition. In addition to exploring the process of change in *unplanne*d areas, the city-wide LMAP also presents a case to view transition through inclusion in *planned* (though not necessarily high-income) areas.

In addition to titling, there have also been alternative tenure interventions targeted at Phnom Penh's unplanned settlements. Such projects, which have been promoted by the government and supported by civil society, aim to secure tenure for low-income groups through community-based interventions as opposed to titling. The presence of these alternative tenure interventions enable contrasts to be made between the different tenure mechanisms and the process of transition.

9.3 Exclusion from titling and displacement: a case study of transition in the commune of Tonle Bassac

In this section, I explore how titles have intersected with rapid urban change, returning again to the commune of Tonle Bassac. First, I detail the characteristics of transition in the commune. I then suggest that evictions of low-income communities have resulted from their exclusion from the titling project. I argue that titles have encouraged large capital inflows into the commune, resulting in rapid land-use change and putting additional pressure on remaining communities. Finally, I assert that titling has acted in parallel with a number of other regulatory instruments that have contributed to the commune's inequitable transition.

9.3.1 From low-income residential area to site of global capitalism

Over the past two decades the socioeconomic character of Tonle Bassac has changed beyond recognition. The commune, as detailed in Chapter 5, was first associated with urban modernity in pre-Khmer Rouge 1960s; many of the city's most iconic

buildings were located there. However, by the mid-1990s it had become associated with urban poverty and was home to large number of unplanned settlements. Today, Tonle Bassac has regained its former position at the vanguard of Cambodia's urban development. The vast majority of the low-income communities have been evicted and replaced with high-rise residential and commercial areas catering to Cambodia's elite and to the international market.

The change from low-income local communities to high-income global investors over the past two decades has been stark. Two references to the Bassac area effectively demonstrate this transition. The first is geographer Gavin Shatkin's impressions of the area in 1990s:

> by 1994, an estimated 120,000 people, or approximately 12–15% of [Phnom Penh's] population, were living in squatter encampments. In particular, one stretch of land along the riverfront, commonly known as Bassac, has been transformed from a vacant patch of land in 1989 to a teeming settlement of bamboo, thatch and wood shelters housing some 2700 families today. (Shatkin, 1998: 390)

The second is from global real estate agent Frank Knight, offering condominium properties for sale in developments where unplanned settlements once stood:

> Phnom Penh's Hottest Growth Corridor – where prosperity converges with the surrounding of three rivers, namely the Mekong River, Bassac River and Tonle Sap River. Local amenities within 10 minutes walking distance include restaurants, cafes, pubs, Aeon Mall, Sofitel Phnom Penh, Cambodiana Hotel, Elite Golf Club, Dream Land and educational institutions such as Canadia International School, Ican International School, Panasastra University and Zaman International School. (Frank Knight, 2016)

During the transition from low-income residential to high-income elite practices, NGOs have reported the eviction of dozens of communities, including around 10,000 households have been displaced since donor-funded interventions began in 2001 (this number includes some households that returned and were evicted again) (Table 9.1). These evictions have caused significant depopulation of the commune as it has

changed transitioned from a residential to a commercial area. According to official census data the population of Tonle Bassac declined from around 45,000 people in 1998 to just over 30,000 in 2008 (Royal Government of Cambodia, 2008, 1998). This decline was in contrast to the overall trend in the city: during the same period, the population of Phnom Penh grew from around 1 million to 1.3 million, according to census data (ibid.).

Table 9.1: Evictions from the Tonle Bassac area, 2000 to present

Year	Number of households evicted
2001	5,338
2005	32
2006	4,368
2007	100
2009	298
Total	**9,694**

Source: STT, 2016

The mode of land-use transition from low-income to elite in Tonle Bassac has been characterised by violent eviction of low-income communities. Homes have frequently been destroyed and riot police have been deployed to remove residents. One former resident recounted his experience of eviction from the commune:

> commune officials informed me that my home was located on land that belonged to a company, and that the company had decided to develop the land. I was given three days' notice to demolish my house; we were transported by truck with our belongings here. I returned to Sambok Chap later but the land was protected with a high fence. I asked two guards by the gate who owned the land; they said it belonged to a company but I dare not say the same.[118]

The fear and sense of powerlessness evicted residents feel cannot be overstated. The resettlement sites are on the outskirts of the city: far from their livelihoods, with no schools, health centres or markets to buy food and without sewage, electricity and

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[118] Interview 2 with former Sambok Chab resident at Sen Sok resettlement site, 15/2/2013

running water (Bugalski and Pred, 2009; Grimsditch et al., 2012). Their former homes in Tonle Bassac have been transferred to a globally-connected elite.

9.3.2 Titles, exclusions and dispossession

In Chapter 6, I described how residents in Tonle Bassac's unplanned settlements were excluded from titling under LMAP (and in Chapter 5 how they were excluded under pre-LMAP tenure). To recap briefly, from 2001 onwards residents were able to apply for titles, but those who did so were denied them by the local authorities. When the area systematically titled in 2010, unplanned settlements that remained were again excluded on spurious grounds. Exclusion, however, has only accounted for half of the story of Tonle Bassac's transition. While unplanned settlements have been excluded and their occupants evicted, the land has nonetheless been formalised – titles have been distributed to an elite group of tycoons and developers.

A striking example of how exclusion has been used as a vehicle for urban transition can be viewed in a land conflict involving the 7NG company and residents living in an unplanned settlement. The 7NG company includes in its property portfolio the plot labelled 'Sambok Chap' – formerly a well-known unplanned settlement in the Bassac commune (Figure 9.1). In the Google Earth image used on their website, the dwellings of residents of Sambok Chap can clearly be seen. The case involved a conflict between two parties, the company and residents, neither of which had LMAP title.[119] Legally, then, neither officially owned the property. The *only legal* route through which either party could invalidate the other's claim was by obtaining legal ownership of the area by meeting the criteria for legal possession under the 2001 Land Law. These criteria included living on the plot for 5 years without contested ownership with their possession known to the public and a number of other points detailed in Chapter 6.

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[119] US Embassy Cables , 06PHNOMPENH1086_a, 9 June 2006

Figure 9.1: Screenshot from redeveloper website

Source: 7NG, 2013

Residents in Sambok Chap were potentially eligible for ownership titles because they met the criteria for legal possession. Ironically, the developers even identify the land parcels by the name of the community, thereby highlighting the strong association between these parcels and the communities that occupied them and establishing that the communities' existence was known to the public, – something which is important when it comes to establishing legal possession under the land law. Despite the strong claims of the unplanned settlement residents, all were evicted as developers mobilised their political capital and connections. The Sambok Chap community was eventually evicted by Sour Srun company –owned by the same holding group as 7NG – in 2006. Although it had only a weak legal claim over the land, the Sour Srun company enjoyed strong links to the political elite, outweighing legal considerations. According to a US Embassy cable, the company 'is believed by many to be a front for Canadia Bank, whose General Manager Pung Kheav Se is an advisor to [Prime Minister] Hun Sen.'[120]

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[120] US Embassy Cables , 06PHNOMPENH1086_a, 9 June 2006

9.3.3 Titles and large-scale investment in Tonle Bassac

While unplanned communities have been excluded and evicted during the process of titling, foreign investment has flowed into the commune. This, in turn, has led to very high property prices in the area. Condominium properties advertised from 100,000 USD upwards with global real-estate firms such as Frank Knight and CBRE. High property prices, in turn, have increased pressure on the remaining unplanned settlements by strengthening incentives for elite capture.

There is evidence that titles are directly linked with increases in large-scale investment in Tonle Bassac. According to figures in Phnom Penh's business sector with interests in land, titles provide security to a range of foreign investors by providing them the security to make large property investments.[121] Prior to titling and the associated 2001 Land Law, investments in property were usually made by Chinese investors or others with personal connections to powerful figures capable of securing their investment. While such investment arrangements are still in evidence (as I shall discuss shortly), stronger land laws and titles have increased investment from other sources, such as British, Japanese, South Korean and Australian companies.

An example of titles facilitating large-scale foreign investment in the commune is the recent development of Aeon Mall. Aeon is a transnational Japanese company that owns large malls across Japan and has recently expanded into Southeast Asian nations, including Vietnam and, latterly, Cambodia. In 2013 Aeon began a 200 million USD project in Tonle Bassac by acquiring a 68,000m^2 plot in the commune (Aeon, 2014). This purchase was facilitated by an LMAP land title which provided the company the security it needed to invest.[122] By 2015, the plot had been developed into Cambodia's largest mall, with 108,000m^2 of retail space housing over 100 international retailers and including parking space for 1,400 cars. A year later, Aeon mall acquired its second plot of land in Phnom Penh – a 100,000m^2 parcel on the city's outskirts on which it plans to build an even larger mall (ibid.).

As well as providing the security to invest, titles have played another important function in the Aeon Mall development: providing the company collateral with

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[121] Interview with Country Manager, Hong Kong Land, Phnom Penh, 25 October 2013
[122] Interview with Former CEO, ANZ Royal Bank, Phnom Penh, 19 July 2015

which they have accessed finance to fund the development. Aeon were able to use their title to acquire a loan to fund the construction of the mall from a Cambodian bank.[123] Many large developments in central Phnom Penh have been funded in this way. Loans to the construction sector grew between 5 and 30 per cent per year between 2010 and 2012 (International Monetary Fund, 2013) and, according to data from the National Bank of Cambodia, by June 2014 banks had about 625 million USD invested as loans to fund construction projects (across Cambodia, but with many located in Phnom Penh), accounting for approximately 8 per cent of all lending in the country (National Bank of Cambodia, 2014: 23). One banker told me that access to credit was *the* driving force behind large scale developments in central Phnom Penh: 'the real story about titles and investment is about access to finance', both for domestic and for foreign developers.[124]

9.3.4 The rise of China and extra-legal land transactions

While titles have provided a new route for low-income communities to be displaced and international investment to flow into Tonle Bassac, in practice, a number of large-scale investments have been made outside of the titling framework. In such cases, large parcels of land have been arbitrarily classified as 'state public' by the state and then transferred from public to private ownership via trust networks between high-level government officials and the private sector elite, evicting poor residents in the process (see Chapter 6.4 for details of this process). In the course of my work in Cambodia's development sector, I came across many projects where this mode of transfer had occurred. Three of the best known examples are related to the long leasing of the major Phnom Penh lakes, Boeung Kak and Boeung Tumpun, and the island of Koh Pich in the Bassac river. In these transfers, public land has been long leased for private investment purposes in questionable legal arrangements.

An important driver of investments outside the titling framework has been the emergence of Chinese companies, who often partner with Cambodian tycoons to invest in large-scale redevelopments, providing the necessary capital, technical skills and construction experience. The changing regional geopolitical and economic landscape has contributed to the increasingly overt presence of China in Phnom

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[123] Interview with Former CEO, ANZ Royal Bank, Phnom Penh, 19 July 2015
[124] Interview with Former CEO, ANZ Royal Bank, Phnom Penh, 19 July 2015

Penh's redevelopment. In particular, the rise of China's economy in recent decades has been associated with a trend of increasing foreign direct investment into Phnom Penh's booming property market (Jalilian, 2013). The Chinese government has been keen for its companies to invest in Cambodia to strengthen important strategic geopolitical relationships. Promoting Chinese investment in Cambodia has been viewed as important in currying political favour with the Cambodian government, which is seen as particularly important because Cambodia can be counted on to support China in ASEAN discussions about disputed islands in the South China sea. The importance of this relationship was demonstrated as recently as July 2016: ASEAN were to publish a statement condemning China for asserting its sovereignty over islands claimed by Vietnam and the Philippines, but the publication of the statement was vetoed by the Cambodian government (25 July 2016, *The Phnom Penh Post*).

An important route that Chinese investment enters the Phnom Penh property market is through informal networks between tycoons and government officials. Dominant in these networks are ethnic Chinese Khmers. In particular, US diplomats note the role of sa prominent ethnic Chinese Cambodian tycoon, who they suggest 'uses her contacts in China to attract foreign investment from Chinese companies such as Wuzhishan LS and Jiangsu Taihu'.[125]

A good example of joint Cambodian and Chinese investments in relation to untitled property can be found in the population displacement and large-scale redevelopment of Koh Pich or 'Diamond Island'. Until 2009, the Island of Koh Pich in the Bassac river was home to a number of families. However, the government noted that as an Island, Koh Pich was by default state public property under the law and could not be owned or leased for a period of more than 15 years. In a *Cambodia Daily* (22 November 2005) article, the deputy governor of Phnom Penh is reported as saying: 'If [the residents] don't agree [to move], the forces will be used because it is the property of the state—not private [property]' After evicting residents the government passed a law to reclassify Koh Pich as 'state private' land – a land classification that signifies state ownership but permits the property to be leased on a long-term basis to private entities. The land was subsequently leased to the Overseas Cambodia

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[125] US Embassy Cables, 09PHNOMPENH515, 27/07/09

Investment Corporation (OCIC), a company owned by a well-connected tycoon. Here we see that even under a system of land use rights and state-owned assets, the political and economic elite are able to bypass legal restrictions, to their own advantage.

The transfer of property rights to developers did not stop with OCIC. After the lease was acquired, some plots were sold to Chinese investors. One such transaction was described by the deputy Chairman of OCIC in a *New York Times* article (5 May 2014). He noted that a prime plot in Koh Pich had been 'sold' to Chinese development company Jinxiang investments for 'close to $100 million'. According to the 2001 Land Law, selling state land in this way is punishable by 5 years in prison; though this outcome for the tycoons involved seems unlikely. In any case, such 'sales' could not have been registered with a title and so suggest that there are other extra-legal mechanisms of acquiring ownership through which large investments are facilitated. Hence, the property transfers on Koh Pich indicate that titles are not the only means by which 'formal' transfers of ownership from low-income communities to elites have been achieved: there are also 'informal' channels resulting in the same outcomes.

The scale of Chinese investment on Koh Pich development is immense. According to the *New York Times* article (5 May 2014), a number of prominent Chinese companies, are jointly investing a total of USD 700 million in the redevelopment project on the plot purchased by Jianxiang investments, including :

> three 33-story condominium towers supporting a 650-foot infinity-edge pool, a shopping mall, hospital, an international school, two pedestrian shopping streets — plus two additional 29-story condominium towers. In a nod to Chinese superstition, which considers the number four unlucky, the buildings will not have 4th, 14th, 24th or 34th floors.

These huge investments are particularly notable because the legality of lease and land transfer with which they are associated is questionable. The fact that investors have acted in this manner illustrates how strong political and personal relationships are between the ruling elite, prominent tycoons and Chinese investment companies. Even in the absence of definitive legal ownership titles, these relationships are sufficient to guarantee investments of hundreds of millions of dollars.

9.4 Inclusion in titling and market-related displacements

I now turn to the second mechanism whereby titling can induce urban transition: I assess whether market-related displacements have occurred in areas that have received titles. I draw on household surveys in both planned and unplanned settlements to assess whether titling has resulted in changes in property prices and transactions. I also explore the difference titles have made to the availability of rental accommodation.

9.4.1 Titling, house prices and property transactions

The process of gentrification or 'downward raiding' occurs when higher-income groups buy property from lower-income residents. Titles potentially intersect with the two key steps in this process: first, increasing the value of people's property; second, formally registering property provides the security necessary for higher-income group from outside the community to purchase property.

Survey results from two communities in the central communes of Tuek Laark Muoy and Tuek Laark Bai present mixed evidence about how far titles might stimulate house price increases. In Site 2 – an unplanned settlement where a portion of residents received titles – around 40 per cent of recipients believed the value of their property increased as a result of titling (Figure 9.2). When queried by how much, most replied that the price had increased 'a little'. The majority of respondents, however, seemed unsure of the effect of titles. Sixty per cent of respondents were either not sure whether titles had any impact, believed that there was no impact or thought that there was a price increase, but that it was occasioned by and did not exceed the 4 per cent transaction cost levied on titled property. The results in planned Site 1 were almost identical to Site 2: 38 per cent of households believed that titles increased the price of their dwelling but the rest were either unsure, thought it did not do so or put the increase down to tax. The results provide no strong indications that titles were associated with rising house prices in either the planned or unplanned area, but suggest that titling may have caused some modest increases in people's perception of the economic value of their property.

