

No. 3, December 2006

 **NIAS** *nytt*

Asia Insights



THEME: Justice in Cambodia?

Rifts and repair in the Cambodian moral landscape

'Punishing' the perpetrators of the Cambodian genocide

Justice and reconciliation? Can the trials for the Khmer Rouge bring reconciliation and healing to Cambodia?

Notions and practices of justice: the international and the local

Donors, 'Do No Harm', and the issue of justice in Cambodia

Landlessness, land redistribution and justice in rural Cambodia

Corruption is 'cool' Reflections on bureaucratic practices in Cambodia*

Justice in Cambodia: A short reflection on some obstacles to implementing 'justice' within the context of the law in present-day Cambodia

Asia Insights

NIASnytt is published by NIAS
– Nordic Institute of Asian Studies
and appears three times yearly with
1,600 copies distributed worldwide.

Editorial and production

NIAS – Nordic Institute of Asian
Studies, Leifsgade 33,
DK-2300 Copenhagen S, Denmark
Tel: +45 3532 9502
Fax: +45 3532 9549
Email: leena@nias.ku.dk
Online: www.nias.ku.dk

Online version

<http://www.nias.ku.dk/nytt>

Editor

Gerald Jackson (responsible under
the Danish press law)

Coordinating editor

Leena Höskuldsson

Guest editor for this issue

Alexandra Kent, NIAS

Editorial committee

Jørgen Delman
Leena Höskuldsson
Gerald Jackson
Timo Kivimäki
Anja Møller Rasmussen
Erik R. Skaaning

Language editor for this issue

Alexandra Kent

Next issue

3 (October): deadline 20 August

Cover photo by Alexandra Kent:
Children in Battambang Province

Printed in Denmark by
Special-Trykkeriet • Byens Tryk A-S

ISSN 0904-4337



norden

Theme: Justice in Cambodia?

Rifts and repair in the Cambodian moral landscape.

By Alexandra Kent • 4

'Punishing' the perpetrators of the Cambodian genocide.

By Trudy Jacobsen • 6

Justice and reconciliation? Can the trials for the Khmer
Rouge bring reconciliation and healing to Cambodia?

By Laura McGrew • 8

Notions and practices of justice: the international and the
local. *By Karen Knight • 10*

Donors, 'Do No Harm', and the issue of justice in
Cambodia. *By Roger Henke and Kristina Chhim • 12*

Landlessness, land redistribution and justice in rural
Cambodia. *By Robin Biddulph • 15*

Corruption is 'cool'. Reflections on bureaucratic practices
in Cambodia. *By Christine Nissen • 18*

Justice in Cambodia: A short reflection on some
obstacles to implementing 'justice' within the context of
the law in present-day Cambodia. *By Heng Sreang • 20*

Also in this issue

Editorial:

New frontiers? Innovation in Asia and the Nordic
Countries • 3

SUPRA information • 24

Staff news • 25

Recent visitors • 25, 28

Forthcoming Cambodian studies from NIAS Press • 31

Nordic Partners

As of January 2005, Copenhagen Business School (CBS), Copenhagen University (KU), and Lund University (LU) as founding partners cooperate to ensure that NIAS continues as an independent Nordic research institute hosted at KU. In conjunction with this, the Nordic NIAS Council has been established to strengthen interdisciplinary collaboration between Nordic Asian Studies environments. NIAS is financed by the Nordic Council of Ministers and the above mentioned partners.

Further information: www.nias.ku.dk



**Copenhagen
Business School**
HANDELSHØJSKOLEN



LUND
UNIVERSITY



nordic nias council

New frontiers?

Innovation in Asia and the Nordic Countries



Jørgen Delman,
Director of NIAS

At a recent dinner with representatives from the Chinese Academy of Sciences (CAS), one of the guests from the European Division of the Academy explained that in the future they wanted to deal with the Nordic countries as a region, not as individual countries. The countries are too small, she said. Was this big power chauvinism? No, she said, they had realized that the Nordic region had a long experience in cooperation and they would like to exploit that.

Individual scientists would probably not agree to the rationale of the argument; they would rather go to the right partners irrespective of where they are. All the same, it does make sense for a mega-organization like CAS to engage with the Nordic research infrastructure and programmes. Not only are they windows for collaborative activities at the Nordic level – something that could be of interest to China to study in itself – but they are also entry points to the Nordic research area.

Actually, we gathered for the dinner because we had participated in the same conference – Investing in Research and Innovation: Exchanging European Experiences in a Nordic Context – which had the Nordic Council of Ministers and the European Commission as organizers. The conference asked what we could do to avoid the Nordic Region becoming marginalized in Europe when it comes to development of the knowledge economy. More fundamentally the question was whether and how territorial entities – defined as sub-national entities but also as cross-border regions – can participate in building the European Research and Innovation Area.

The role of Asia cropped up a number of times at the conference, both as a competitor and as a collaborator. As is well known, the European Commission as well as our firms and researchers are increasingly involved with Asia in research, development and innovation. The implication is that Nordic collaboration will have to factor in this dimension if it is to remain meaningful to the actors in the knowledge economy. Focusing on Europe is not enough.

In the Nordic NIAS Council community we have been paying attention to this issue for some time. We recently convened a workshop, titled “New Asian Dynamics in Science, Technology and Innovation”, which took stock of relevant research on this subject in the Nordic region. We also discussed future collaborative research and research training. A truly Nordic consortium was behind the conference, comprising Copenhagen Business School, The Royal Technical University (KTH), Stockholm, Swedish School of Economics and Business Administration – HANKEN, Helsinki and Vaasa, the Norwegian University of Science and Technology (NTNU), Trondheim, Swedish School for Advanced Asian and Pacific Studies (SSAAPS), Oslo University and NIAS. (Further information at <http://asiandynamics.niasconferences.dk/>.)

The point here is that we are keen to capture new trends in the relations between the Nordic region and Asia and also to engage our sponsors at the Nordic level in these efforts. By making Nordic collaboration relevant in relation to Asia, we hope to contribute to the continued relevance of Nordic collaboration. If NIAS can continue to play a role here, so much the better.



Dr **Alexandra Kent** is an affiliated Senior Researcher at NIAS. Her current research is in two areas: the Revival of Buddhism and its role in post-Conflict Cambodia; and the empowerment of Buddhist women as part of the creation of security in that country.

Dr Kent's earlier work centred on the Malaysian following of the controversial neo-Hindu guru, Sathya Sai baba, resulting in publication of her monograph *Divinity and Diversity* (NIAS Press) in 2005.



Temple ruin.
Photo: Alexandra Kent

Rifts and repair in the Cambodian moral landscape

By **Alexandra Kent**

Cambodia is at present emerging from a recent history of violent conflict and one of the most horrific and disastrous experiments with communist rule the world has known – the Khmer Rouge regime (1975–1979). Civil war in Cambodia persisted for more than a decade after the Vietnamese ousted the Khmer Rouge in 1979. The Paris Peace Accords were signed in 1991 and a new constitution was ratified in 1993 to mark Cambodia's official entry into an era of peace and democracy. However, fighting persisted between Khmer Rouge die-hards and the new government until the late 1990s. The death of Brother Number One, Pol Pot, in 1998 finally signaled the closure of the country's communist past, a past in which Khmer killed Khmer and anyone could suddenly become the "enemy". But have Cambodians achieved the sense of closure that is so often proclaimed to be essential for healing and peace-building?

The Khmer Rouge Tribunals

As the Vietnamese tanks thundered into Cambodia in late 1978 the Khmer Rouge elite fled the capital, opening a new chapter in Cambodia's tragic modern history. The new regime soon staged a trial of Pol Pot and his longstanding close friend, Ieng Sary. The two were sentenced to death in absentia for genocide. The trial, however, was ignored by the outside world and the Vietnamese occupation was deemed illegal. Two decades later Ieng Sary defected to the government and was pardoned by the king for his earlier misdeemeanours. By 1998, Pol Pot had left the scene. Twenty-seven years on from the first trial, a hybrid international/Cambodian tribunal is now set to begin.

The infamous Khmer Rouge leader Ta Mok – often referred to by the macabre nickname "The Butcher" – was finally imprisoned in March 1999 to await trial for crimes against humanity. He defied the process by dying on Friday 21st July 2006. With his death, both the tribunal and the Cambodian people lost one of their key witnesses. Some have posthumously hailed Ta Mok as

a selfless hero and some speculate that his death was staged to prevent him from releasing unwelcome 'truths' in court. His precise role in Cambodia's darkest years will now remain a mystery. Only Kaing Guek Iev (Duch), who, as director of the infamous Tuol Sleng interrogation centre, oversaw the torture and deaths of thousands of Cambodians, now remains imprisoned and facing charges. As this bizarre history unfurls, the questions of what justice is in Cambodia and how it should be practiced in order to enable Cambodians to reconcile themselves with each other and with their past are far from clear.

The use of criminal trials to make leaders accountable for past mass terror is certainly of importance. Some Cambodians claim such trials would not only give their country international credibility but would also help break the current culture of impunity that reigns in Cambodia. However, tribunals leave aside other social arenas in which injustice may have been perpetrated; local level perpetrators and profiteers of the terror, outside states that contributed to the violence and those who stood by and passively allowed events to

proceed (Fletcher & Weinstein, 2002). The tribunals may be eye-catching news for an international audience engaged in a world movement for retributive justice to hold individuals accountable for "moral injuries" (Borneman, 1997), but this movement is perpetuated by particular, global actors who are situated in pockets of both culture and time. What, then, of local experiences and understandings of moral breaches, both past and present, and what cultural tools are mobilized to address these?

The role of law differs according to cultural setting, as does the population's expectations and understandings of justice. In the Cambodian case the question arises as to the relevance of horror from thirty years ago to the swelling numbers of young Cambodians who have no direct experience of it. For many, the injustices of today are of far greater significance. The multitude of parties involved in efforts to bring about social repair following organized violence do not necessarily share either a single perspective on history nor a single moral landscape in the present (Ericson, 2001).

New injustices

Throughout the 1980s the command economy of the Vietnamese regime gradually loosened and by 1990 an unregulated, free market system was fully in place. Today, Cambodia is awash with the new values of unbridled consumerism. The effect of this in a war-torn, underdeveloped society has been a deepening divide between the prosperous, internationalized elite and the rural poor, whose resources the former increasingly exploit. Some suggest that Cambodia's current difficulties in re-establishing trust and solidarity are due more to the unleashing of this rampant market economy, which leaves the poor unprotected, than to the aftermath of organized violence.