Figure 9.2: Perceptions of title's impact on property price Sites 1 and 2
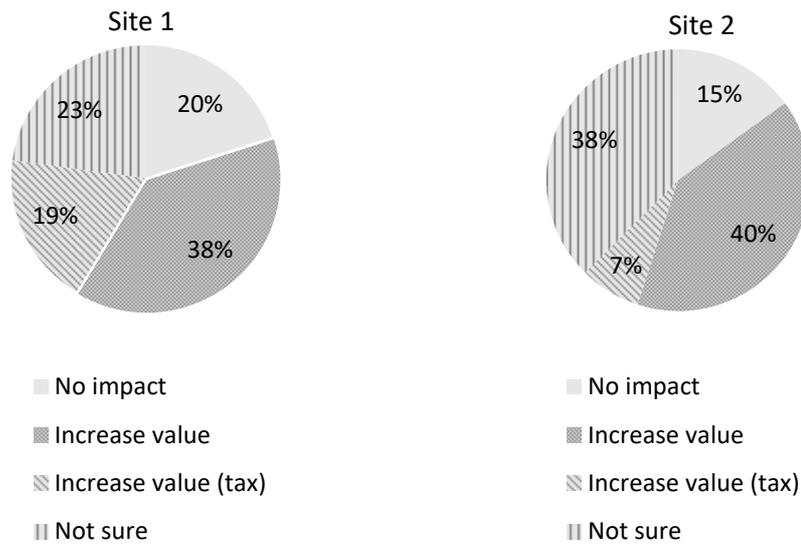
Note: Site 1 n=63, Site 2 n=52
Source: PhD fieldwork

There is also little evidence of rapid population change occurring in either planned
Site 1 or unplanned Site 2 as a result of titling. The average respondent acquired
their property in 1989 in Site 1 and 1994 in Site 2, meaning they had lived in their
property for a period of 23 and 19 years respectively at the time they were
interviewed in 2013. In addition, the reported year of purchase is spread evenly
across time in both sites and does not seem to be related to titling (Figure 9.3). Of the
total of 123 households in Sites 1 and 2 that reported purchasing their property, only
5 said they had done so after titling and only 3 purchases involved the legal transfer
of a land title. Furthermore, the dates of purchase reveal no spikes around the time
settlements were titled. In both sites, the primacy of historical market conditions in
determining patterns of transactions is evident in the distribution of reported
purchases over time. Peak periods of transactions occurred in the late 1980s and
early 1990s as the creation of formal property markets and influx of foreign capital
caused a rapid increase in property prices (Chapter 5); the increases in the 2000s
were associated with a property bubble that began in 2004-2005 and burst with the
onset of global financial crisis in 2008-2009.

Figure 9.3: Reported purchases by date Sites 1 and 2
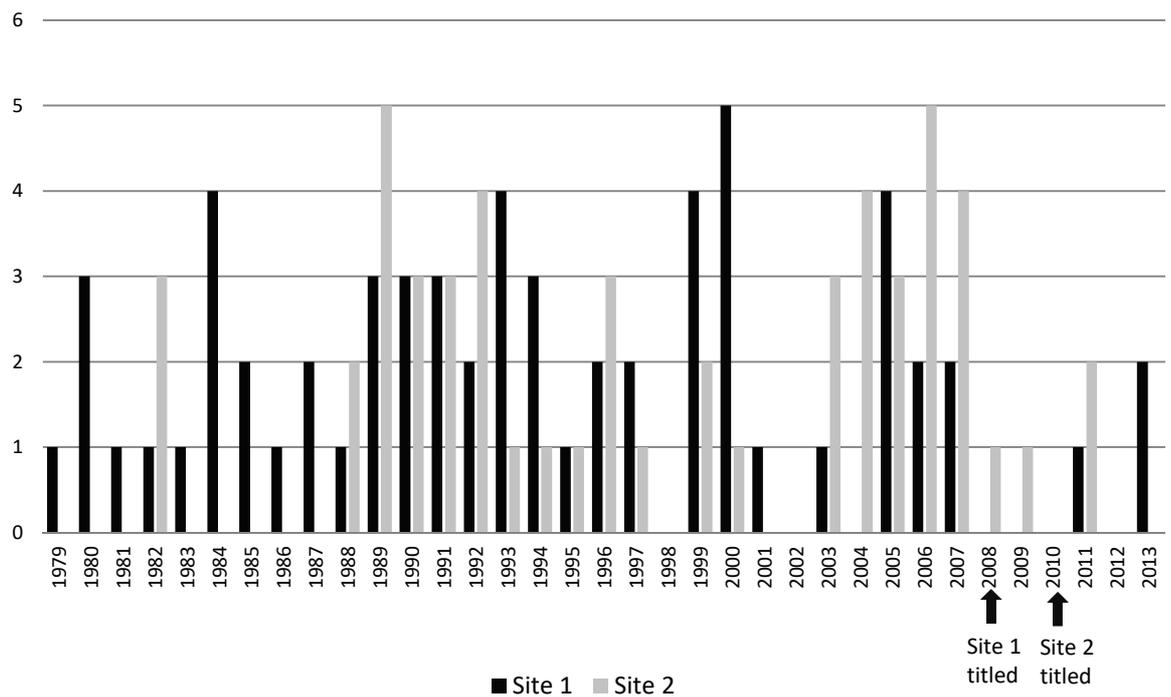
Source: PhD fieldwork

There are indications that while titles have not yet resulted in population changes, however, they may do so in the future. Across all sites, over 40 per cent (of 109 respondents with title) expressed a belief that property title was 'moderately or very important' to secure a potential buyer. Although a sizeable minority of respondents emphasised the importance of titles in transactions, the majority seemed less convinced: 15 per cent reported that title made no difference to a potential buyer; a further 15 per cent thought that the 4 per cent property tax would hinder the sale, and 30 per cent were unsure of the impact of titles if they were to sell their property. These results do not suggest that titling resulted in overnight change, but that titles may contribute to a longer-term shift in the socioeconomic makeup of the survey populations.

Another source of market exposure that may contribute to population change in the future is the changing nature of household debt. As was explored in Chapter 8, households in receipt of a title were more easily able to access large loans than other households. As a result, in Site 1 and 2, a number of households had obtained large loans from banks or microfinance companies. At present there were no indications that these loans had resulted in defaults. However, should there be another economic

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crash such debts could be a source of tenure insecurity if repayments cannot be met and properties are threatened with repossession. There is also the possibility that borrowers may sell their property to meet mounting debt obligations.

A key aspect of the gentrification argument is that increased housing prices result in population changes – but does this always occur? The history of property price increase in Site 1 and 2 questions the assumption that property price increases necessarily result in population displacement. While there is no baseline data available for Site 2, data for Site 1 show that the average purchase price for a property in 1992 was around 170 USD per square metre (CDRI 2007) – we can reasonably assume that prices in unplanned Site 2 were lower. According to data from real-estate companies, property prices have increased dramatically over the past two decades: in 2014 houses on main streets in Site 1 could be worth over 2,000 USD per square metre, while in Site 2 the properties were worth a minimum of 1,200 USD per square metre (VTRUST, 2014: 5). There has, then, been a huge increase in price over these two decades, reflecting the growth of Phnom Penh's property sector during this period. Yet despite rapid house price increases in these areas, most residents had not sold up. As previously mentioned, the average household had lived in their home for around two decades. Moreover, residents in the two sites remained in low-income occupations, as low-level public sector employees or small business owners. Around a quarter of homeowners in both sites had retired, again suggesting the slow population change in the area. Moreover, despite the price rises many had no intention of selling their home. Respondents frequently noted strong social and economic ties to the area, citing their dwelling's proximity to livelihoods and services, such as schools, markets and pagodas, as important reasons. Others noted that property prices were high across the city so there was no incentive to move.

There were some indications in Site 2 that titles had made rapid population change less rather than more likely. As noted in Chapter 6, prior to titling the unauthorised settlement was located on land that belonged to Ministry of Culture. Residents noted that prior to titling there were rumours that the parcel was going to be sold to a company to develop; there were reports of visits by representatives of developers trying to purchase the parcel. Since titling had occurred, however, these rumours and visits from company representatives had ceased – presumably because the allocation of individual titles meant the plot could not be acquired in a single transaction with

the Ministry of Culture. This rendered acquisition of the area more complex – and likely more costly – for the developer.

9.4.2 Titling and low-income tenants

A second route through which titling can contribute to the market-related displacement of low-income groups is by encouraging landlords to increase rates thereby pricing out low-income tenants. The local dynamics of rental markets in Sites 1 and 2 has meant that this has not occurred. Instead, the volume of rooms for low-income tenants has increased over time in response to increasing demand. There were a total of 27 tenants reported as residents in dwellings' of respondents in 1998, rising to 205 by the time of the survey in 2013 (Figure 9.4). In both sites tenants were predominantly young, low-income service sector workers and/or students of the nearby Royal University of Phnom Penh (RUPP). Correspondingly, the costs of rental rooms in both Sites 1 and 2 were low. The average rate per person per month was the same in both sites – around 34 USD. There had also been few reported changes in the rental prices over time. Over 80 per cent of landlords (n=32) across both sites reported no change in their room price since beginning renting rooms. Those that had were long-time landlords who reported raising their room rates in response to changes in the rental market over time.

Figure 9.4: Number of tenants in Sites 1 and 2
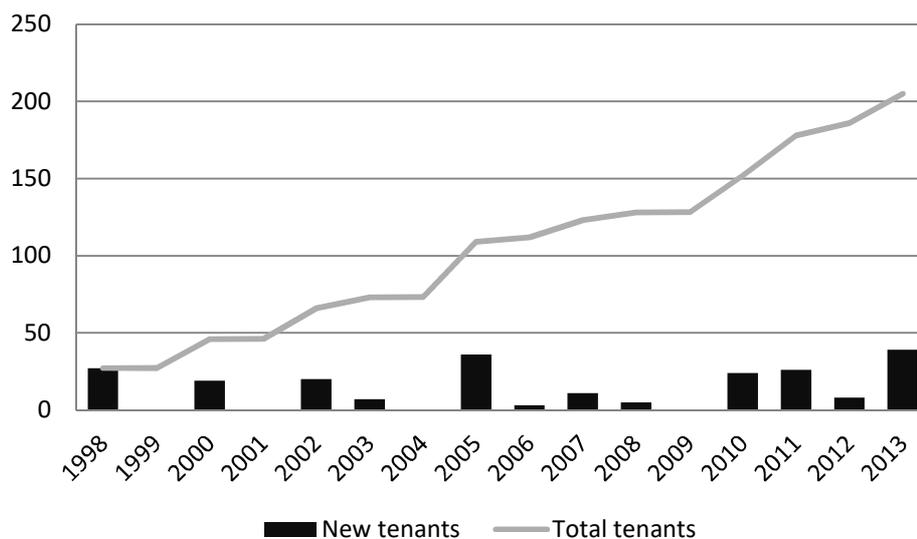
Source: PhD fieldwork

Rather than decreasing the availability of low-income rooms, titling directly contributed to a sharp increase in the availability of low-cost rooms in Site 1 by enabling respondents to access large bank loans with which they built rental accommodation. Renting had become a prevalent income-generating strategy in Site 1: around 27 per cent of households reported renting rooms with the average landlord first doing so in 2008 – the year the area was titled. As detailed in Chapter 8, many loans obtained with title were used to take advantage of the increasing demand for rental rooms in the area.   In Site 2, titles had less of an impact because of the different dynamics of the rental market. Only around ten per cent of respondents let rooms (seven out of 68 households) in Site 2. This lower figure reflected the smaller size of properties in the unplanned area, which provided less scope for development of rental units. In Site 2 it tended to be earlier residents, who had reclaimed larger plots of land from the former marsh area, who had space for rental accommodation. In this context, titles seemed to be less important in providing the finance for rental units. The average landlord had started to let accommodation in 2004 – six years before titles were distributed to residents.

9.5 Securing tenure through customary mechanisms

In previous sections of this chapter, I have assessed the risks that titles can pose to the tenure security of low-income groups. In this section, I present a case study of the experience of Dey Krahorm community, providing an example where an alternative community-based intervention was used to secure tenure instead of titles.

9.5.1 Dey Krahorm land conflict

Social Land Concessions were promoted as a mechanism to increase tenure security and improve living standards in unplanned settlements as part of the government's 2003 *100 Settlements* upgrading scheme. One of the largest communities to 'benefit' was Dey Krahorm in Tonle Bassac (mentioned earlier in relation to the 7NG company dispute). Dey Krahorm was established during the 1990s on a 4.7 hectare green-field site behind the iconic *Bouding* (Catalla, 2000). According to the government, 1,220 families lived on the site when, in 2003, it was selected to become a 'Social Land Concession' enabling onsite redevelopment (Licadho, 2008).

The concession stipulated that a portion of the community's land parcel was to be granted to a private developer for commercial purposes and the rest of the land 'given' to the community for residential purposes. In return for receiving its plot the developer agreed to build apartment accommodation for all households on the portion of the parcel belonging to the community. There was however no plan to distribute titles as part of this process. Instead, the community would presumably keep local institutional tenure arrangements, which would have likely been similar to those described in a similar unplanned Tonle Bassac settlement in Chapter 5, but the tenure of the entire parcel would be protected by law as a Social Land Concession.

While the government claimed to be 'giving' the land to the community, residents already had a strong ownership claim under the 2001 Land Law and should have been eligible for titles. NGOs noted that Dey Krahorm residents satisfied the criteria for converting their possession claims into ownership (Licadho, 2008). Many had lived peacefully on the parcel for over a decade and had official documents to prove it. Despite these strong claims to individual ownership, a decision was taken by the government to pursue an alternative tenure mechanism and collective ownership.

Under the Social Land Concession, Dey Krahorm residents ceded their individual property rights to a body of elected community representatives. However, during negotiations with the developer, as a result either of coercion from the company or of bribery, these representatives agreed that all households would give up their property in exchange for apartment accommodation provided by the developer at a site 20 kilometres from the city centre. This action was clearly against the interests of residents.

The authority of the community representatives to make such a deal was disputed by NGOs. However, the government took no action against the developer and legal appeals proved fruitless. Eventually, all households were evicted by the company – with the support of the police – in one of the most violent evictions in Phnom Penh's turbulent history of land conflicts. Many homes were bull-dozed with residents still inside. Evicted families were provided with sub-standard accommodation at the resettlement site, a long way from their livelihoods, school and key social support infrastructure. As a result, when I visited the site in 2015, many dwellings had been abandoned.

9.5.2 Weaknesses in the Social Land Concession mechanism

The community-centred Social Land Concession approach failed to ensure tenure security for residents for a number of reasons. First, it was assumed that the interests of community members were similar and that the community representatives would fairly represent these interests. This turned out not to be the case: through either greed or coercion community leaders betrayed the interests of other community members. When this occurred, there were no institutional safeguards, such as clear and enforceable laws governing how Social Land Concessions would be implemented or rules detailing the rights of community members, the obligations of contracted parties and/or procedures to solve disputes.

Second, it was assumed that the government would enforce the stated purpose of Social Land Concessions to the benefit of low-income communities. In this regard, the experience of Dey Krahorm highlights once again the primary importance of political calculation and networks of trust over the rule of law. The Social Land Concession mechanism used to secure tenure for Dey Krahorm residents was a little-used policy framework designed to increase access to land for poor communities. Allowing an agreement made within this framework to be undermined by a tycoon did not incur significant political and economic costs for the government and fitted the pattern of transferring land in Tonle Bassac from low-income urban residents to developers that I have already described. While the government could afford to undermine the Social Land Concession mechanisms, evicting households with titles would have been more difficult politically. Indeed, it is of note that there have been tens of thousands of households evicted in Phnom Penh since titling began in 2002, but *there has not been one reported case of a household with title being evicted in Phnom Penh.*

The disparity between the security of those who had titles and those using alternative tenure mechanisms has not been lost on other communities facing eviction. The experience of Dey Krahorm (and other Social Land Concession cases) has been well documented in Phnom Penh over the past decade; their legacies continue to this day. In 2016, newspapers reported residents of Borei Keila – a sister project to Dey Krahorm – were still protesting the outcome of the project 13 years after it began (*Phnom Penh Post,* 9 June 2016).

In contrast, titles are seen as the positive tenure outcome that residents under threat of eviction desperately seek. Residents in unplanned communities were aware of how, in the absence of titles, communities like Dey Krahorm and the infamous case of Boeung Kak had been forcibly evicted (see Chapter 6). In each of these conflicts, communities faced with eviction pushed for titles because they saw titles as the gold-standard of tenure security. Media representations of titles had filtered down to communities in areas of high tenure insecurity. For one respondent in an area slated for development, titles were the *only* way their tenure could be secured: 'The only thing we want is land titles; we have approached the commune office and asked many times about this issue but so far we have not received them'.[126]

The case of Dey Krahorm suggests that the Social Land Concession can be viewed as another mechanism to transfer real estate to developers by excluding low-income communities from titling. Instead of ownership titles, residents were provided with a second-class tenure framework that enabled elite capture of the plot. According to one NGO, this was a deliberate act – a government-sanctioned theft of a plot of real estate worth an estimated 44 million USD by a private company with close links to the political elite (Pred, 2011). Ultimately, the Social Land Concession became yet another framework for property to be transferred from low-income residents to a political and economic elite intent on developing it into a 'productive' space.