Following the Paris Peace Agreements of 1991, the international community began shoring up the Cambodian economy with foreign aid and support for democratization (see Hughes, 2003). Thus democratization did not result from local initiatives but was the outcome of the imperatives of aid dependency. To secure the continuing inflow of aid Cambodian power-holders now had to demonstrate to donors that they had the loyalty of local authorities and their constituencies. The government therefore adopted a strategy of protecting the entrepreneurial interests – particularly in land and natural resources – of civil servants and military units, through whom it could also exercise considerable control over the populace. This has strengthened ties between central and local government, thus consolidating the power of the state, while those exploited by the profiteering authorities have become increasingly marginalized and vulnerable.

Inside Cambodia there is not only a cacophony of opinions about the procedures of official

justice such as the tribunal, but there is also a multitude of understandings of justice and punishment taking place at the local level. These are formulated within the context of everyday lives that are lived not only in a post-conflict setting with a post-war population expansion, but also against the backdrop of the new political economy. For those furthest out on the periphery, recourse to the machinery of official justice is often unfeasible. Without a string (Khmer *khsae*) of protective links and without the financial robustness to pay the various 'fees' required, many of the poor find the doors of the justice system, as well as other services, closed to them. Patrons have re-emerged in a new monetarized guise. Dependent clients no longer consider the 'big people' (Khmer, *neak tom*) amenable to negotiation in terms of moral schemes of reference; by contrast, their new power is unchallengeable and often menacing (Hughes, 2006). Given this scenario the question arises as to what extent attempts to pursue justice for the misdeeds of the past may be appropriate for creating confidence in a just society in the present. What meaning does the formal apparatus of justice hold for those for whom it is inaccessible, often irrelevant and sometimes even implicated in the everyday instances of injustice they face?

Articles in this issue

This issue of NIAS Nytt invites authors with varied viewpoints and experiences – academic as well as engaged – to approach aspects of the topics raised above. Their contributions place the tribunal, which is currently in focus in the world's image of Cambodia, into a far broader and deeper understanding of present-day Cambodia and her everyday struggle to re-establish order and peace.

Trudy Jacobsen first places the tribunal into an historical context, examining notions of punishment and justice in the Cambodian past. Laura McGrew's contribution then looks more closely at the tribunal and what it may mean for Cambodians in terms of reconciliation and mending the rifts from recent history. The articles by Karen Knight and by Roger Henke and Kristina Chhim take a different angle and explore the ways in which foreign development initiatives in Cambodia tend to overlook local reality and local capacity. This, they show, can lead to initiatives being either useless or, at worst, detrimental to Cambodia's construction of a just society. Robin Biddulph then moves us to the issue of land ownership and poverty and describes how, as increasing numbers of Cambodians become landless, this issue is intimately related to notions of justice and injustice. Christine Nissen's contribution uses vivid description to illustrate how low-level corruption operates in everyday life in Cambodia and how this influences inequity in relation to justice as well as other realms. Finally, Heng Sreang takes a critical look at two approaches to conflict resolution in present-day Cambodia, both of which fall outwith the framework of legal institutions: coercion by the powerful and traditional practices of compromise.

Together these papers show something of the enormous complexity of discourses and practices of justice in Cambodia, prompting reflection upon both the weaknesses and strengths of foreign interventions into conflict resolution in post-conflict settings in general.

References

Borneman, J. (1997). *Settling Accounts: Violence, Justice, and Accountability in Postsocialist Europe*. Princeton: Princeton University Press.

Ericson, M. (2001). Försoning och Sökandet efter ett Gemensamt Moraliskt Landskap. In G. Gunner & S. Spiliopoulou-Åkermark (Eds.), *Mänskliga Rättigheter: Aktuella Forskningsfrågor*. Stockholm: Iustus Förlag.

Fletcher, L. E., & Weinstein, H. M. (2002). Violence and Social Repair: Rethinking the Contribution of Justice to Reconciliation. *Human Rights Quarterly*, 24, 573-639.

Hughes, C. (2003). *The Political Economy of Cambodia's Transition 1991-2001*. London: RoutledgeCurzon.

Hughes, C. (2006). The Politics of Gifts: Tradition and Regimentation in Contemporary Cambodia. *Journal of Southeast Asian Studies*, 37(3).



Dr **Trudy Jacobsen** is an ARC (Australian Research Council) Postdoctoral Research Fellow at the School of Political and Social Inquiry and at the Monash Asia Institute, Monash University. Until recently a project advisor at the Buddhist Institute, Phnom Penh, she is about to embark on a three-year exploration of sexual contracts in Cambodia and Burma in an endeavour entitled 'Intersections of Desire, Duty and Debt'.

Her monograph, *Lost Goddesses*, will be published by NIAS Press in 2007 (see p. 31).

'Punishing' the perpetrators of the Cambodian genocide

By **Trudy Jacobsen**

The sala stands ready. Judges have been selected. Evidence has been meticulously collected. Witnesses are poised to testify. Yet can any punishment meted out in the Khmer Rouge tribunal atone for the deaths of roughly 2.5 million people?¹ Moreover, does international justice correspond to Cambodian conceptualisations of punishment in historical or contemporary contexts?

Dharma, often translated as 'duty' or 'correct action', is inextricably linked to concepts of justice and punishment in many Asian contexts. It transcends the secular, involving moral and spiritual consequences; therefore, straying from one's *dharma* will have a significant impact upon one's ability to advance in *samsara*, the cycle of birth and rebirth. According to this ideological framework, those that transgress society's boundaries will be punished twice: Once to rebalance *dharma* in this life, and again when people find that their past actions have resulted in a regression in *samsara*.