9.6 Policy mobility and cultivating the mystique of title

The preceding discussion in this chapter has assessed the tenure risks associated with titles for low income groups. The evidence suggests that titling does not cause any substantial increase in tenure insecurity and is preferable to other forms of tenure intervention from the perspective of low-income residents. In this section, I explore in more depth why titles are considered an important indicator of tenure security by recipients and, indeed, non-recipients, highlighting the social and cultural impact of the LMAP. This analysis ties in arguments made by Tania Li (2005; 2007) about the ways 'liberal' governance mechanisms gain traction in society. She argues that liberal policy interventions become truly important in shaping a society when they

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[126] Interview with Village Chief, Village 16, Commune Tonle Bassac, 8 February 2013

are integrated into every-day interactions of that society. This process does not only occur in political, social and economic spheres, but also cultural exchanges. A trend of deep societal integration is, I suggest, in evidence in the implementation of the LMAP in Cambodia, and accounts for the importance placed on titles by Phnom Penh's population.

9.6.1 LMAP titles and Khmer politics, culture and society

How the LMAP has been experienced by Phnom Penh's citizens is linked to the significance of land in Cambodian culture and society. Living in Cambodia for an extended period, I became aware of the many ways that titling was married to every-day cultural processes and events by the state. The government perpetuated a mystique around LMAP titles by holding ceremonies that showcased vulnerable populations receiving them. They espoused the benefits of titles on widely-subscribed state-sponsored radio programmes. They even aired state-sponsored titling-themed karaoke songs on television. Similarly, donors have characterised the project as the dawn of a new reality for equitable land ownership. In Phnom Penh, I visited an event hosted by project partner, GIZ, who had commissioned famed Vietnam War photographer, Tim Page, to curate an exhibition about the LMAP. The installation, called 'Cadastral Convoy', captured images of households gaining 'real ownership rights'. The photographs captured cadastral officials measuring and demarcating land parcels and ended with pictures of smiling recipients proudly holding their titles aloft. The event was reported in the national papers with much zeal. The historical significance of the LMAP process was even compared to that of the Vietnam War:

> Reputed to be one of the inspirations for Dennis Hopper's wild-eyed
> Colonel Kurtz acolyte in Apocalypse Now, Page's photography of the
> region's conflicts have since become iconic. Page is now engaged in
> what he considers to be his most challenging project to date:
> documenting the gradual transfer of land titles to rural and urban
> Cambodian families. (13 July 2012, *The Phnom Penh Post*)

Page noted his own experience of taking the photographs, emphasising the importance attached to titles by recipients. This sense of importance was no doubt

enhanced by the presence of a professional photographer capturing events for a national exhibition in Phnom Penh. Page was quoted in *The Phnom Penh Post* (12 July 2012):

> "It's the first time I've seen nothing but happy faces," he says. "They print out these giant maps, which has printed out all these little plots with numbers, all the parcels of land, and then each person gets a little piece of paper with their name, their number, and what land they have. And all of a sudden they say," – here he leans in to whisper – "'you mean this piece of land, is mine?'

The LMAP should also be understood in the context of the changing social contract between state and society that has occurred in Cambodia over the last decade. During the 1980s and 1990s, the Cambodian government's interaction with society was limited to providing the basic functions of personal security (Hughes, 2003). As the country has developed, recently graduating to lower-middle income country status, the roles of the government has changed, and state administrative actions (such as providing citizens with ID cards, registering vehicles and businesses and paying taxes) have become more prominent in people's every-day lives. In this context, titling provides a framework where the state can administer the land sector to a greater degree, and potentially open up new opportunities for the state to exert administrative control over society. This has occurred in India, where, according to Kamna Patel (2016), the legalisation of tenure rights can be a prelude to increasing interactions with the state. Similarly, in Cambodia, titling has been accompanied by other forms of state administration. The most important of these is tax collection. A new land tax regime was implemented in 2011 and I found that in the PhD survey population, 85 per cent of the 110 households with land title had paid land tax in 2013. None had paid tax prior to receiving titles. Households with land title are also required to pay a transaction tax of four per cent each time ownership is transferred, either through transaction, gift, inheritance or any other means. This increased interaction between state and society through titling signifies a changing social contract, where the government provides title recipients with legal tenure security, and, in return, title recipients provide tax revenue to the government.

Finally, it is important to emphasise the how LMAP titles are linked to Cambodia's political and economic development from a global perspective. As Cambodia has integrated deeply into international circuits of aid and capital, maintaining and developing new frameworks to facilitate increasingly important transnational relationships have become a priority of government. LMAP titles and their associated global-standard system of property exchange are emblematic of this global outlook and, therefore, the government has placed emphasis on maintaining the integrity of the system. As a prominent figure in the business community told me, the government acknowledged the economic risks associated with undermining the land title system – investor confidence in the Phnom Penh property market would be severely compromised.[127] Consequently, the government have been keen to espouse the benefits of titles and reluctant to devalue them by appropriating titled property. As a measure of the importance that the government attaches to the intervention, land titling and its relationship to investment and economic development was the subject the subject of a master's thesis by Hun Manet – the son of Prime Minister Hun Sen – completed at New York University, which is now archived in the CDRI library. In addition to encouraging transnational investment, supporting the titling framework is related to the government's dependence on international aid (see Chapter 6). Fulfilling donor loan conditionality by upholding land titles is requisite to secure future funding, which, in turn, is crucial to the functioning of the Cambodian state: 50 per cent of the government's public spending budget comes from donors (Hughes, 2009).

9.6.2 LMAP titles and tenure security among recipient households

Survey data suggests the macro-level aspects of the LMAP on Cambodian culture and society have had important impacts at the household level. The survey results suggest that land titling has not constituted merely a cosmetic, bureaucratic reform. In many cases, the receipt of a land title has had a positive impact on households' perceptions of their tenure security. Among all title recipients,[128] 84 per cent of respondents stated that receiving an LMAP title had increased their tenure security, with the remaining 16 per cent unsure about the impact. No households reported that

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[127] Interview, former CEO of ANZ Royal Bank March 2013, Phnom Penh
[128] Out of the 204 households surveyed, a total of 110 received titles in Sites 1 and 2 – no titles were distributed in Site 3.

receiving an LMAP title had a negative effect on their tenure security. The positive perception of title was more pronounced in Site 2, which was an unplanned and formerly unauthorized settlement. There, 96 per cent of recipients reported that titles increased their tenure security, highlighting the important role titling can play in increasing the tenure security for those living in unplanned areas in particular.

As the literature suggests (e.g. Brickell, 2014), tenure security is a complex concept with many dimensions. To explore this complexity of security, my survey took the form of open ended questions: I asked what impact respondents felt titles had on their tenure security, made detailed notes of their responses and then later coded them. This strategy enabled me to identify the broad trends describe above but also to explore in detail the reasons behind these trends. On analysing responses, the first thing that immediately struck me was that people identified land titles as 'bankamasut LMAP', literally 'LMAP land title'. This surprised as me as I had not experienced this level of knowledge about a project before during my years as a development professional. It was testament to the media and cultural impact of the intervention that the project name 'LMAP' had been married to the word for land title 'bankamasut', suggesting that project had effectively constructed a new reality of land ownership. In this new reality 'bankamasut LMAP' constituted the gold-standard of tenure.

When reflecting on the impact of LMAP title on their tenure, respondent's responses fell into two broad camps. The first related to the idea that the LMAP enabled them to legally own their property for the first time. That many households emphasised the idea of 'legality' and tenure security speaks to the fact that land titles have changed their relationship with the state. Prior to the implementation of land titling, the vast majority of households in both Site 1 and Site 2 did not possess ownership documents that constituted full legal ownership. 'Legal ownership' was often tied to the idea of 'exact' ownership or 'real' ownership– a phrase often heard during interviews was 'land titles show my exact legal ownership'. This fits into the discursive formations that have been utilized by government and donors as the LMAP providing a framework that definitively proves the ownership of a parcel of land – of creating a new reality of land ownership. These sentiments, however, are also rooted in the tangible facets of land titles: the idea of 'exact ownership' was often made in reference to the diagrammatical representations of a parcel's

boundaries. Documents available under pre-2001 tenure regimes did not show plot boundaries, where as post-2001 land titles include an excerpt from a digital cadastral map, showing a plot's boundaries in relation to surrounding plots (See Chapters 5 and 6 for examples of pre-2001 and other tenure documents and LMAP title).

Another route through which land titles increased tenure security in the survey population was through affecting the ontological dimensions of security. Many respondents felt that receiving a land title contributed to an emotional feeling of security and wellbeing. Respondents often used the term 'teuk chet', meaning literally 'secure heart', or referred to a feeling of emotional warmth, 'aram kadow', meaning literally 'warm feeling', when asked to describe the affect that land titles had made to them. In contrast, respondents that had been excluded were under immense psychological pressure because of the insecurity they suffered. In the excluded Site 3, respondents often mentioned that they felt scared about the future – they saw land titles as an important indicator of government recognition of their tenure rights and were very vocal about their desire to acquire a title. Only one out of 48 households thought that receiving one would not increase their tenure security. The reasoning of this respondent was that it was inevitable that the area was going to be redeveloped – no action could prevent this reality. These strong and contrasting statements from recipients and non-recipients tie into observations made by Katherine Brickell (2014) in relation to the psychological importance of home and land ownership in Cambodia.

9.7 Conclusion

This chapter has investigated the various mechanisms through which titles may potentially displace low-income populations by encouraging more 'productive' urban practices. I have argued that titles can contribute to changes in urban areas in a number of ways. This chapter has presented evidence that by excluding low-income communities from titling and granting titles, instead, to elite groups, the government has fomented an inequitable urban transition in Phnom Penh. Low-income communities have been relocated to the urban periphery, while the central locations that communities once inhabited have become sites of global capitalism. However, titling is not the only framework through which this transition has occurred – long

leasing state land to developers has provided another route to the same result. Therefore, rather than titling being a cause of dispossession per se, it is one of a number of mechanisms the government has used to restructure space in a manner that accords with its interests.

This chapter has found limited evidence to support the case that populations that receive titles experienced rapid market-induced displacement. There is little evidence that titles have caused significant increases in property prices or stimulated property transactions. On the contrary, titles may have insulated low-income communities from predatory developers by splitting the ownership rights of parcels across multiple individuals. In addition, titles have coincided with an increase in low-cost rental accommodation. There is evidence that titles have increased the availability of rental accommodation by providing the collateral to obtain loans for housing investment. In the longer term, however, such loans could become a source of insecurity should property prices crash or the economic situation of borrowers change.

The findings suggest that customary or communal tenure systems provide less security to households than titles. This is because in Cambodia there is significant political capital associated with guaranteeing the integrity of titles. In comparison, mechanisms designed specifically to support vulnerable groups can easily be violated by government without incurring the same political cost.

Finally, this chapter highlights the important social and cultural dimensions of the LMAP. By deeply integrating into the everyday processes of Cambodian life, the LMAP title has come to be considered the gold-standard of tenure security in Phnom Penh.

Chapter 10: Conclusion

10.1 Introduction

In this thesis I hope to have contributed to debates on city-wide titling and urban transition in cities of the global south by presenting a case study of the LMAP in Phnom Penh. I have conducted a city-wide and household-level analysis of the titling programme, drawing on archival research, key informant interviews and over 200 household questionnaires in three survey sites. In this conclusion, I draw out the principal findings of the thesis and explore the contribution of these findings to key debates in the literature. I then consider the policy implications of the study and suggest future areas for research.

10.2 Principal Findings

The roots of tenure insecurity date from before the LMAP

Tenure insecurity did not begin with the LMAP; Pre-LMAP tenure systems were associated with high levels of tenure insecurity in Phnom Penh's unplanned settlements. Tenure insecurity emerged as a key threat facing low-income urban groups in 1989, when land was privatised by the government after fifteen years of socialism. Privatisation was enacted in such a way that those in unplanned areas were excluded from acquiring ownership documents. Instead, ownership rights to large parcels of urban real-estate were distributed to senior officials to cement political networks. In turn, officials enriched themselves by selling desirable plots to prominent tycoons. Low-income groups living on these plots were frequently evicted as a result of these land transactions. This transfer of urban land rights from poor to rich served the interests of the ruling elite in several ways. First, by preventing those in unplanned areas becoming property owners the state denied urban citizenship to a group they considered illegitimate. Second, important connections were strengthened among the political and economic elite through the transfer of valuable assets. Third, land in prime urban areas was transferred to tycoons who could redevelop the city into the modern metropolis for which the Cambodian political elite yearned.

Access to titles in unplanned settlements has been uneven under the LMAP

The LMAP and associated reforms provided a legal framework for those in unplanned areas to convert their possession claims into formal ownership. In practice, however, the implementation of the law has been uneven. This thesis identified three modes of LMAP implementation in relation to unplanned settlements. First, in many cases the government circumvented the LMAP land registration processes and illegally excluded those in unplanned areas from obtaining titles until such time as it was politically expedient to evict them and transfer their rights to representatives of elite groups. Second, in some cases unplanned areas once considered illegal received titles as a result of the LMAP. Site 2 is a good example of such a case. Titles were granted to residents as the final act of increasing official recognition that included the extension of service infrastructure and other acts of cooperation between local authorities and residents. Third, although the LMAP frequently failed to secure the rights of those in unplanned areas through the intended mechanisms – that is, by systematically adjudicating their property rights – the project did provide additional policy spaces in which residents have asserted their rights. I have highlighted the use of the World Bank's Inspection Panel by civil society organisations as an example of such a policy space.

I also suggest that Cambodia's changing socioeconomic and political context has affected how the LMAP has been implemented in unplanned areas. Industrialisation has resulted in the historical view of the urban poor in unplanned areas as an 'illegitimate' social group becoming less entrenched as the need for a class of urban workers becomes increasingly evident. As the urban poor have become an established social group, the incentive to garner their support through the promotion of inclusive policies has increased. In this changed context, I argue, it is more likely that the government would provide such groups with titles than in comparison with the late 1980s and 1990s.

Titling has been associated with increased household investment for some

In general, I found titles to be associated with increased investment in housing and/or on-site income-generating activity. Residents living in areas that had been subject to systematic titling invested more than those that did not; in areas subject to titling, those that received title invested more than those that had not and reported greater

frequency of investments after titling. Patterns of investment and titling suggest that the LMAP contributed to increased investment in sections of the population that received titles, but failed to reach the most marginalised. Those with the lowest tenure security were those who were also excluded from titling. In the areas where they lived investment in housing and income-generating activity was lowest, and housing and living conditions were worst.

Aside from the distribution of titles, I identified a number of other factors that influenced respondents' investment behaviour. These included factors linked to tenure security, such as respondents' relationship with authorities and the likelihood they would be evicted. There were also factors not directly linked to tenure security; respondents reported consolidating structures to provide protection from crime and environmental hazards. Lack of capital resources to finance upgrading was also identified as a key constraint to investments.

The effects of titles on borrowing varied

A high proportion of respondents across all the survey sites reported accessing loans, the overwhelming majority of which were obtained from formal-sector lenders – either banks or microfinance institutions. In this context of borrowing, the impact of titles varied. Titles were important for some respondents, who used them as collateral to access larger sums lent at competitive rates of interest from well-known banks. For others, however, smaller microfinance loans could be obtained without title collateral, because lenders relied on local authorities to enforce loan contracts in such circumstances. While microfinance could easily be accessed without titles, such loans were comparatively small and liable to high interest rate charges.

For those seeking larger, lower-interest bank loans collateral was not the only requisite. Potential borrowers were subject to more rigorous financial assessments, including scrutiny of their ability to service the loan. Because of this, larger, lower-interest bank loans tended to be restricted to a relatively small section of the population: better-off households who also had tiles. For these richer households, titles were important in accessing larger loans that had previously been inaccessible to them because of their lack of collateral. Lower-income borrowers tended to access smaller microfinance loans irrespective of whether they had titles or not. There was

evidence, however, that those who had used title as collateral obtained larger microfinance loans at lower rates of interest than those who had not.