The Cambodian judicial system changed little between the ninth and twentieth centuries. Disputes would be taken to a village *sala*, or hall and heard by respected members of the community. Serious cases that could not be resolved at the village level were taken to the district or provincial *sala*. If satisfaction was not found there, the governor of the province, as representative of the king, could be sought. The role of the king in meting out justice in the Cambodian past was pivotal. All Cambodians had the right to request an audience with the king if they felt that their case was not heard or investigated correctly at the village, district or provincial level. The king, as the connection point between the mundane and celestial worlds, was responsible

for rebalancing *dharma*. In order to ensure that the correct balance was maintained, people had to be punished.

Punishments themselves took the form of fines or beatings that varied in number and severity according to social status.² Serious crimes, such as rape or maiming a person to the extent that they were unable to work, resulted in the perpetrator having to pay compensation for an extended period. Significantly, all members of a perpetrator's family would be punished. Shame was also a large factor in secular punishment. Repeat offenders would have marks or tattoos incised upon their faces; members of the elite who had been convicted of theft would be forced to wear large iron collars for a set period, after which they would be set free. Execution was used only in the most serious cases – unprovoked murder, treason, or interference with the property of the king, including female members of the palace.

Torture and incarceration occupy only transient space in the history of Cambodian punishment. Torture, usually by having the head, hands or feet placed in a vice and squeezed, seems to have been used only until a confession was exacted and an agreement to make financial restitution was reached. Beatings with a bamboo cane and submersion in water were also used for this reason.

Incarceration seems to have been used only in cases where the perpetrators of crimes were members of the royal family (who cannot be killed) or in trial by ordeal. This was particularly prevalent at Angkor. If two people were suspected of a crime, or involved in a dispute, they would be each placed in a stone tower facing the royal palace for a set period of time. Whoever emerged in better health was determined to be innocent.

The first western-style prison was not built until the beginning of the nineteenth century in Cambodia, when the Vietnamese used it to house recalcitrant members of the Cambodian royal family. It was not until the reign of Ang Duong (1848-1859) that incarceration began to be used as a punishment in itself. Early Cambodian prisons horrified the French, being open hangars of wood from which prisoners were frequently allowed to leave in order to purchase food and see relatives, and that if the prisoner's family could afford it, their freedom could be purchased. Yet although the French replaced the flimsy wooden jails with solid edifices of masonry, the more relaxed Cambodian attitude to imprisonment prevailed. The archives of the French colonial government abound with reports by outraged officials documenting the dearth of convicted murderers from spot-checks,

granted temporary absence by necessity of family business.

The judicial system in Cambodia after independence in 1954 continued very much as it had previously. There was no modernisation of prison conditions. Corruption increased due to the mismanagement of the Cambodian civil service. People began turning away from state justice and administering their own, particularly at the village and district level, where things quickly reverted to a system of fines and applications of beatings and confinement in order to exact compensation.

Things are very much the same in Cambodia today, where few people have any faith in the state judiciary. Not a day goes by in which the Cambodian newspapers do not recount someone being beaten because they stole a motorbike or a cow, or a woman's face is doused with acid for stealing another woman's husband, or a family agrees to pay millions of riels for their son's rape of a neighbour's daughter. Incarceration is the worst that the Cambodian courts can impose upon someone found guilty of murder, and the perpetrator will serve their sentence in comparative comfort – family members will bring them food, a radio, clean clothes, cigarettes, and the state is bound to supply shelter, clean water, and three meals a day, more than many Cambodians can manage even when toiling in the ricefields for forty years.

What, then, can the Khmer Rouge genocide tribunal mean to most Cambodians, when the most extreme punishment that can be imposed equates to a life of luxury? Cambodians in diaspora are generally in favour of the tribunal, having been educated or raised in western societies where justice and punishment follow post-

Enlightenment reasoning. Some feel that Cambodia's future lies in coming to terms with its past: "The Khmer Rouge history remains a battleground for Cambodians. It is important for Cambodians and the international community to view this history and find ways to deal with it".³ A 1999 poll of residents in the Cambodian capital, Phnom Penh, revealed that 80 per cent of participants were in favour of a tribunal.

Many Cambodians born after 1979 have only a vague grasp of the implications of the tribunal, as the Democratic Kampuchea period is not taught in Cambodian schools. Others prefer not to remember many of the details. Some have spent decades effacing the images of those years from their minds and find the prospect of the tribunals disquieting. Political leaders in Cambodia today have advocated forgiving and forgetting and have only reluctantly acquiesced to international demand for 'justice'. Hun Sen has come under repeated attack for not rushing forward with a tribunal but he has repeatedly spoken in favour of bringing the Khmer Rouge to justice. As he himself said in 1999, "It is unfortunate that some individuals have forgotten the past. In 1979, the People's Court of the then People's Republic of Kampuchea did put Pol Pot and Ieng Sary on trial. Together with other leaders of the CPP in my capacity as Foreign Minister, I had consistently proposed....to bring them to trial. But they instead were given the rights to the seat at the United Nations" for a decade. It is hardly surprising, then, that the ability of the international community to mete out justice is regarded with suspicion.

Generally, Cambodians are ambivalent. The tribunal is

regarded positively because the international community is in favour, and acquiescence means that Cambodia will continue to receive the humanitarian assistance it sorely needs. But most do not think that true justice will be forthcoming. Norodom Sihanouk recently said "In order to have true justice, it is necessary to condemn and punish equally those hundreds and many thousands of torturers and assassins responsible for carrying out deaths ordered by their ultra-infernal Angkar... For me, putting in prison five or six Khmer Rouge, that would be nothing more than a farce and hypocrisy". At the other end of the social *milieu*, Chhim Sophal, a driver, stated that he didn't really care what happened at the tribunals, as he knew that the perpetrators would be reincarnated as beetles.

It is this binary perspective of punishment as occurring twice – once in a secular sense and again in the cosmic plane – that makes Cambodians at once in favour and indifferent towards the Khmer Rouge genocide tribunal. Cambodians have little faith in the ability of state or international judicial process to be just, particularly where the elite are concerned, but this does not intrinsically matter – some consolation may be found in the fact that true punishment will come later.

It has been said that the death of Ta Mok has deprived Cambodians of a chance to see justice done. But true justice will come not as a result of a long-delayed attempt by the international community to assuage its guilt, but when all perpetrators of these horrific acts attempt to progress further in *samsara*.



Naga's head.

Photo: Alexandra Kent

Continued on p. 17



With an educational background in international public policy and medical science, **Laura McGrew** has worked with several human rights and international law groups, including experts in Cambodia concerning the Extraordinary Chambers for Prosecution of Crimes Committed by the Khmer Rouge. She served as Analyst/Reporter for the Monitoring Operation of the United Nations Office for the Secretary-General's Personal Representative in Cambodia, whose mandate was to monitor the safe return of politicians who left Cambodia in July 1997, and for the International Human Rights Law Group in Washington, DC as Cambodia Projects Coordinator, where she helped develop the USAID-funded Cambodia Court Training Project.

Children in front of skull exhibit at Cheung Ek (84) 4/05. Photo: Laura McGrew



Justice *and* reconciliation?

Can the trials for the Khmer Rouge bring reconciliation and healing to Cambodia?

By Laura McGrew

'The trial of the Khmer Rouge leaders will be a fair ending of its political organization after they were finished politically and militarily. We will not forget about justice as we will never forget about national reconciliation, peace and stability. The two objectives could be compared to heart and lung of every one of us, i.e. we can not go without either one of them.'

— Hun Sen 2000

Prime Minister Hun Sen, along with the United Nations and countless participants and observers of other national and international trials and tribunals, link justice and reconciliation, though in varying degrees. Some feel that trials are a crucial aspect related to long-term reconciliation, 'no peace without justice'. Others feel however that trials interfere with reconciliation, by 'digging up' the past – especially in a case like Cambodia, where the events at trial occurred more than three decades ago. Others yet feel that trials have little effect either way.

This article explores assumptions linking trials and reconciliation. It also provides

some recent views of Cambodians on justice, reconciliation and the trials, the Khmer Rouge Trials (KRT or the Extraordinary Chambers in the Courts of Cambodia – ECCC) finally seem to be looming on the horizon.

What does justice mean in Cambodia today – and even more debatable, what is reconciliation?

Justice and reconciliation are intricately related, (though understudied) and both must be considered in post-conflict peacebuilding, especially after genocide and mass violence (Lambourne 2004). Justice and reconciliation, however, may have conflicting goals, and it is a challenge to achieve both – they may need to be staggered over time. Each country (based on consultations between citizens and government) needs to determine its own unique formula and the success of the process should be assessed over time.

Reconciliation ... is understood to be an aspect of an existing relationship, marked by varying degrees of mutual acceptance... reconciliation involves so many aspects that some aspects, at a given time, may contribute to peace and justice, while others do not. (Kriesberg 2001: 48).

The meaning of justice in Cambodia can vary widely, especially in a society with

rampant corruption, widespread impunity and an increasing gap between rich and poor. Justice means trials to most people, and in the majority of surveys done in Cambodia, international trials.¹ For some Cambodians punishment and revenge are important while others emphasize making a living and moving on with their lives. When I have recently asked Cambodians if the upcoming trials for the Khmer Rouge will bring reconciliation, I have received a variety of answers ranging from: we must have the KRT for reconciliation, to the KRT will not help reconciliation at all.

In the introduction to a recent book examining the complexities of justice and reconciliation after mass violence, Ariel Dorfman, a Jewish Chilean human rights activist who has written widely and eloquently on transitional justice and societal healing, concluded that 'The fundamental message of this book: there is no other way of bringing back the dead than to tell the truth.' (Stover & Weinstein 2004: xv). This message is similar to the one that was given to me by over one hundred Cambodians in 1999 and 2000, who said that they wanted to know the truth – why did Khmer kill Khmer? (McGrew 2000).

Part of this need to know the truth is related to acknowledgement – Cambodians want to know why they suffered – and who caused it. Many authors note the need for (public) acknowledgement of harm done (as would occur in trials or other processes such as truth commissions) so that victims' suffering can be recognized. Although Cambodians rarely articulate their need for acknowledgement – many openly and frequently offer to share their stories of suffering under the Khmer Rouge.