Larger title-facilitated loans were often used by better-off households to enhance their income-generating activities. Strikingly, the biggest loans reported were taken by women heads of household in planned Site 1, who used them to build rental accommodation or to support other home-based economic activity. In doing so, better-off women-headed households appear to combine capital generating activity with other roles in the household. By contrast, the smaller microfinance loans appeared to be used to plug short-falls in household income, rather than enhancing respondents' livelihoods.

Titling has contributed to an uneven process of urban change

I have argued that the LMAP has been associated with profound changes in Phnom Penh's social fabric. At the city scale, the most palpable contributor to urban change was the exclusion of residents in unplanned areas from titling and the transfer of their property to developers. Distributing titles in this way meant that low-income groups have been removed from the city, while large-scale redevelopment has proliferated. As well as transferring assets to elites, the LMAP has encouraged investment by providing increased security for foreign investors. Titles have also provided foreign and domestic investors access to credit from Cambodian banks to fund redevelopment projects.

While titling has been important in securing some large-scale investments, many such investments appear to have been made in the absence of property titles. In some cases the government has concessioned land to companies and then evicted residents. Such practices, which are frequently condemned as illegal by observers, do not involve the transfer of title deed. Given investment still flows into Cambodia's land sector through extra-legal channels, it seems probable that had the LMAP not occurred, corrupt officials would have used different mechanisms to transfer the resources of low-income groups to elites just as they had done in the pre-LMAP period.

While exclusion from titling has resulted in a transfer of resources to elites, inclusion of residents in titling has not produced the same effect. At the household level, I

found no evidence of rapid social change in survey sites where residents received titles – either in unplanned or in planned areas. There were no spikes in property transactions – which could have indicated a process of gentrification or downward raiding – around the periods that titling was implemented. There was evidence, however, that titling was associated with an increase in renters as landlords were able to expand accommodation using title-collateral loans.

I also looked at strategies promoted by government and some civil society groups to secure the tenure of residents in unplanned areas using alternatives to titling. I drew on the example of Dey Krahorm, where the government (with the support of civil society) provided the community with a Social Land Concession rather than titles to individual households, although residents in the area were thought eligible for titles according to many commentators. I noted that the intervention was unsuccessful in securing residents tenure: the plot was acquired by developers and residents were evicted. I argue that residents in areas that have received titles are far more protected from having their property appropriated in this way.

10.3 Theoretical contributions

Titling and the political economy of development

Earlier in this thesis I noted that an important strand of the titling and tenure security literature centres on a theoretical discussion about the merits of titling vis á vis local tenure systems (Porter, 2011; Roy, 2005). Advocates for titling view tenure insecurity as the result of inefficient local institutions that limit access to formal ownership; building institutions that can distribute titles efficiently to secure tenure is their policy response (Brandao and Feder, 1995; De Soto, 2000; Deininger, 2003). Critics argue the opposite: that titling replaces local institutions with global-standard systems that privilege the global capitalist elite and dispossess the marginalised (Cousins, 2008; Goldman, 2011). This discussion reflects a wider debate in the geography and development studies literature about the spread of best-practice, globally replicated development policies and their impacts on populations in the global south (Ferguson, 1994; Li, 2005; Mosse, 2008). It also points to the central question of this thesis: has Cambodia's donor-funded titling project resulted in

increased tenure security for the most vulnerable, or a more exclusionary neoliberal system that has weakened traditional tenure and further marginalised the poor?

The World Bank's LMAP Project Appraisal Document follows a global/good local/bad conception of tenure that is rooted in the theoretical framework of institutional economics. The document paints tenure insecurity in Cambodia as the *unintentional* outcome of low-capacity bureaucracy unable to register land rights efficiently (World Bank, 2002a). The LMAP aimed to replace local tenure with global-standard institutions capable of issuing land titles efficiently to secure tenure across Cambodia. I posit, however, that the bank's focus on institutional capacity masked the underlying dynamics of tenure insecurity. Pre-LMAP laws were promulgated and implemented in a way to exclude the poor as part of a calculated political act to further the interests of elites (see Chapter 5). Tenure insecurity, resulted, then, from the concentration of power in the hands of the economic and political elite in a context of rapid privatisation, not low-capacity institutions unable to meet the technical demands of land registration. The Bank's institutions-focused analysis justified an institution-building response which failed to address these underlying causes of tenure insecurity and contributed to the project's limited success in titling unplanned areas and its failure to prevent many residents in such areas from being evicted.

Taking the opposite view of the World Bank, some scholars have suggested that the LMAP replaces local tenure arrangements that serve the interests of the marginalised with a global system that increases their tenure insecurity (Durand-Lasserve, 2007; Springer, 2013). In Phnom Penh, my assessment of LMAP and traditional tenure differed from the global/bad local/good dichotomy. I argue that the types of local tenure found in unplanned settlements often equated to insecurity (see Chapters 5 and 7). The tenure categories commonly found in unplanned areas were perpetuated by those in power to deny residents a stake in the city. They were not an organic system of rights that evolved independently from notions of formal ownership according to the needs of the population. Indeed, I found that residents did not feel such 'local' tenure suited their interests and often tried to obtain formal ownership documents but were barred from doing so by authorities. I suggest that the 'global' LMAP and associated did not undermine 'local' tenure present in unplanned settlements, but provided greater legal protection to them than existed prior to the

project and in some cases provided residents avenues to convert their claims into legal ownership. I also found little evidence that titling caused market-related insecurity by unleashing a tide of gentrification in formalised areas as posited by others (Durand-Lasserve, 2007; Gravios, 2005).

I hope also that my findings provide new insights into land titling as a globally replicated international development intervention through exploring the concept of policy mobility. First, I have suggested that the LMAP's policy mobility has worked at an institutional level (e.g. Peck, 2010). In Chapter 6, I demonstrated that although the LMAP is clearly a product of best-practice thinking on land reform, it has been presented by the World Bank as an intervention that responds to bottom-up, rather than top-down, pressure. I posit that the Bank's emphasis on local demand was a strategy used to justify and action deep governance reforms in Cambodia's land sector. In reality, the LMAP was one of a number of top-down, coordinated interventions by donors to restructure land governance along the lines of orthodox theories of land markets, which the Cambodian government were contractually obliged to implement in the manner detailed in project documents. In this way, the LMAP was able to restructure the institutional arrangements around land administration according to global-standard, best-practice neoliberal theories. Second, the LMAP's policy mobility worked at social and cultural level (e.g. Li, 2005). In Chapter 9, I explored how LMAP titles were integrated into a variety of cultural and social practices, including karaoke songs, title-giving ceremonies and art exhibitions. As a result, LMAP titles have become highly valued, associated with the concept of 'real' land ownership and, in turn, appear to have had a significant effect on residents' perceptions of tenure security in a variety of ways. Moreover, the tenure security associated with LMAP titles is not only perceived: the project has provided the government with strong cultural, social, economic and political incentives not to undermine titles.

The diverse experiences of the LMAP for Phnom Penh's residents suggest that titling projects cannot be theorised as inherently good or inherently bad in terms of their impacts on the lives of city dwellers. In Phnom Penh, the impacts of titling have been complex and in some cases contradictory. On the one hand, many residents of unplanned areas were excluded from the project, and so did not experience the benefits extended to those who received titles. On the other hand, the LMAP did

provide some people the opportunity to increase their tenure security using strategies that were not available to them prior to the project. On balance, and despite the project's shortcomings, this thesis argues that the LMAP has improved tenure security for low-income groups by providing them better access to legal ownership than previous tenure systems. In addition, those who have received an LMAP title are now in possession of a document that confers a very strong level of tenure security and other benefits, such as access to credit on better terms.

Given the voluminous literature in geography and other disciplines asserting the exclusionary nature of neoliberalism as a globally-replicated policy paradigm, highlighting the potential of positive outcomes of such programmes may be viewed as legitimising processes of exclusion. In this thesis, I have argued that strategies deployed by marginalised groups means that they can benefit from such policies even if the policies emerge from exclusionary capitalist principles; as Ananya Roy (2005: 155) suggests, 'the master's tools cannot dismantle the master's house, but perhaps when strategically used, they can allow those on the outside to occupy the master's house'.   My policy-oriented approach to analysis of development does not deny that neoliberalism is an exclusionary regime globally, but proposes that these frameworks can be leveraged in some cases to benefit low-income groups.

Titling and credit

Through my analysis of titling and borrowing in Cambodia, I hope to have contributed to a greater understanding of emerging credit markets in the global south. In this regard, I provide an example of titling in a context of the dramatic expansion of microfinance, which has not received attention in the titling literature so far. I have argued that microfinance lending challenges the binary assumptions on which theories of titling and credit have been built. The orthodox view sees borrowing through the lens of the formal/informal binary, where formal credit providers include banks and other well-regulated lenders, and informal lenders comprise moneylenders and pawnbrokers or friends and relatives (Feder and Nishio, 1998; Payne et al., 2009). Within this binary system proponents argue that titles enable recipients to access formal credit by providing a secure form of collateral (De Soto, 2000; Deininger, 2003). Critics argue that even with titles, the poor cannot access formal credit because of other barriers to entry, including difficulties

convincing lenders of their ability to meet repayments and banks general reluctance to lend to low-income borrowers (Payne, 2001; Gilbert, 2002; Payne et al., 2009).

The relationship between titling and microfinance in the survey populations differed from such orthodox representations. Microfinance in Cambodia includes a variety of lenders, embodying both 'informal' and 'formal' lending practices. Microfinance companies are ostensibly 'formal' lenders insofar as they are licensed by the government to lend money at interest. Despite this, some microfinance companies engage in practices usually ascribed to informal lenders: they may charge usurious rates of interest and rely on 'informal' mechanisms of debt enforcement. They often do not require title as collateral to disburse loans. Instead, local authorities, rather than the judiciary, can put pressure on borrowers to sell their property to meet payments at the behest of microfinance institutions.

The experiences of titling and credit presented in this thesis suggest that the formal/informal categorisation masks the myriad ways in which titles intersect with credit-seeking activity. It calls for a revised conceptualisation of credit markets in the global south as existing on a spectrum of lending from moneylenders to banks, and embodying a variety of informal and formal procedures.

As well as exploring the attributes of credit markets, this thesis has presented title-facilitated lending as a factor in urban change. Previous household-level studies - typically focusing on unplanned areas – have found little evidence that title-facilitated loans are used for housing investments (Field 2005; Fernandes 2011;Varley, 1987). This thesis found that while titles appeared to be relatively unimportant for low-income borrowers in this regard, better-off title recipients (usually in planned areas) used titles to access larger bank loans to upgrade their property. These investments had an interesting impact on the social fabric of some areas where the project had been active. In planned Site 1 residents often used title-collateral loans to build rental accommodation to house the rapidly increasing number of low-income tenants in the area. The relationship between titling and an increase in low-income tenants differs from the common arguments that titling prices out low-income renters (Payne, 2001; MacFarlane, 2012), again highlighting the unexpected ways through which titling can contribute to urban change.

At the city scale, titling-facilitated credit also contributed to large-scale redevelopment: titles were used by foreign and domestic developers to access large loans from Cambodian banks, contributing to a rapid process urban redevelopment. The role of titles in large-scale development is often discussed in the land formalisation literature (Jones and Ward, 1994; MacFarlane, 2012), and specifically with regards to Cambodia (Durand-Lasserve, 2007; Simone, 2008; Springer 2009). The emphasis has been on the establishment of institutional frameworks that provide conditions amenable for foreign investment to flow into urban economies. The contribution made by this thesis is to highlight the role of title-facilitated credit in providing capital that has been invested in large-scale development projects. This finding is important because it identifies the spill-over effects of titling to other parts of the economy, in this case the practices of Cambodia's banking sector.

Titling and housing investment

This thesis has provided a novel example of city-wide titling to contribute to the literature on titling and housing investment, which typically has focused on titling targeted at unplanned settlements (Varley, 1987; Gilbert, 2002). In general, the findings of the thesis support other studies reporting that titles have increased investment in housing and capital-generating activities (Field, 2005; Van Gelder and Luciano, 2015). As a city-wide project, however, the LMAP may have affected investment behaviour through different mechanisms than identified in targeted titling studies. Studies of titling targeted at unplanned settlements – penned by both proponents and critics – agree that titling aims to provide recipients *de jure* security. Proponents argue that *de jure* security is the primary basis on which households assess their tenure security and so titles encourage recipients to invest more than non-recipients (Van Gelder, 2010). In contrast, critics argue that *de jure* security is not the primary indicator of tenure security. Other factors, such as a community's relationship with local authorities, the extension of service infrastructure to their area, contribute to *de facto* security and provide more important incentives to invest in housing (Gilbert 2002; 2012).

The LMAP, like other targeted titling schemes, provides households with a *de jure* guarantee from the government that recipients will not be evicted. In addition to the provision of *de jure* security, there are aspects of the LMAP that also provide *de*

facto security to recipients. As a city-wide project the LMAP has a political significance greater than a project that is targeted at poor residents exclusively for one key reason: undermining an institution which has been designed to secure the assets for global investors, the Cambodian elite and middle classes would incur a much higher political cost that violating a framework designed to empower the urban poor. Thus while the government has allowed alternative legal mechanisms designed specifically to secure the poor's rights to be violated (see Chapter 9 analysis of the Social Land Concession at Dey Krahorm), there has not been one reported case of a resident with title having their property appropriated in Phnom Penh. As a result, titles are viewed as the gold standard of tenure security in Phnom Penh by NGOs and communities facing eviction alike, and many communities have fought to gain titles to increase their tenure security under the project.

10.4 Policy implications

Titles provide tenure security to recipients in Phnom Penh

This thesis asserts the importance of titles as important indicators of tenure security for residents in Phnom Penh, particularly when they are issued in areas that had low *de facto* security. Tens of thousands of households without ownership documents have been evicted across Phnom Penh, both before and after the LMAP was initiated, but there has not been one documented case of a household in Phnom Penh having their LMAP-titled property appropriated by the state. Instead, exclusion from titling is the primary mechanism through which low-income communities are removed from central urban areas. It was clear during my fieldwork that communities threatened with eviction viewed receiving titles to their plots as the best outcome to secure their tenure. The logical policy response to this finding is that advocates working on behalf of low-income groups should try to obtain titles for them in the first instance.

The position that titles may provide benefits to low-income groups is at odds with literature that suggests informal or customary tenure protects communities from predatory neoliberal elites better and should therefore be used as the basis for alternative approaches to formalisation (Fernandes, 2011; Payne, 2005). While this

strategy may work in other contexts, the reality in Phnom Penh is that alternative tenure systems leaves communities more vulnerable to the power of a predatory neoliberal state than providing them with titles, as I have illustrated with the case of Dey Krahorm.

While the experience of Dey Krahorm and other Social Land Concessions suggest that alternative tenure mechanisms have not been able to secure tenure for low-income settlement, in many cases titling such settlements is not a viable alternative in the current political climate: the government seems unwilling to provide titles to unplanned settlements that it sees as undesirable. In addition, in some unplanned communities not all residents are eligible for titles under the law as it currently stands. For example, in riverside settlements, some households may be living on land classed as 'riverbank', which is considered state public property and therefore cannot legally be owned by an individual. Titling such an area would mean some people being recognised as legal owners while others were classed as illegal occupants of state public property (the 'riverbank'), potentially causing conflicts within the community.

A potential solution that is currently being advocated for by NGOs to secure tenure in untitled unplanned areas involves the on-site construction of modern housing and providing residents with titles of co-ownership to the communal parcel on which the structure is built. In a situation where only a portion of a community's parcel is eligible for a title, for example if some of the land is classed as 'riverbank', then the entire community would be rehoused in a structure built on the portion of the plot that can be legally owned, and be provided with a title of co-ownership for the parcel. This solution has the benefit of securing the community's tenure using a title (rather than a social land concession) and securing the individual rights of community members by vesting co-ownership of the titled plot in them. By providing modern housing, the approach also appeals to officials seeking to modernise the city.

The rights of co-owners of a land parcel are clearly articulated in the Law. The Sub-Decree on the Management and Use of Co-owned Buildings (2009) makes the following provisions for co-ownership:

A co-owned Land Parcel refers to a land parcel of a co-owned building with a specific location, or to a parcel of land large enough for construction of a co-owned building where the location and construction plan has been approved. The land parcel of a co-owned building shall be under the common management and use of all co-owners. (Article 4)

Each co-owner has private ownership right to his or her private unit, unless specifically restricted by laws or other legal provisions. (Article 10)

The Ministry of Land Management, Urban Planning and Construction (MLMUPC) has the authority to register and give certificates recording the ownership of private units of a co-owned building to all co-owners (Article 16)

These provisions provide – in principal – a communal solution to tenure insecurity that incorporates the security offered by titles.