In today's world of civil wars and unspeakable atrocities, social and restorative justice is discussed more often than the past focus on retributive justice. International (or hybrid) criminal tribunals attempt to deliver justice against individuals and their crimes, and are thus state-centered and focused on the perpetrator. Restorative justice is on the other hand more victim-centered, and focused on restoring relationships. Social justice and restorative justice are more closely linked to the concept and process of reconciliation. And for reconciliation, criminal trials are not enough, as expressed by a civil society leader:

The KRT and reconciliation are like two rivers facing the same direction, parallel to each other. If there is no bridge between them, and if the tribunal is alone, it is just the tribunal. Unless you do something to actively work towards reconciliation, it won't happen. This could be a spiritual bridge. And this is a big task, unless the government is able to do this, it won't be possible.²

Society cannot be expected to just heal itself – there must be some larger process that looks at large-scale reconciliation. As the ECCC now seems to be underway, research on society's views are crucial. Justice alone does not automatically bring reconciliation or reconstruction



Woman praying at Angkor Wat (144) 8/06. Photo: Laura McGrew

of society. Other mechanisms to seek the truth and build trust are needed in addition.

Unfortunately, the ECCC was planned with almost no participation of the citizens of Cambodia. At this stage, a broad outreach program that can bring information both *to* and *from* the people is crucial in order to make the process meaningful to Cambodians. A well-funded, interactive and broad outreach program is also crucial to make sure that the very minimum goals of the ECCC are met – that justice is not only served but is *seen* to be served.

The quality of justice has often been discussed in relation to the ECCC, as the trials are being held as a chamber *within* the courts of Cambodia, which are notoriously corrupt and inefficient. In the various surveys, and in many public and private meetings in the last few years, many Cambodians have expressed their fears that the trials cannot be fair in this setting. 'Trials are necessary for reconciliation, but only good, fair trials. And bad trials can work against reconciliation.'³

Justice as Healing – Healing as Reconciliation

After mass violence, one could argue that the most important

goal of any process, be it trials, truth commissions or time alone, is for society to heal and for its people to go on with their lives. Several authors suggest that justice itself brings healing. South African Justice Richard Goldstone stated that 'The most important aspect of justice is healing wounded people.' (Montville 2001: 134). One Cambodian NGO staff person recently said: 'The victims can have some relief of feelings, like relief in the mind and head, and the suffering can decrease if they see the leaders of the regime go to the trial'.⁴

Johan Galtung explains:

Reconciliation will be interpreted as the process of healing the traumas of both victims and perpetrators after violence, providing a closure of the bad relations. The process prepares the parties for relations with justice and peace... Reconciliation = Closure + Healing. (Galtung 2001: 3–4)

The concept of closure is often mentioned when discussing criminal trials – a thorough weighing of evidence can bring a sense of closure. Another Cambodian NGO worker stated:

Continued on p. 23.



Karen Knight has practised as a social worker for over 30 years in a variety of settings. She has a PhD in Social Research and Social Work and a Masters in Social Work. She works for an international NGO based in Washington D.C., with projects in 55 countries around the world. Karen currently lives in Phnom Penh, Cambodia where she serves as an advisor to programmes in the Asia region.

Notions and practices of justice: the international and the local

By Karen Knight

"Mastery of the inner world, with a relative contempt for the outer, must inevitably lead to great catastrophe. Mastery of the outer world, to the exclusion of the inner, delivers us over to the demonic forces of the latter." – Carl Jung

This brief discussion is intended to highlight some of the difficulties involved in implementing the justice agendas of international actors in social and cultural milieus such as Cambodia, where particular historical experiences and moral systems are operative.

International development emphasizes mastery of the outer world. The sector is rooted in notions of fairness and justice which are most recently grounded and guided by eight Millennium Development Goals (MDGs), formulated by international actors in a forum removed from local realities. The language of these international initiatives is, in turn, often strategically adopted by powerful elites in target countries.

The MDGs outline characteristics of a just world for the United Nations, the Asian Development Bank, the International Monetary Fund, the World Bank and a host of International Donors. They provide a framework for action through initiatives to: Eradicate extreme poverty and hunger; Achieve universal primary education; Promote gender equality and empower women; Reduce child mortality; Improve maternal health; Combat HIV/AIDS malaria and other diseases; Ensure environmental sustainability; and Develop global partnership for development. Achievement of the MDGs is then to serve as a launching platform upon which notions of

fairness and justice can begin to extend and deepen. Undergirding the MDGs is an emerging discourse on "rights", which attempts to align the notion of rights and practices of justice with the realities of culture. Rights-based initiatives are also intended to address concerns that donor-driven and western values drive definitions of and interventions designed to achieve justice.

In the real world, however, the implementation of the MDGs is highly complex. Efforts to move the MDGs forward may be stifled by the effects of war, by corrupt individuals in self-serving governments whose real agendas are driven not by the international vision of justice, but by their own political and economic interests. The mechanisms for accomplishing the MDGs are, therefore, shaped to a great extent by local considerations with resulting implementation approaches that often are guided by the values of particular, positioned individuals.

Ultimately, the notions and practices of justice are rooted in personal experience. The pursuit of justice is prompted by the direct or indirect experience of having been wronged and by hope of redress. The desire for justice is driven by such issues as personality, culture, gender and power. Expectations of and for justice are directed by beliefs – or their absence – in a fair and just system of law enforcement.

Conflict(ing) ideals

The *Phnom Penh Post*, a biweekly English language newspaper in Cambodia provides expatriates with a particular perspective upon local methods of "justice" through its regular reports on the rage that can suddenly erupt in the face of conflict in Cambodia. The newspaper reports on Cambodians hacked for stealing from a neighbor, scarred from acid thrown in punishment for infidelity or stabbed for winning a heated argument. Many reasons for these violent forms of personal justice have been proposed: repressed anger in a culture that values the concealment of interpersonal conflict, lack of trust in the law enforcement system, the fact that violence has become an acceptable means to solve conflict in the shadow of war. These enactments of justice fly in the face of Cambodian ideals of serenity, which are embodied, for instance, in the renowned Cambodian smile, or in the comments of the young victim of an unprovoked acid attack who, despite extensive scarring and repeated plastic surgery, stated "I am angry that they did this to me, but I don't want to do anything back them, I've always been good to people."

The complexity of aligning inner and outer notions and approaches to justice is also evident in the findings from *Violence Against Women: A baseline survey*¹. *Violence Against*

Women is the first systematic national survey in Cambodia to deal with attitudes towards domestic violence. The findings from the survey illustrate how difficult it is to establish and implement a culture-sensitive standard of justice. The survey was designed to create a baseline for change and to inform activities in support of the newly-passed Law on the Prevention of Domestic Violence and the Protection of the Victims in Cambodia. The results of the *Violence Against Women* survey, however, served as a reminder that prevalent, local notions and practices of justice related to domestic violence – or, indeed, any notion of justice – are often inconsistent with official or international rhetoric concerning justice.

Consistent with the hesitance of many marginalized populations to accept that they have rights, was the substantial proportion of women who did not see themselves as victims and who therefore held no expectations that any practice of justice was called for. Justice was simply not an issue for respondents who believed it was justified for men to take steps to control their wives. The perpetrators of violence saw themselves both as victims of wrong-doing and maintainers of justice. Those who suffered from the violence and did wish to seek redress found few options for help. More than half of the respondents, including both men and women, stated that a husband is justified in becoming angry when his wife fails to perform certain domestic duties, spends money without telling him or talks to other men.

A large portion of the sample – 30% of men and 26% of women – believed that acts such as stabbing, throwing acid or shooting were sometimes acceptable; 69% of the sample

said that knocking on the head, slapping, kicking or punching were sometimes acceptable. The behavior that was considered to justify such “justice” was that of challenging the husband’s dominance by arguing, questioning or not obeying him.

Opinions gleaned from the survey showed that even official practices of justice were personalized and linked to beliefs and cultural attitudes about rights; 49% of the sample’s subset of local authorities and police claimed that the rich and powerful have more rights than the poor. This is borne out in the fact that justice may be administered by means of payment rather than punishment. Rape may be amended by the payment of compensation to the victim and a fee to the police for the perpetrator’s release – as is murder.

Measure notions and practices of justice such as these with the anti-adultery law recently passed by the National Assembly to “ensure happiness in families and reduce acid attacks resulting from overly-promiscuous men having too many wives” and “protect the dignity, strengthen the harmony and mutual respect between a husband and wife”. Whether a true attempt to bolster the sanctity of marriage or a political ploy to harass the opposition party, whose leader is known to be involved in an extra-marital liaison, the law points out the extent to which notions and practices of justice – and definitions of private and public issues – can be at odds with the ideas of the international community.

Cambodia may not be so dissimilar from other war-torn and poverty-stricken countries, but she does serve as a reminder that the development sector cannot neglect the inner world



Fruit-sellers. Photo: Alexandra Kent

of culture as it seeks to construct forms of justice in the outer world of legal structures and institutions. International development would benefit greatly from paying meticulous attention to what is going on behind words, by observing without judging and by engaging in a deep exploration of why things are as they are before launching what often prove to be arrhythmic initiatives. Sensitivity to the inner world and to the changes desired among those on the ground can only strengthen mastery of the outer.



Roger Henke is a cultural psychologist who worked as an institutional development specialist cum research advisor for the Center for Advanced Study (CAS) from mid-2002 and recently became the coordinator of the Democratization and Peace Building programme of the Dutch NGO donor ICCO. He has published on the relationship between research and policy, and has recently co-authored research reviews and survey reports on issues such as human trafficking, corruption, local governance and conflict resolution. He is currently mapping research materials dealing with social capital in Cambodia.



Kristina Chhim is a modern historian with a PhD from Humboldt University on the development of the Cambodian People's Party in the 1980s. She managed the Civil Peace Service programme of the German Development Service in Cambodia for four years before becoming the Center for Advanced Study's (CAS) senior research coordinator in 2004. Her current interests are ethnic minorities, land conflicts and the Khmer Rouge Tribunal.

Donors, 'Do No Harm', and the issue of justice in Cambodia

By Roger Henke and Kristina Chhim

Justice is a major issue in Cambodia. Strengthening the justice system figures as prominently in the government's strategic planning¹ as it does in the assessments made by major donors of this aid-dependent country. The flaws of the system are a core target of both civil society and private sector advocacy. The opinions of normal citizens confirm that something is seriously amiss; all the polls that have sought views on the formal justice system, whatever the sample of respondents, have shown extremely low levels of trust in the institution and deep dissatisfaction with its performance. Given this state of affairs it is understandable that the justice sector has received substantial foreign support and continues to do so. Much of this support, we contend, is provided on the basis of a regrettably thin understanding of Cambodian reality.