An onsite redevelopment project using the co-ownership approach is currently being implemented in Charang Chamres in the commune of Russei Keo (People in Need, 2015). Charang Chamres is a community of 1,250 people located on a strip of land between the Tonle Sap river and National Highway 5 – one of the major routes out of Phnom Penh to northern Cambodia. The community has been threatened with eviction as part of riverside-beautification and road-widening plans. In addition, GIS mapping of the area shows that many residents are living illegally on state-owned land, either within a 'road corridor' or 'riverbank'. They are therefore not eligible for title under the law or even entitled to compensation if evicted. However, a portion of the land is not state public land and can therefore be legally owned (Figure 10.1). Providing a title of co-ownership and an onsite redevelopment to house the entire community on this smaller site potentially provides secure tenure to the community and a housing solution that is aesthetically acceptable to the government.

Figure 10.1: Map of Charang Chamres
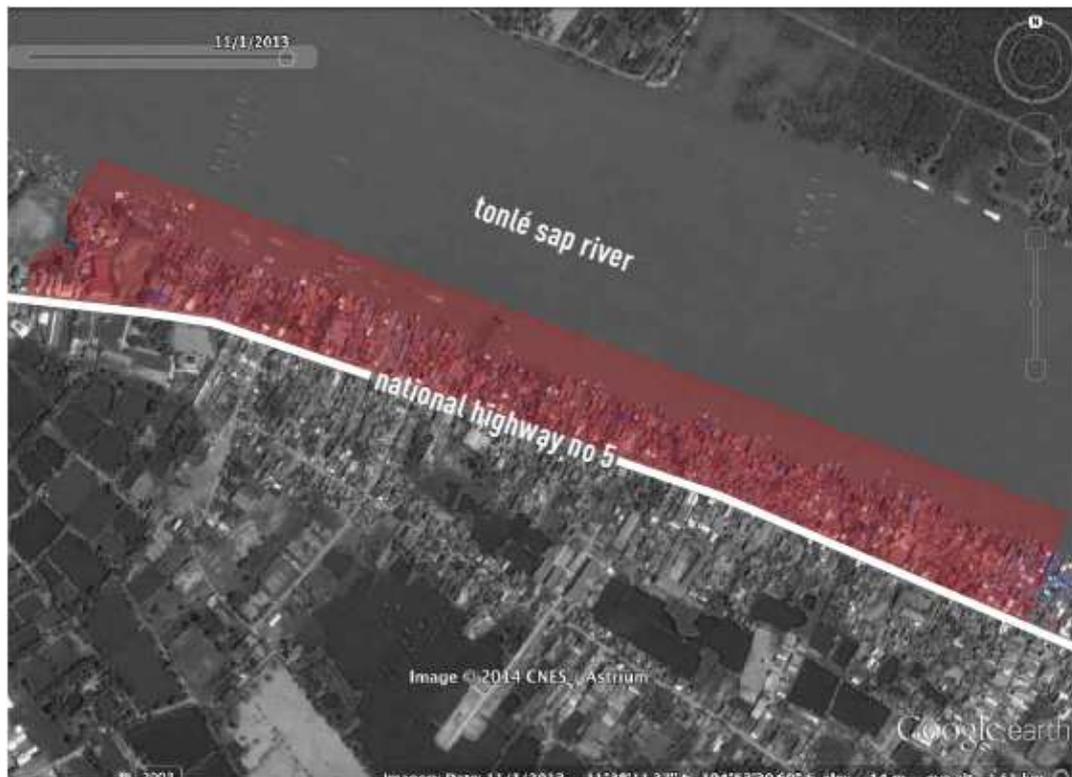
Source: Collective Studio, 2014

There are, however, a number of issues that need to be resolved if tenure security is to be achieved through this mechanism. The first concerns funding of the alternative accommodation for the community on the portion of their parcel that can be titled. Should the community sell part of the land to developers to fund construction? This is certainly an option given that the plot could be worth in excess of 40 million USD, according to real-estate agents (VTRUST, 2014). Another option would be a mortgage secured against the title for the plot; the community would be jointly liable for the debt incurred. The likely cost has been compared with average incomes in the area, suggesting that the mortgage option would be feasible, and banks have agreed to provide a mortgage should the community receive title. However, a credit-driven development presents problems in terms of the ethics of enforcement if households do not keep up repayments.

A second issue concerns how and by whom such a complex project could be managed and overseen. Would the community elect a body to manage the project or would an NGO or a bespoke government committee be more suited to the role? The

scope for community representatives to betray the interests of members is considerably diminished in the case of a co-owned plot because of the legal protection enjoyed by co-owners. However, this risk can never be eliminated given endemic corruption – particularly if a well-connected developer becomes involved.

The third issue is how the varied interests of such a large group could be negotiated. Is it possible to secure a consensus about key aspects of the project – such as the timeline, arrangements for alternative accommodation during construction etc. – among 1,250 people? What if those with stronger claims do not want to accept the plan and would rather wait and try to obtain an individual title? How would the different sizes of households' properties and the relative strength of their ownership claim translate into the types of co-owned units they would receive? What will happen to renters?

Resolving the issues tied up in such a major undertaking will inevitably create some winners and losers in the community. However, the alternative scenario is that the community is evicted and – as is typical in such cases – everybody in the community loses.

City-wide titling projects should plan for difficulties in unplanned areas

The LMAP has not succeeded in its stated objective of increasing tenure security across Phnom Penh because it did not extend rights to all the eligible populations. So what lessons for donors concerning city-wide titling projects emerge from this analysis? The most important implication is that planners acknowledge the context-specific factors that may hinder the extension of a city-wide titling project to marginalised populations and address them in project planning.

A key weakness of the LMAP was that it did not make any provision for implementing the project in unplanned settlements; planners did not anticipate that titling such areas would present different challenges from those involved in titling planned areas. It was simply assumed that the project would be implemented evenly across urban spaces and government would convert all legal possession claims into ownership free from political interference. An analysis of pre-LMAP systems as presented in Chapter 5, however, would have revealed a history of land laws being

systematically applied by government in such a way as to exclude low-income groups from ownership.

Exclusions are a key issue for titling projects more generally, not just for the LMAP, because they present a political rather than a technical problem that is beyond the scope of the good-governance interventions promoted by the Bank. This thesis has shown, however, that while titling is a technical intervention on paper its implementation becomes highly politicised. As noted in Chapters 5 and 6, for example, access to titles was controlled by government in order to consolidate important high-level political networks, leading to the exclusion of many low-income communities. The LMAP's few successes titles unplanned areas were also related to political processes. In Chapter 6 I suggested that the cooperative relationship between the community and local authorities in Site 2, as evidenced by joint investments in local infrastructure, was linked to successful titling in the area. The Bank itself has also been involved in political negotiations with the government in the Boeung Kak case, which led it to withdraw all lending to Cambodia in protest at the actions of officials not providing titles to residents in unplanned settlements.

Bearing the importance of political engagement in mind, it is crucial that donors implementing titling projects work closely with civil society groups during project implementation and ask such groups to facilitate titling in unplanned areas. These groups have a much greater understanding of the political intricacies of titling at the local level than do donor organisations. At the national level, perhaps the most effective mechanism to ensure such areas receive titles is by tying lending directly to titling in unplanned areas. The LMAP did not do this and so provided a limited counter balance to the vested interests in the state that opposed such activities.

Legal reforms are needed to secure tenure for the marginalised

This thesis has identified a number of quasi-legal mechanisms that the Cambodian government has used to exclude low-income urban groups from having their property rights adjudicated by cadastral officials and eventually to evict them and allocate their land to elite beneficiaries. In this regard there are two semi-formal legal processes used by the government to deny those in unplanned areas titles. The first relates to the arbitrary classification of parcels of state land. In many cases the government has claimed that communities are living on state public land, evicted

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residents, then reclassified the land as state private land and long-leased it to developers. This well-worn mechanism has been used to provide a cloak of legal legitimacy to the eviction of tens of thousands of people. To address this legal failing, civil society and donors should advocate for more stringent criteria and procedures for the reclassification of state land and for the protection of the rights of those living in such areas. The second quasi-legal mechanism deployed by the state is 'provisionally' excluding low-income groups from titling in adjudication areas. Donors in the land sector should ensure that provisional exclusions end as a condition of future funding.

There is also the crucial issue of tenure security for those who do have their property rights adjudicated but are for found not to be eligible for titles under the law as it currently stands. Key in this regard is the situation of those who are determined to be living on state public land. The Cambodian government's Circular 03 provides tenure options for those living in such areas, ranging from the provision of titles on-site to resettlement off-site. However, as a circular the document has limited legal clout and since it was published in 2010 there have been no signs of its being implemented in Phnom Penh. Civil society organisations should call for the circular's implementation in areas where land has been classified as state public land and where residents consequently face eviction.

A further issue is that there are few laws that define how state public land is classified and demarcated in urban areas. Instead, there are national guidelines that apply the same criteria to both rural and urban settings. For example, the road corridors of national highways are 60 metres irrespective of whether the highways are in a rural or urban setting. In urban areas, such a corridor may not be necessary from a public infrastructure perspective, but all households living within it will be classified as illegal occupants of state land. Such laws need to be revised to reflect the different rural and urban contexts.

Finally, though laws exist to promote socially responsible large-scale investment, these are weak and have not prevented evictions. For example, developers are legally required to conduct Environmental Impact Assessments for all large redevelopment projects that may have negative social and environmental consequences, including population displacements. However, assessments are conducted by private

companies and are paid for by the redeveloper, and they have so far proved ineffective in stopping or even curtailing the worst aspects of large-scale developments. Therefore, the process of conducting and enforcing impact assessments should be strengthened to provide more protection to populations who may be adversely affected.

A multi-pronged strategy of advocacy and consensus building

As I hope to have demonstrated, the Cambodian state has consistently implemented laws unevenly to the benefit of elites. In this context, simply advocating that new laws should be promulgated and expecting them to achieve their stated outcome is perhaps naïve. However, the existence of such laws can provide a platform for civil society organisations to assert the rights of marginalised groups. Therefore, it is important that civil society organisations develop strategies to pressure government if laws are to be implemented in a way that benefits low-income communities.

Globally, the role of civil society and communities in scale jumping and linking marginalised groups to global governance mechanisms in order to apply pressure to national governments is increasingly recognised in the literature (Ferguson, 2004; Roy, 2005). In Boeung Kak Lake, for example, communities threatened with eviction engaged human rights lawyers who complained to the World Bank's Inspection Panel. If a company is involved in the development – particularly a reputable transnational corporation – it may be useful to ascertain whether the company's due diligence mechanisms have been followed and explore ways of pressuring companies to withdraw their investment if the redevelopment seems likely to heighten tenure insecurity.

I have also highlighted the importance of strengthening community links with local authorities as a strategy to increase tenure security and obtain titles. My results suggest that titles were the end of an incremental process of increasing state recognition, where the provision of public services and cooperation with local authorities were important intermediary steps, as was noted in relation to Site 2 in Chapter 6. Civil society organisations have important roles to play in facilitating this kind of cooperation.

A prerequisite to effective advocacy and/or cooperation is successful community mobilisation, which in Phnom Penh is often centred on savings groups or other forms of social organisation. In other contexts, including neighbouring Thailand, such organisations have also been important in mobilising communities in unplanned areas (Satterthwaite and Mitlin, 2013). In Phnom Penh, such organisations (including UPWD and CDF) have used a number of mechanisms to enable marginalised communities to better organise and more effectively assert their tenure rights, including participatory community mapping and collating evidence relating to the possession claims of residents. Donor organisations should provide financial support to groups conducting such activities.

Titling should be coupled with better-regulated credit markets

The growth in microfinance in Cambodia has not been accompanied by appropriate regulation, leaving borrowers vulnerable to repossession, or more commonly, to pressure from local authorities to sell their assets to meet repayments. In this context, titling potentially increases market-based vulnerability by enabling recipient households to access larger loans. The lending activities of banks and microfinance institutions should therefore be better regulated to protect vulnerable households from losing their property. There should be stricter requirements to carry out comprehensive checks on the financial histories of borrowers, limits should be set on interest rate charges, and borrowers should be made aware of the consequences of default and the extent of their rights should they be unable to meet debt obligations.

10.5 Further research

The issues raised in this thesis suggest several different lines of possible future research. At the broadest level, I hope I have emphasised the usefulness of policy-oriented critiques of international development interventions. As ever-larger segments of the global population are living under neoliberal development policies, so there is an increasing need to engage with them to forward the interests of marginalised groups (Robinson, 2011). Indeed, local policy debates among researchers in developing countries frequently centre on the impacts of neoliberal policies at the local level, not the mechanics of their dissemination at the global

level. From my own experience working with Cambodian researchers, it is clear that the majority of local research is geared towards the effects of such policies on the lives of Cambodians – both positive and negative. This point has been made in recent urban studies literature, which seeks to engage in debates of researchers in the global south who are directly experiencing such neoliberal frameworks (Parnell and Robinson, 2012). It is crucial therefore, that theoretical debates about international development in the academic literature engage with local policy problems to bring new perspectives to key issues facing marginalised urban populations.

With regard to titling projects, this thesis suggests that city-wide titling in urban areas is an understudied topic. There has been little analysis of how such projects operate at the household level, particularly in planned districts, where residents may fall into lower income categories but remain invisible to research that engages only unplanned settlements. The limited evidence on the outcomes of titling projects are implemented in planned areas precludes critiques that could influence how they are implemented in the future.

Within Cambodia, more research on the land tenure situation of low-income urban groups across Phnom Penh and beyond is needed to develop a fuller picture of the situation in the country. This research (like many other academic studies) has focused on central areas of Phnom Penh. As I have noted previously, I focused on these areas because that was where the LMAP had been implemented at the time of fieldwork. However, in Phnom Penh the vast majority of the 250,000 'urban poor' households reside in peri-urban districts (Phnom Penh Municipality, 2012). It is in these peri-urban districts that the bulk of the city's population growth and land use change has also occurred. Future research could assess the tenure situation and pressures in such areas.

In terms of advocacy-focused research, further investigation of the strategies adopted by vulnerable communities to assert their rights would be valuable to our understanding of the political economy of development and would also support local-level advocacy strategies. There are already some examples of this kind of research occurring in Cambodia's land sector. Katherine Brickell (2014), for example, has identified the strategies used by women in Boeung Kak to assert their

land rights by linking their personal experiences with national and global activist networks.

Finally, the thesis brings credit into view as a key driver of investment and urban transition in the global south, and a topic in need of further research. The current titling and credit literature is conducted in reference to an outdated formal/informal binary of lenders. As this thesis has suggested, the structure of local credit markets can be complex and the role of titles in accessing different forms of credit is varied. Further research on titles and the emerging forms of credit in the global south would provide a picture of what seems to be a significant driver of household investment and potentially a significant cause of vulnerability through increasing indebtedness. At the city scale, this thesis has suggested that title-secured credit has funded large-scale developments and is an important driver of urban land use change. Title-facilitated credit was also linked to increased investment in and availability of rental units, thus contributing to the emergence of an urban class of low-income tenants. Titles and credit, therefore, may be an interesting lens through which to view urban transition at multiple scales in the cities of the global south..

Bibliography

7NG. (2013). *Project Overview Phnom Penh.* Retrieved January 11, 2013, from http://www.7ngcambodia.com.kh/

Acemoglu, D., Johnson, S., & Robinson, J. (2001). The colonial origins of comparative development: an empirical investigation. *American Economic Review*, *91*, pp. 1369–1401.

Aeon. (2014). *Aeon Mall Phnom Penh—First Full-fledged Shopping Mall in Cambodia Grand opening ceremony to be held on Monday, June 30.* Retrieved September 2, 2016, from https://www.aeon.info/export/sites/default/common/images/en/pressroom/imgsrc/140426R_1.pdf

Agamben, G. (2005). *State of exception*. London: University of Chicago Press.

Angel, S. (1983). Land tenure for the urban poor, in: *Land for Housing the Poor*. Singapore: Select Books.

Becker, E. (1998). *When the war was over: Cambodia and the Khmer Rouge revolution*. New York: PublicAffairs.

Beng Hong, K. (1973). *Planning Strategy for Phnom Penh*. London: DPU.

Beng Hong, K. (1984). *Survey of housing and infrastructure of Phnom Penh*. Phnom Penh: State of Cambodia.

Bento, A., Lall, S., & Landry, J. (2013). *Does titling matter? Evidence from housing markets in India.* Retrieved July 14, 2016, from https://works.bepress.com/antonio_bento/26/download/

Besley, T. (1995). Property rights and investment incentives: Theory and evidence from Ghana. *Journal of Political Economy*, *103(5),* pp. 903–937.

Biddulph, R. (2010). *Geographies of evasion. The development industry and property rights interventions in early 21st century Cambodia*. Retrieved July 15, 2016, from https://gupea.ub.gu.se/handle/2077/22418

Biddulph, R. (2011). Tenure Security Interventions in Cambodia: Testing Bebbington's approach to development geography. *Geografiska Annaler: Series B, Human Geography*, *93*(3), pp. 223–236.

Bizot, F. (2007). *The gate*. London: Vintage.

Black, B., Kraakman, R., & Tarassova, A. (2000). Russian privatization and corporate governance: what went wrong? *Stanford Law Review*, *52*, pp. 1731–1808.

Blunt, A., & Varley, A. (2004). Geographies of home. *Cultural Geographies*, *11*(1), pp. 3–6.

Borras Jr., S. M., Carraviza, P., & Franco, J. C. (2008). Anti-poverty or anti-poor? The World Bank's market led agrarian reform experiment in the Philippines, in: *Market Led Agrarian Reform*. London: Routledge.

Bowman, C. (2004). Thailand land titling project, in: *From the conference on "Scaling Up Poverty Reduction,"* Retrieved August 2, 2016, from http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.563.3205&rep=rep1&type=pdf

Brandao, S. P., & Feder, G. (1995). *Regulatory policies and reform: the case of land markets.* Retrieved July 14, 2016, from http://agris.fao.org/agris-search/search.do?recordID=GB2013200655

Brickell, K. (2014). "The whole world is watching": Intimate geopolitics of forced eviction and women's activism in Cambodia. *Annals of the Association of American Geographers*, *104*(6), pp. 1256–1272.

Briggs, J. (2011). The land formalisation process and the peri-urban zone of Dar es Salaam, Tanzania. *Planning Theory and Practice*, *12*(1), pp. 115–153.

Bromley, D. W. (2009). Formalising property relations in the developing world: The wrong prescription for the wrong malady. *Land Use Policy*, *26*(1), pp. 20–27.

Bugalski, N., & Pred, D. (2009). *Land titling in Cambodia: Formalizing inequality.* Phnom Penh: Bridges Across Borders Cambodia.

Bylander, M., & Hamilton, E. R. (2015). Loans and leaving: migration and the expansion of microcredit in Cambodia. *Population Research and Policy Review*, *34*(5), pp. 687–708.

Calderon, J. (2004). The formalisation of property in Peru 2001–2002: the case of Lima. *Habitat International*, *28*(2), pp. 289–300.

Cambodia Development Resource Institute. (2007). *Land titling urban baseline study.* Phnom Penh: CDRI.

Cambodia Development Resource Institute. (2012). *Private sector participation in economic development: Cambodian and regional perspectives*. Phnom Penh: CDRI.

Cantuarias, F., & Delgado, M. (2004). Peru's urban land titling program, in: *Estudio de Caso. Shanghai: Scaling Up Poverty Reduction: A Global Learning Process and Conference*, pp. 25–27. Retrieved July 14, 2016, from http://web.worldbank.org/archive/website00819C/WEB/PDF/PERU_LAN.PDF

Catalla, P. (2000). *Bins of gold: Livelihoods of young people in the Tonle Bassac squatter area, Phnom Penh*. Phnom Penh: SCVCS.

Chandler, D. (1996). *A history of Cambodia*. New York: Westview Press.

Chandler, D. P. (1972). Cambodia's relations with Siam in the early Bangkok period: The politics of a tributary state. *Journal of the Siam Society LX/1*, pp. 153–170.

Chan, S., Saravy, S., & Acharya, S. (2001). *Land tenure in Cambodia: A data update*. Phnom Penh: CDRI.

Cixous, H. (1994). *The terrible but unfinished story of Norodom Sihanouk, King of Cambodia*. Lincoln: University of Nebraska Press.

Cleaver, F. (2005). The inequality of social capital and the reproduction of chronic poverty. *World Development*, *33*(6), pp. 893–906.

Collective Studio. (2014). *Alternative Site Planning in Charang Chamres, Cambodia*. Phnom Penh: People in Need.

Conning, J., Deb, P., & others. (2007). *Impact evaluation for land property rights reforms*. World Bank, Poverty Reduction and Economic Management, Thematic Group on Poverty Analysis, Monitoring and Impact Evaluation. Retrieved July 14, 2016, from http://econ.hunter.cuny.edu/wp-content/uploads/sites/6/RePEc/papers/HunterEconWP419.pdf

Curtis, G. (1989). *Cambodia: a country profile*. Stockholm: SIDA.

Daef, M. A. (1993). *Residential displacement in the rental sector: The effects of upgrading on the squatter settlement of Arab Rashed - Egypt 1981-1991*. London: University College London.

Datta, N. (2006). Joint titling—a win-win policy? Gender and property rights in urban informal settlements in Chandigarh, India. *Feminist Economics*, *12*(1-2), pp. 271–298.

Deininger, K. W. (2003). *Land policies for growth and poverty reduction*. World Bank Publications. Retrieved March 21, 2016, from https://books.google.co.uk/books?hl=en&lr=&id=-3HWZigoZDMC&oi=fnd&pg=PR9&dq=deininger+2003&ots=3Pq1g1YFn8&sig=eIXq4ZUgmgESSAxzRXpAIwCPyAs

De Soto, H. (2000). *The mystery of capital: Why capitalism triumphs in the West and fails everywhere else*. New York: Basic books.

De Souza, F. A. (1998). Land tenure security and housing improvements in Recife, Brazil. *Habitat International*, *23*(1), pp. 19–33.

Di Tella, R., Galiana, S., & Schargradsky, E. (2007). The formation of beliefs: evidence from the allocation of land titles to squatters. *The Quarterly Journal of Economics of Transition*, *122*(1), pp. 209–241.

Doebele, W. A. (1987). The evolution of concepts of urban land tenure in developing countries. *Habitat International*, *11*(1), pp. 7–22.

Donovan, D. A. (1993). Cambodia: building a legal system from scratch. *International Lawyer, 27(2),* pp. 445–454.

Dupuis, A., & Thorns, D. C. (1998). Home, home ownership and the search for ontological security. *The Sociological Review*, *46*(1), pp. 24–47.

Durand-Lasserve, A. (2007). Market–driven eviction processes in developing country cities: the cases of Kigali in Rwanda and Phnom Penh in Cambodia. *Global Urban Development*, *3*(1), pp. 1–14.

Durand-Lasserve, A., & Royston, L. (2002). *Holding their ground: Secure land tenure for the urban poor in developing countries*. London: Earthscan.

Durand-Lasserve, A., & Selod, H. (2009). The formalization of urban land tenure in developing countries, in: *Urban Land Markets: Improving Land Markets for Successful Urbanisation*, pp. 101–132. London: Springer.

Dwyer, M. B. (2015). The formalization fix? Land titling, land concessions and the politics of spatial transparency in Cambodia. *The Journal of Peasant Studies*, *42*(5), pp. 903–928.

Easterly, W. (2006). *The white man's burden: Why the west's efforts to aid the rest have done so much ill and so little good*. New York: Penguin.

Ebihara, M. (1984). Societal organization in sixteenth and seventeenth century Cambodia. *Journal of Southeast Asian Studies*, *15*(02), pp. 280–295.

Edwards, P. (2006). The tyranny of proximity: Power and mobility in colonial Cambodia, 1863–1954. *Journal of Southeast Asian Studies*, *37*(03), pp. 421–443.

Ellis, C. (1992). *Investigating subjectivity: Research on lived experience*. London: Springer

Engvall, A., & Koko, A. (2007). *Poverty and land policy in Cambodia*. Stockholm: EUS.

Escobar, A. (2011). *Encountering development: The making and unmaking of the Third World*. New Jersey: Princeton University Press.

Evans, D., Pottier, C., Fletcher, R., Hensley, S., Tapley, I., Milne, A., et al. (2007). A comprehensive archaeological map of the world's largest preindustrial settlement complex at Angkor, Cambodia. *Proceedings of the National Academy of Sciences*, *104*(36), pp. 14277–14282.

Fawaz, M. (2009). Contracts and retaliation securing housing exchanges in the interstice of the formal/informal Beirut (Lebanon) housing market. *Journal for Planning Education and Research*, *29*(1), pp. 90–107.

Feder, G. (1987). Land ownership security and farm productivity: evidence from Thailand. *The Journal of Development Studies*, *24*(1), pp. 16–30.

Feder, G., & Feeny, D. (1991). Land tenure and property rights: Theory and implications for development policy. *The World Bank Economic Review*, *5*(1), pp. 135–153.

Feder, G., & Nishio, A. (1998). The benefits of land registration and titling: economic and social perspectives. *Land use policy*, *15*(1), pp. 25–43.

Ferguson, J. (1990). *The anti-politics machine: 'development', depoliticization and bureaucratic power in Lesotho*. London: University of Minnesota Press.

Ferguson, J. (2004). *Global shadows: Africa in the neoliberal world order*. London: Duke University Press.

Fernandes, E. (2011). *Regularization of informal settlements in Latin America*. Lincoln Institute of Land Policy Cambridge, MA. Retrieved July 27, 2016, from http://www.dpu-associates.net/system/files/Regularization%20PFR%20Final%20_2011.pdf

Fernandes, E., & Varley, A. (1998). *Illegal cities: law and urban change in developing countries*. London: Zed books.

Field, E. (2003). *Fertility responses to urban land titling programs: The roles of ownership security and the distribution of household assets*. Department of Economics, Harvard University, Cambridge, MA. Retrieved July 14, 2016, from http://www1.worldbank.org/prem/poverty/ie/dime_papers/385.pdf

Field, E. (2005). Property rights and investment in urban slums. *Journal of the European Economic Association*, *3*(2-3), pp. 279–290.

Field, E., & Torero, M. (2006). Do property titles increase credit access among the urban poor? Evidence from a nationwide titling program. *Department of Economics, Harvard University, Cambridge, MA*. Retrieved July 14, 2016, from https://econ.duke.edu/uploads/media_items/fieldtorerocs.original.pdf

Fine, B. (2001). Neither the Washington nor the post-Washington consensus, in: *Development policy in the twenty-first century: Beyond the post-Washington consensus*, pp. 1–27.London: Routledge.

Flower, B., & Grimsditch, M. (2015). *Legal analysis of land tenure in urban poor settlements in Phnom Penh, Cambodia*. Phnom Penh: People in Need.

Frank Knight. (2016). *Condominium for sale in Diamond Island - the future of Phnom Penh - Cambodia*. Retrieved September 2, 2016, from http://search.knightfrank.co.uk/khsa22a

Frings, V. (1994). Cambodia after decollectivization (1989–1992). *Journal of Contemporary Asia*, *24*(1), pp. 49–66.

Galiani, S., & Schargrodsky, E. (2004). Effects of land titling on child health. *Economics & Human Biology*, *2*(3), pp. 353–372.

Galiani, S., & Schargrodsky, E. (2010). Property rights for the poor: Effects of land titling. *Journal of Public Economics*, *94*(9), pp. 700–729.

Giddens, A., (1984) *The Constitution of Society.* Polity Press, Oxford.

Gilbert, A. (1999). A home is for ever? Residential mobility and homeownership in self-help settlements. *Environment and Planning A*, *31*(6), pp. 1073–1091.

Gilbert, A. (2002). On the mystery of capital and the myths of Hernando de Soto: What difference does legal title make? *International Development Planning Review*, *24*(1), pp. 1–19.

Gilbert, A. (2004). Helping the poor through housing subsidies: lessons from Chile, Colombia and South Africa. *Habitat international*, *28*(1), pp. 13–40.

Gilbert, A. (2012). De Soto's The Mystery of Capital: reflections on the book's public impact. *International development planning review*, *34*(3), pp. v–xviii.

Global Witness. (2007). *Cambodia's family trees: Illegal logging and the stripping of public assets by Cambodia's elite*. Phnom Penh: Global Witness.

Goldman, M. (2011). Speculative urbanism and the making of the next world city. *International Journal of Urban and Regional Research*, *35*(3), pp. 555–581.

Gottesman, E. (2004). *Cambodia after the Khmer Rouge: Inside the politics of nation building*. New Jersey: Yale University Press.

Gravois, J. (2005). *The De Soto delusion.* Retrieved March 22, 2016, from http://www.slate.com/articles/news_and_politics/hey_wait_a_minute/2005/01/the_de_soto_delusion.html

Grimsditch, M., & Henderson, N. (2009). *Untitled: Tenure insecurity in the Cambodian land sector*. Phnom Penh: COHRE.

Grimsditch, M., Leakhana, K., & Sherchan, D. (2012). *Access to land title in Cambodia: a study of systematic Land Registration in three Cambodian provinces and the Capital*. Phnom Penh: NGO Forum.

Hall, D., Hirsch, P., Li, T., & Li, T. (2011). *Powers of exclusion: Land dilemmas in Southeast Asia*. Singapore: NUS Press.

Heder, S. (2005). Hun Sen's consolidation: death or beginning of reform? *Southeast Asian Affairs*, pp. 113–130.

Helmers, K. (1997). Rice in the Cambodian economy: Past and present, in: *Rice Production in Cambodia*, pp. 1–14. Manila: IRRI.

Hendrickson, D. (2001). Globalisation, insecurity and post-war reconstruction: Cambodia's precarious transition. *IDS bulletin*, *32*(2), pp. 98–106.

Hill, H., & Menon, J. (2013). Cambodia: rapid growth with weak institutions. *Asian Economic Policy Review*, *8*(1), pp. 46–65.

Hirsch, P. (2011). Titling against grabbing? Critiques and conundrums around land formalisation in Southeast Asia, in: *International Conference on Global Land Grabbing*. Citeseer. Retrieved March 22, 2016, from http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.476.8538&rep=rep1&type=pdf

Holstein, L. (1996). Towards best practice from World Bank experience in land titling and registration, in: *International Conference on Land Tenure and Administration*. Retrieved July 14, 2016, from http://www.portalces.org/sites/default/files/migrated/docs/513.pdf

Holston, J. (1998). Spaces of insurgent citizenship, in: *Making the Invisible Visible: a Multicultural Planning History*. London: University of California Press.

Ho, P. (2001). Who owns China's land? Policies, property rights and deliberate institutional ambiguity. *The China Quarterly*, *166*, pp. 394–421.

Ho, P., & Spoor, M. (2006). Whose land? The political economy of land titling in transitional economies. *Land Use Policy*, *23*(4), pp. 580–587.

Hughes, C. (2003). *The political economy of the Cambodian transition*. London: Routledge.

Hughes, C. (2006). The politics of gifts: Tradition and regimentation in contemporary Cambodia. *Journal of Southeast Asian Studies*, *37*(03), pp. 469–489.

Hughes, C. (2007). Transnational networks, international organizations and political participation in Cambodia: Human rights, labour rights and common rights. *Democratization*, *14*(5), pp. 834–852.

Hughes, C. (2009). *Dependent communities: aid and politics in Cambodia and East Timor*. Ithaca: SEAP Publications.

Hunt, D. (2004). Unintended consequences of land rights reform: the case of the 1998 Uganda Land Act. *Development policy review*, *22*(2), pp. 173–191.

Jimenez, E. (1983). The magnitude and determinants of home improvement in self-help housing: Manila's Tondo project. *Land economics*, *59*(1), pp. 70–83.

Jones, G. A. (2000). Between a rock and hard place: institutional reform and the performance of land privatisation in peri-urban Mexico, in: *Current Land Tenure Policy in Latin America: Regulating Land Tenure under Neoliberalism*. pp. 201–226 Amsterdam: KIT.

Jones, G. A., & Ward, P. M. (1994). The World Bank's "new" urban management programme: paradigm shift or policy continuity? *Habitat International*, *18*(3), pp. 33–51.

Kagawa, A., & Turkstra, J. (2002). The process of urban land tenure formalization in Peru, in: *Land, Rights and Innovation: Improving Tenure Security for the Poor*. pp. 57–77. London: ITDG.

Khemro, B. H. S. (2001). *Patterns of squatting in Phnom Penh: an evaluation of the socio- economic characteristics of squatters and their reasons for squatting*. London: UCL.

Khemro, B. H. S., & Payne, G. (2004). Improving tenure security for the urban poor in Phnom Penh, Cambodia: an analytical case study. *Habitat International*, *28*(2), pp. 181–201.

Kiernan, B. (1982). Introduction, in: *Peasants and Politics in Kampuchea 1942-1981*, pp. 3–4. London: Zed Books.

Kiernan, B. (1996). *The Pol Pot regime: race, power, and genocide in Cambodia under the Khmer Rouge, 1975-79*. New Jersey: Yale University Press.

Kim, A. M. (2004). A market without the "right" property rights: Ho Chi Minh City, Vietnam's newly emerged private real estate market. *Economics of Transition*, *12*(2), pp. 275–305.

Kuyucu, T., & Ünsal, Ö. (2010). "Urban transformation" as state-led property Transfer: an analysis of two cases of urban renewal in Istanbul. *Urban Studies*, *47*(7), pp. 1479–1499.

Lal, D. (1985). The misconceptions of development economics. *Finance and Development*, *22*(2), pp. 10–13.

Lanjouw, J. O., & Levy, P. I. (2002). Untitled: a study of formal and informal property rights in urban Ecuador. *The Economic Journal*, *112*(482), pp. 986–1019.

Ledgerwood, J. (2008). Ritual in 1990 Cambodian political theatre: new songs at the edge of the forest, in: *At the Edge of the Forest: Essays on Cambodia, History, and Narrative in Honor of David Chandle*. pp. 195–220. Ithaca: University of Cornell Press.

Lemanski, C. (2004). A new apartheid? The spatial implications of fear of crime in Cape Town, South Africa. *Environment and Urbanization*, *16*(2), pp. 101–112.

Lemanski, C. (2014). Hybrid gentrification in South Africa: Theorising across southern and northern cities. *Urban Studies*, *51*(14), pp. 2943–2960.

Licadho. (2008). *Dey Krahorm Community Land Case Explained*. Retrieved April 9, 2015, from https://www.licadho-cambodia.org/reports/files/118DeyKrahormCommunityLandCaseExplained.pdf

Li, T. (2007). *The will to improve: Governmentality, development, and the practice of politics*. Durham: Duke University Press.

Li, T. M. (2005). Beyond "the state" and failed schemes. *American anthropologist*, *107*(3), pp. 383–394.

Markussen, T. (2008). Property rights, productivity, and common property resources: insights from rural Cambodia. *World Development*, *36*(11), pp. 2277–2296.

Maxwell, W. E. (1884). The law and customs of the Malays with reference to the tenure of land. *Journal of the Straits Branch of the Royal Asiatic Society*, (13), pp. 75–220.

Maxwell, W., & Thomson, C. (1885). French land decree in Cambodia. *Journal of the Straits Branch of the Royal Asiatic Society*, (15), pp. 81–92.

McAuslan, P. (2002). Tenure and the law: the legality of illegality and the illegality of legality, in: *Land, Rights and Innovation: Improving Tenure Security for the Poor.* pp. 23–40. London: ITDG.

McCargo, D. (2005). Cambodia: getting away with authoritarianism? *Journal of Democracy*, *16*(4), pp. 98–112.

McFarlane, C. (2012). Rethinking informality: Politics, crisis, and the city. *Planning Theory & Practice*, *13*(1), pp. 89–108.

McGinn, C. (2013). " *Every day is difficult for my body and my heart." Forced evictions in Phnom Penh, Cambodia: Women's narratives of risk and resilience*. Retrieved July 14, 2016, from http://academiccommons.columbia.edu/catalog/ac:166594

McGranahan, G., Mitlin, D., & Satterthwaite, D. (2008). Land and services for the urban poor in rapidly urbanizing countries, in: *The New Global Frontier: Urbanization, Poverty and the Environment in the 21st Century*, pp. 77–98. London: Earthscan.

Meinzen-Dick, R., & Mwangi, E. (2009). Cutting the web of interests: Pitfalls of formalizing property rights. *Land Use Policy*, *26*(1), pp. 36–43.

Menzies, N., Ketya, S., & Adler, D. (2008). *Land, development and conflict :Urban & peri-urban Phnom Penh*. Phnom Penh: CAS.

Mosse, D. (2008). *Cultivating development: an ethnography of Aid policy and practice*. London: Pluto Press.

Mouhot, H. (1864). *Travels in the central parts of Indo-China (Siam), Cambodia, and Laos, during the years 1858, 1859, and 1860*. Retrieved July 15, 2016, from https://books.google.co.uk/books?hl=en&lr=&id=mDpNAAAAcAAJ&oi=fnd&pg=PA1&dq=Henri+Mouhot+cambodia&ots=6rDX5fn5Ct&sig=3Je_zsYlb0ahZt9MZp51vCHo09A

de Moura, M. J. S. B., & da Silveira Bueno, R. D. L. (2013). Land title program in Brazil: are there any changes to happiness? *The Journal of Socio-Economics*, *45*, pp. 196–203.

Muller, G. (2006). *Colonial Cambodia's "Bad Frenchmen": The Rise of French Rule and the Life of Thomas Caraman*. London: Routledge.

Mycliwiec, E. L. (2004). *Envisioning a new paradigm of development cooperation in Cambodia*. Phnom Penh: CDRI.

Mysliwiec, E. (1988). *Punishing the poor: the international isolation of Kampuchea*. Oxford: Oxfam.

Nam, S. (2011). Phnom Penh: From the politics of ruin to the possibilities of return. *Traditional Dwellings and Settlements Review*, pp. 55–68.

Nickson, A. (2001). The Córdoba water concession in Argentina. *Working Note*, (442-05). Retrieved July 14, 2016, from http://www.academia.edu/download/6261314/w_dfid_ghk_nickson_cordoba_concession.pdf

North, D. C. (1990). *Institutions, institutional change and economic performance*. Cambridge: Cambridge University Press.

Onis, Z., & Senses, F. (2005). Rethinking the emerging Post-Washington consensus. *Development and Change*, *36*(2), pp. 263–290.

Osborne, M. E. (2008). *Phnom Penh: A cultural and literary history*. Oxford: Signal Books.

Ovesen, J., & Trankell, I.-B. (2014). Symbiosis of microcredit and private moneylending in Cambodia. *The Asia Pacific Journal of Anthropology*, *15*(2), pp. 178–196.

Owen, T., & Kiernan, B. (2007). Bombs over Cambodia. *Third World Resurgence*, *201*, pp. 41.

Parnell, S., & Robinson, J. (2012). (Re) theorizing cities from the Global South: Looking beyond neoliberalism. *Urban Geography*, *33*(4), pp. 593–617.

Patel, K. (2016). Encountering the state through legal tenure security: Perspectives from a low income resettlement scheme in urban India. *Land Use Policy*, *58*, pp. 102–113.

Payne, G. (2001). Urban land tenure policy options: Titles or rights? *Habitat International*, *25*(3), pp. 415–429.

Payne, G. (2004). Land tenure and property rights: an introduction. *Habitat International*, *28*(2), pp. 167–179.

Payne, G. (2005). Getting ahead of the game: A twin-track approach to improving existing slums and reducing the need for future slums. *Environment and urbanization*, *17*(1), pp. 135–146.

Payne, G., Durand-Lasserve, A., & Rakodi, C. (2009). The limits of land titling and home ownership. *Environment and urbanization*, *21*(2), pp. 443–462.

Payne, G., Durand-Lasserve, A., Rakodi, C., Marx, C., Rubin, M., & Ndiaye, S. (2008). *Social and economic impacts of land titling programmes in urban and peri-urban areas: International experience and case studies of Senegal and South Africa*. Retrieved July 14, 2016, from https://www.researchgate.net/profile/Alain_Durand-Lasserve/publication/236144393_Social_and_economic_impacts_of_land_titling_programmes_in_urban_and_peri-urban_areas_International_experience_and_case_studies_of_Senegal_and_South_Africa/links/54db4c590cf2ba88a68fb658.pdf

Peck, J. (2010). Geographies of policy from transfer-diffusion to mobility-mutation. *Progress in Human Geography*, *35*(6), pp. 773–797.

Peou, S. (1998). The Cambodian elections of 1998 and beyond: democracy in the making? *Contemporary Southeast Asia*, pp. 279–297.

Phnom Penh Municipality. (2012). *The Phnom Penh urban poor assessment: a baseline survey on the social and economic situations and capacity of existing services in urban poor communities*. Phnom Penh: PPM.

Pickvance, C. G. (1994). Housing privatization and housing protest in the transition from state socialism: a comparative study of Budapest and Moscow. *International Journal of Urban and Regional Research*, *18*(3), pp. 433–450.

Porter, L. (2011). Informality, the Commons and the Paradoxes for Planning: Concepts and Debates for Informality and Planning. *Planning Theory & Practice*, *12*(1), pp. 115–20.

Power, M. (2004). *Rethinking Development Geographies*. London: Routledge.

Pred, D. (2011). The Grand Theft of Dey Krahorm. Retrieved July 14 2016 at http://www.landaction.org/IMG/pdf/LRAN-7_Grand_Theft_of_Dey_Krahorm.pdf

Rabe, P. E. (2009). *From "squatters" to "citizens"? Slum dwellers, developers, land sharing and power in Phnom Penh, Cambodia*. Los Angeles: University of Southern California.

Rattanabirabongse, V., Eddington, R. A., Burns, A. F., & Nettle, K. G. (1998). The Thailand land titling project—thirteen years of experience. *Land Use Policy*, *15*(1), pp. 3–23.

Reerink, G., & van Gelder, J.-L. (2010). Land titling, perceived tenure security, and housing consolidation in the kampongs of Bandung, Indonesia. *Habitat International*, *34*(1), pp. 78–85.

Ricklefs, M. C. (1967). Land and the law in the epigraphy of tenth-century Cambodia. *The Journal of Asian Studies*, *26*(03), pp. 411–420.

Robinson, J. (2011). 2010 urban geography plenary lecture - the travels of urban neoliberalism: taking stock of the internationalization of urban theory. *Urban Geography*, *32*(8), pp. 1087–1109.

Rodrik, D. (2006). Goodbye Washington consensus, hello Washington confusion? A review of the World Bank's economic growth in the 1990s: learning from a decade of reform. *Journal of Economic literature*, *44*(4), pp. 973–987.

Rodrik, D., Subramanian, A., & Trebbi, F. (2002). Institutions rule: the primacy of institutions over integration and geography in economic development. Retrieved July 14, 2016, from http://papers.ssrn.com/sol3/papers.cfm?abstract_id=880291

Rodrik, D., Subramanian, A., & Trebbi, F. (2004). Institutions rule: the primacy of institutions over integration and geography in economic development. *Journal of Economic Growth*, *9*(2), pp. 131–165.

Roy, A. (2005). Urban informality: toward an epistemology of planning. *Journal of the American Planning Association*, *71*(2), pp. 147–158.

Royal Government of Cambodia. (1998). *Cambodia - General Population Census 1998*. Phnom Penh: RGC.

Royal Government of Cambodia. (2000). *Interim National Poverty Strategy*. Phnom Penh: RGC.

Royal Government of Cambodia. (2008). *Cambodia - General Population Census 2008*. Phnom Penh: RGC.

Sahakum Teang Tnaut. (2011). *Displacement Figures for Phnom Penh 2011*. Phnom Penh: STT.

Santos, B. D. S. (1992). Law, State and Urban Struggles in Recife, Brazil. *Social & Legal Studies*, *1*(2), pp. 235–255.

Satterthwaite, D., & Mitlin, D. (2013). *Empowering squatter citizen: Local government, civil society and urban poverty reduction.* London: Routledge.

Saunders, P., 1989. The meaning of "home"in contemporary English culture. *Housing Studies* 4, 177–192.

Scott, J. C. (1998). *Seeing like a state: How certain schemes to improve the human condition have failed*. New Haven: Yale University Press.

Shatkin, G. (1998). "Fourth World" cities in the global economy: the case of Phnom Penh, Cambodia. *International Journal of Urban and Regional Research*, *22*(3), pp. 378–393.

Shawcross, W. (1979). *Sideshow: Kissinger, Nixon, and the destruction of Cambodia*. New York: Simon & Schuster.

Simone, A. (2008). The politics of the possible: Making urban life in Phnom Penh. *Singapore Journal of Tropical Geography*, *29*(2), pp. 186–204.

Simone, A., & Rao, V. (2012). Securing the majority: Living through uncertainty in Jakarta. *International Journal of Urban and Regional Research*, *36*(2), pp. 315–335.

Sjaastad, E., & Cousins, B. (2009). Formalisation of land rights in the South: An overview. *Land use policy*, *26*(1), pp. 1–9.

So, S. (2009). *Political economy of land registration in Cambodia*. Dekalb: University of Northern Illinois.

Sovannarith, S., Sopheap, S., Utey, U., Rathmony, S., Ballard, B., & Acharya, S. (2001). *Social assessment of land in Cambodia: a field study*. Phnom Penh: CDRI.

Springer, S. (2009). Violence, democracy, and the neoliberal "order": the contestation of public space in posttransitional Cambodia. *Annals of the Association of American Geographers*, *99*(1), pp. 138–162.

Springer, S. (2010). Neoliberal discursive formations: on the contours of subjectivation, good governance, and symbolic violence in posttransitional Cambodia. *Environment and Planning D: Society and Space*, *28*(5), pp. 931–950.

Springer, S. (2013). Illegal evictions? Overwriting possession and orality with law's violence in Cambodia. *Journal of Agrarian Change*, *13*(4), pp. 520–546.

Steinberg, D. J. (1957). *Cambodia, its People, its Society, its Culture*. New Haven: Yale University Press.

Stiglitz, J. (2001). More instruments and broader controls: moving towards the Post-Washington Consensus, in: H. J. Chang (Ed.), *Joseph Stiglitz and the World Bank: The Rebel Within*, pp. 17–49. London: Anthem Press.

Stiglitz, J. (2003). What I learned at the world economic crisis, in: *Globalization and the Poor: Exploitation or Equalizer?* pp. 195–204. New York: IDEAS.

Toulmin, C. (2009). Securing land and property rights in sub-Saharan Africa: the role of local institutions. *Land Use Policy*, *26*(1), pp. 10–19.

Turner, J. F. (1977). *Housing by people: Towards autonomy in building environments*. New York: Pantheon Books.

Un, K. (2005). Patronage politics and hybrid democracy: Political change in Cambodia, 1993-2003. *Asian Perspective*, pp. 203–230.

Un, K., & So, S. (2011). Land rights in Cambodia: how neopatrimonial politics restricts land policy reform. *Pacific Affairs*, *84*(2), pp. 289–308.

Urban Resource Centre. (2002). *Study on the relocation of urban poor communities in Phnom Penh*. Phnom Penh: ACHR.

Urban Sector Group. (1994). *Report on the survey of Phnom Penh squatter settlements, 1994*. Phnom Penh: USG.

Valentine, G. (2005). Tell me about ... :using interviews as a research methodology, in: *Methods in Human Geography: a Guide for Students doing a Research Project*. pp. 110–127. London: Pearson Prentice Hall.

Van Gelder, J.-L (2009). Legal tenure security, perceived tenure security and housing improvement in Buenos Aires: an attempt towards integration. *International Journal of Urban and Regional Research*, *33*(1), pp. 126–146.

Van Gelder, J.-L. (2010). What tenure security? The case for a tripartite view. *Land Use Policy*, *27*(2), pp. 449–456.

Van Gelder, J.-L. (2013). Then I'll huff, and I'll puff, and I'll...: A natural experiment on property titling, housing improvement and the psychology of tenure security. *International Journal of Urban and Regional Research*, *37*(2), pp. 734–749.

Varley, A. (1987). The relationship between tenure legalization and housing improvements: evidence from Mexico City. *Development and Change*, *18*(3), pp. 463–481.

Varley, A. (1998). The political uses of illegality, in: *Illegal Cities: Law and Urban Change in Developing Countries*. London: Zed Books.

Varley, A. (2002). Private or public: debating the meaning of tenure legalization. *International Journal of Urban and Regional Research*, *26*(3), pp. 449–461.

Varley, A. (2007). Gender and property formalization: conventional and alternative approaches. *World Development*, *35*(10), pp. 1739–1753.

Varley, A. (2010). Modest expectations: gender and property rights in urban Mexico. *Law & Society Review*, *44*(1), pp. 67–100.

Varley, A. (2013). Postcolonialising informality? *Environment and Planning D: Society and Space*, *31*(1), pp. 4–22.

Von Benda-Beckmann, F. (2003). Mysteries of capital or mystification of legal property? *FOCAAL-UTRECHT-*, pp. 187–192.

VTRUST. (2014). *Final report of the land price survey in Phnom Penh.* Phnom Penh: VTRUST.

Werlin, H. (1999). The slum upgrading myth. *Urban Studies*, *36*(9), pp. 1523–1534.

Widyono, B. (2007). *Dancing in shadows: Sihanouk, the Khmer Rouge, and the United Nations in Cambodia*. Maryland: Rowman & Littlefield Publishers.

Williamson, J. (1993). Democracy and the "Washington Consensus." *World Development*, *21*(8), pp. 1329–1336.

Williams, R. (1999). Stability, justice and rights in the wake of the Cold War: the housing, land and property rights legacy of the UN transitional Authority in Cambodia, in: *Housing, Land and Property Rights in Post-Conflict United Nations and other Peace Operations*, pp. 19–60. Cambridge: Cambridge University Press.

World Bank. (2002a). *Project Appraisal Document on a Proposed Credit In the Amount of SDR 19.3 Million (US$24.3 Million Equivalent) to the Kingdom of Cambodia for a Land Management and Administration Project*. Phnom Penh: World Bank.

World Bank. (2002b). *Development Credit Agreement: Land Management and Administration Project*. Phnom Penh: World Bank.

World Bank. (2010). *Investigation Report Cambodia: Land Management and Administration Project (Credit No. 3650 - KH)*. Washington: World Bank.

World Bank. (2016). *Cambodia Economic Update, April 2016: Improving Macroeconomic and Financial Resilien*ce. Retrieved July 14, 2016, from http://www.worldbank.org/en/country/cambodia/publication/cambodia-economic-update-april-2016

Yiftachel, O. (2009). Theoretical notes on gray cities: the coming of urban apartheid? *Planning Theory*, *8*(1), pp. 88–100.

Yuon, H. (1982). The peasantry of Kampuchea: Colonialism and modernization, in: *Peasants and Politics in Kampuchea 1942-1981*, pp. 33–51. London: Zed Books.

Zhu, J. (2004). From land use right to land development right: institutional change in China's urban development. *Urban Studies*, *41*(7), pp. 1249–1267.

Appendix 1 – Key informant interviews

Stakeholder	Details of interviews
LMAP government officials	- Chief of District Cadastral Office Tuol Kork, Phnom Penh , 18 March 2013 - Chief of District Cadastral Office Chamkarmon , 21 March 2013
Donor officials (interviewees both asked that their organisation was not identified)	- Employee at donor organisation 1, Washington D.C. (via skype), 11 December 2013 - Employee at donor organisation 2, Phnom Penh, 7 November 2013
Sub-national (commune) officials	- Commune Chief, Commune Tonle Bassac, District Chamkarmon, Phnom Penh, 4 February 2013 - Commune Chief, Commune Tuek Laark Muoy, District Tuol Kork, Phnom Penh, 6 February 2013 - Commune Chief, Commune Tuek Laark Bai, District Tuol Kork, Phnom Penh, 6 February 2013
Local (Village) officials	- Chiefs of Villages 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16, Commune Tonle Bassac, (16 interviews) Phnom Penh Various dates February-April 2013 - Chiefs of Villages 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16, Commune Tuek Laark Muoy (16 interviews), Phnom Penh, Various dates in February-April 2013 - Chiefs of Villages 1,2,3,4,5,6,7,8,9,10,11,12,13 Commune Chief Tuek Laark Bai, (16 interviews), Phnom Penh, Various dates in February-April 2013 - Chief of Village Sen Sok (relocation site), District Sen Sok, 18 June 2013
Community representatives	- Representative of Sen Sok relocation site Community (formerly Sambok Chab),District Sen Sok, 18 June 2013 - Representative of Charang Chamres Community, District Russei Keo, Phnom Penh 11 February 2015 - Representative of Borei Deomsrol Community, District Russei Keo, Phnom Penh, 13 February 2015 - Representative of Chamrouen Community, District Chbar Ampov, Phnom Penh 16 February 2015 - Representative of Vealsbov Community, District Chbar Ampov, Phnom Penh 12 February 2015 - Representative of 42 Knong Community, Kampong Cham, 24 February 2015
Civil society	- GIS officer, Sahakum Teang Tnaut (STT), Phnom Penh, 23 May 2013 - Programme manager, Sahakum Teang Tnaut (STT), Phnom Penh, 9 September 2013 - Advisor, Community Managed Development Partners (CMDP), Phnom Penh, 27 May 2013 - Advisor, Cambodian Centre for Human Rights (CCHR), Phnom Penh, 10 September 2013 - Former legal officer, Centre on Housing Rights and Evictions (COHRE), Phnom Penh, 21 March 2013 - Former legal officer, Bridges Across Borders South East Asia (BABSEA), 8 April 2013

	- Programme Coordinator (Economics unit), Cambodia Development Resource Instituted (CDRI), Phnom Penh, 8 July 2013 - Advisor, Cambodia Development Resource Institute (CDRI), Phnom Penh, 23 November 2013 - Research fellow (Social Development unit), Cambodia Development Resource Instituted (CDRI), Phnom Penh, 20 February 2014
Private sector	- Former CEO, ANZ Royal Bank, Phnom Penh, 19 July 2015 - Head of Mortgages ANZ Royal Bank, Phnom Penh, 25 June 2015 - Vice-President and Head of Mortgages ACLEDA, Phnom Penh, 5 September 2013 - Branch Manager, Y.C.P. Microfinance, Phnom Penh, 3 September 2013 - Country Manager, Hong Kong Land, Phnom Penh, 25 October 2013
Residents in survey sites (Extended questionnaire responses cited in the thesis)	- Resident Site 1, Questionnaire number 23, Phnom Penh, 11 June 2013 - Resident Site 1, Questionnaire number 15, Phnom Penh, 6 June 2013 - Resident Site 1, Questionnaire number 14, Phnom Penh, 6 June 2013 - Resident Site 1, Questionnaire number 62, Phnom Penh, 30 June 2013 - Resident Site 1, Questionnaire number 3, Phnom Penh, 21 May 2013 - Resident Site 1, Questionnaire number 70, Phnom Penh, 7 July 2013 - Resident Site 1, Questionnaire number 19, Phnom Penh, 8 June 2013 - Resident Site 1, Questionnaire number 54, Phnom Penh, 27 June 2013 - Resident Site 2, Questionnaire number 103, Phnom Penh, 21 July 2013 - Resident Site 2, Questionnaire number 122, Phnom Penh, 22 September - Resident Site 2, Questionnaire number 192, Phnom Penh, 1 November 2013 - Resident Site 2, Questionnaire number 145, Phnom Penh, 3 October 2013 - Resident Site 2, Questionnaire number 84, Phnom Penh, 13 July 2013 - Resident Site 2, Questionnaire number 90, Phnom Penh, 16 July 2013 - Resident Site 3, Questionnaire number 164, Phnom Penh, 15 October 2013 - Resident Site 3, Questionnaire number 141, Phnom Penh, 3 October 2013 - Resident Site 3, Questionnaire number 89, Phnom Penh, 14 July 2013

Appendix 2 – Questionnaire
Questionnaire for households in receipt of LMAP title

Date of Interview……………..   **Ordinal Number of**
Questionnaire…………..

Interview time: Started at Ended at Total Time: minutes	
Village: .	
Sangkat/commune:	
Relationship of interviewee to property owner:	

1.Household/plot characteristics

1.1	What type of property?	1= villa 2= shop-house (1960s) 3=shop-house (new build) 3= apartment in shop-house 4=apartment in large complex (1960s) 5=apartment in modern complex 6=wooden traditional house 7=unplanned structure (please specify) 8=other (please specify)	
1.2	What is the approximate size of the property ? (M^2)		
1.3	How many floors does the property have?		
1.4	How many households live (excluding renters) in this property?		

1.4a Who is the owner of the property? 1 =male - single 2=female – single 3= male – married 4=female - married 5=couple 6=owners are from more than one household (please give details)	1.4b Age(s) of owner (s):	1.4c Job	1.4d Education	1.5d Date property Acquired

1.5a Please list other members of household (s) by gender	1.5b Relationship to owner	1.5c age	1.5d occupation	1.5e level of education

1.6	How does this household use their plot?	1 = Owner residential only (go to **1.8**) 2 = Owner residential and commercial (specify commercial activity) [go to **1.8**] 4 = Owner residential and renting to tenants (go to **1.7**)

1.7a Number of tenants	1.7b occupation of tenants	1.7c Total number of rooms	1.7d Total income per month (KHR)	1.7e What year did you start renting to tenants?	1.7g have rents increased since then? (please state when and why)	1.7h Have you modified your rental accommodation to increase rent?)

1.8	Is the household connected to municipal water and electricity services?	1=connected to both 2=water only 3=electricity only 4=none	
1.9	In what year did the household start living in the property?		
1.10	How did the household acquire this property?	1=from the state 2=purchased 3=inherit 4=other (please specify)	

2. Tenure characteristics

2.1	How did the household receive LMAP title?	1=from the state – systematic titling (go to **2.3**) 2=from the state - sporadic titling (apply yourself) (go to **2.2**) 3=acquired through purchase (go to **2.8**) 4=inherited (go to **2.8**) 5=other (please specify)	
2.2	Why did you decide to apply for title?		
2.3	Did you attend a public meeting where officials explained about land titling (please provide details of experience)?		
2.4	How/where did you collect your land title?		
2.5	How much did you pay for your land title?		
2.6	Overall, how would you describe the experience of obtaining land title? (go to **2.9**)		
2.7	If you purchased/inherited a property with LMAP title, where did you document the transaction and specify fee (if any) ?	1=at the land ministry 2=at the village office 3=at the commune office 4=at the municipality 4=other (please specify)	
2.8	Whose name is on the title?	1 =male - single 2=female – single 3= male – married 4=female - married 5=couple 6=other (please specify)	

2.9	What are the main advantages of having a title?	
2.10	Does possession of land title have any impact on inheritance?	
2.11	Do you feel that land title has had any impact on the value of your property and why?	
2.12	Do you feel that land titling has resulted in any changes in the area (for example new people moving in, new development), if so what?	
2.13	Do you plan to stay here for a long time or move in the future?	
2.14	Do you think land titling has any impacts if you sell your property in the future?	
2.15	Has LMAP title increased your tenure security? (please give details why)	1=yes 2=no difference 3=weakened tenure status 3=not sure	
2.16	Do you feel title has made any difference to women's tenure security in the household?	

3. Credit

3.1	Have you obtained any form of cash loan since you moved to this house?	1=looked for and received (go to **3.2**) 2=looked for but refused (go to **3.8**) 3=did not look for (**3.12**)	

	3.1 Date of loan	3.2 What was the source of the loan?	3.3 How much was borrowed? (KHR)	3.4 What is the av. monthly interest? (%)	3.5 What was the purpose of the loan?	3.6 Did you use LMAP title as guarantee? 1=yes 2=no	3.7 Have you had any problems paying back?
Loan 1(a)							
Loan 2(b)							
Loan 3(c)							
Loan 4(d)							

	3.8 Source of refused loan	3.9 Reason for refusal	3.10 Purpose of loan	3.11 Amount sought (KHR)
Loan 1(a)				
Loan 2(b)				
Loan 3(c)				
Loan 4(d)				

3.12	Do you plan to use land title in the future to get credit and if so what for?	

4. Investment

4.1	Have you invested improved your home/business/rental accommodation?	1=yes (go to **4.2**) 2=no (go to **4.8**)	

	4.2 What was the investment made?	4.3 Year of investment	4.4 What was the cost? (USD)	4.5 What was the main reason you invested?	4.6 Would you have invested without land title?	4.7 Did LMAP title impact how you paid for the investment?
Investment 1 (a)						
Investment 2 (b)						
Investment 3 (c)						
Investment 4 (d)						

4.8	If you have not invested, what is the main reason why have you have not?	

5. Boundary conflicts

5.1	Have you ever been in a dispute over this plot?	1=yes 2=no (Go to **6**)	
5.2	What was the nature of the dispute and why did it occur?		
5.3	How did you attempt to resolve the conflict? (please detail all stages)		
5.4	What was the outcome?		
5.5	Were you satisfied with the outcome?		

6. Tax, services and other costs

6.1	How much land tax do you pay (per year) for this property?	
6.2	Has title increased your land tax payments, if so by how much (per year)?	
6.3	Has land title affected any other living costs living costs, and if so how?	

Questionnaire for households NOT in receipt of LMAP title

Date of Interview……………..   **Ordinal Number of Questionnaire**…………..

Interview time: Started at Ended at Total Time: minutes	
Village: .	
Sangkat/commune:	
Relationship of interviewee to property owner:	

1.Household/plot characteristics

1.1	What type of property?	1= villa 2= shop-house (1960s) 3=shop-house (new build) 3= apartment in shop-house 4=apartment in large complex (1960s) 5=apartment in modern complex 6=wooden traditional house 7=unplanned structure (please specify) 8=other (please specify)	
1.2	What is the approximate size of the property ? (M^2)		
1.3	How many floors does the property have?		
1.4	How many households live (excluding renters) in this property?		

1.4a Who is the owner of the property?	1.4b Age(s) of owner (s):	1.4c Job	1.4d Education	1.5d Date property Acquired
1 =male - single 2=female – single 3= male – married 4=female - married 5=couple 6=owners are from more than one household (please give details)				

1.5a Please list other members of household (s) by gender	1.5b Relationship to owner	1.5c age	1.5d occupation	1.5e level of education

1.6	How does this household use their plot?	1 = Owner residential only (go to **1.8**) 2 = Owner residential and commercial (specify commercial activity) [go to **1.8**] 4 = Owner residential and renting to tenants (go to **1.7**)

1.7a Number of tenants	1.7b occupation of tenants	1.7c Total number of rooms	1.7d Total income per month (KHR)	1.7e What year did you start renting to tenants?	1.7g have rents increased since then? (please state when and why)	1.7h Have you modified your rental accommodation to increase rent?)

1.8	Is the household connected to municipal water and electricity services?	1=connected to both 2=water only 3=electricity only 4=none	
1.9	In what year did the household start living in the property?		
1.10	How did the household acquire this property?	1=from the state 2=purchased 3=inherit 4=other (please specify)	

2. Tenure characteristics

2.1	What ownership document do you have?	1=application receipt (1992 land law) 2=survey paper (1992 land law) 3=certificate (1992 land law) 4=letter of agreement between buyer and seller 5=sale letter from village 6=sale letter from commune 7=no document	
2.2	Why do you not have LMAP title?		
2.3	Do you feel secure in your ownership with current documentation?		
2.4	Do you want an LMAP title? (please provide details of reason why)		
2.5	Do you think you will receive a land title in the future – how much do you expect it to cost?		
2.6	What was your experience of systematic land titling in this commune?		

3. Credit

3.1	Have you obtained any form of cash loan since you moved to this house?	1=looked for and received (go to **3.2**) 2=looked for but refused (go to **3.8**) 3=did not look for (**3.12**)	

	3.1 Date of loan	**3.2** What was the source of the loan?	**3.3** How much was borrowed? (KHR)	**3.4** What is the av. monthly interest? (%)	**3.5** What was the purpose of the loan?	**3.6** Did you use tenure doc as guarantee? 1=yes 2=no	**3.7** Have you had any problems paying back?
Loan 1(a)							
Loan 2(b)							
Loan 3(c)							
Loan 4(d)							

	3.8 Source of refused loan	**3.9** Reason for refusal	**3.10** Purpose of loan	**3.11** Amount sought (KHR)
Loan 1(a)				
Loan 2(b)				
Loan 3(c)				
Loan 4(d)				

4. Investment

4.1	Have you invested improved your home/business/rental accommodation?	1=yes (go to **4.2**) 2=no (go to **4.8**)	

	4.2 What was the investment made?	**4.3** Year of investment	**4.4** What was the cost? (USD)	**4.5** What was the main reason you invested?	**4.6** How did you fund investment?
Investment 1 (a)					
Investment 2 (b)					
Investment 3 (c)					
Investment 4 (d)					

4.7	If you have not invested, what is the main reason why have you have not?	

5. Boundary conflicts

5.1	Have you ever been in a dispute over this plot?	1=yes 2=no (Go to **6**)	
5.2	What was the nature of the dispute and why did it occur?		

5.3	How did you attempt to resolve the conflict? (please detail all stages)	
5.4	What was the outcome?	
5.5	Were you satisfied with the outcome?	

6. Tax, services and other costs

6.1	How much land tax do you pay (per year) for this property?	
6.2	Has your land tax payments increased overtime, if so by how much (per year) and when?	
6.3	Has systematic land titling in the area affected any other living costs living costs, and if so how?	