After more than a decade of donor support, the usual format for discussing the issue of justice in Cambodia is to first illustrate the importance of this issue using some dramatic examples: murder goes unpunished, unlawful evictions of slum dwellers or rural smallholders are frequent, legal or administrative regulations are used to prevent public meetings or justify imprisoning members of the opposition. And then describe the rationale underlying the recent interest in demand-side approaches. Technical supply-side support has not relieved the symptoms; in relation to the input and by comparison with other areas of donor support, the results of legal and judicial reform activities over the last decade are very disappointing. So the new talk in town is all about the need to strengthen demands for justice. What this format leaves implicit are the similarities between these approaches: they both focus on the development of organizational structures and on the building of 'capacity'. This 'wasteland' approach shows precious little interest in what is already there. Consider the following recent events:

In March 2006, Prime Minister Hun Sen proposed

introducing a law on monogamy, criminalizing adultery. The public heard nothing more about this, however, until the day that the National Assembly was due to vote on it, August 30 2006. The fact that only five months passed between the putting forward of an idea and the carrying out of a vote nevertheless indicates impressive lawmaking capacity. This kind of capacity seems, though, to be completely lacking when the donor community, which was not involved in drafting the monogamy law, tries to work with the government on laws such as the anti-corruption law (in the making since 1996) or compliance with the legal regulations of the WTO². The law on monogamy was passed after fierce debate, but only on the 1st of September. The debate and vote had in fact been rescheduled to allow for voting on another law, again prepared without donor assistance, and again not publicized until it was voted for, that regulates the privileges of lawmakers (pension and funeral expense packages), and includes a clause that effectively removes their parliamentary immunity for the somewhat ill-defined 'obvious crimes' of abusing 'an individual's dignity, social customs, public

order and national security". Although the opposition party (Sam Rainsy Party) branded the law as unconstitutional, 10 of the party's 24 parliamentarians voted in favor of it, including Cheam Channy. Cheam Channy had been stripped of his immunity in 2005 and sentenced in what many observers³ labeled a show trial to 7 years in prison (after spending a total of one year in jail he was pardoned).

Events such as these seem to be ignored by the donor community as having relevance for its push for judicial reform and public voice, beyond showing a lack of understanding on behalf of opposition parliamentarians. On the very same day that the National Assembly was voting for the 'immunity law' some of the larger donor organizations were holding a workshop at which they briefed members of the Assembly, the Senate, and the National Audit Authority on the Extractive Industries Transparency Initiative⁴. The idea was to brief parliamentarians and others and explain the need to lobby government to become a signatory to this initiative, the same parliamentarians who had effectively voted away their

immunity in the morning. One *can* indeed interpret it as a huge lack of 'capacity' but since then no donor has made even a single public statement about the remarkable lawmaking capacity that *was* evident. None has hinted at the possibility that the events possibly indicate something else or more than a lack of capacity. We read that silence as a fundamental disinterest in what goes on. And we suggest – no rocket science involved – that events like this express principles underlying 'how things in Cambodia work'.

The assumption that lack of capacity is the main reason for all that goes wrong within the justice system in Cambodia is questionable. After nearly five years of monitoring Cambodia, Peter Leuprecht, the former special representative for human rights of the Secretary General of the UN, concluded:

'It has become increasingly clear that impunity is not only the result of low capacity within law enforcement institutions and of a weak judiciary. By upholding a system under which selected institutions and individuals have been allowed to breach the law and violate human rights without being held to account, those with economic and political power have been able to obtain personal enrichment and maintain vested interests... It is unlikely that technical assistance and capacity-building efforts directed at law enforcement institutions and the judiciary will produce results expected by donors unless this pattern of impunity is broken, and political decisions are made to address the problem...' ⁵

This analysis is supported by archival research on the mid-1980s which uncovered clear evidence of the political elite having conducted an open and informed debate on the pros and cons of adopting a rights-based approach to governance and having decided against it.⁶ When already during those years lack of understanding was not the

crucial issue, it does not make any sense to assume that 20 years later it is.

When discussing foreign efforts to promote democratization and peace building in Cambodia, Caroline Hughes identifies the assumption that 'the creation of the appropriate democratic institutions, and their maintenance by sustained international intervention, can engender a process of local "habituation" to internationally promoted procedures and processes'⁷ as the fundament underlying most donor interventions. This assumption certainly explains the way in which the donor community tends to brush aside realities that do not 'yet' fit with the way things were supposed to turn out. Given time, the belief seems to be, 'they' will get it. This teleological view of institution building '...as a path to a predefined set of procedures, with predictable policy outcomes...' ⁸ is directly reflected in the logic according to which donors attempt to achieve reform in the Cambodian system of justice. Reality is described in terms of its deviation from a pre-defined end state. There is no effort to understand reality in its own terms.

We concede that it is much easier to criticize donors than to offer feasible alternatives. The problems are very real, and we cannot wait until we have it all figured out before solutions are formulated. The 'habituation' assumption also has a common sense appeal. Furthermore, the most frequent alternative, a culturalist pessimism that sees '...innate tendencies toward hierarchy, deference and intolerance of difference [as precluding] the Cambodian people from either seeking, or being able to sustain,



Man carrying palm sugar.
Photo: Alexandra Keny

meaningful participation in peaceful debate...' ⁹ or understanding and applying the principle of equality before the law, is a dead end as far as aiming for change is concerned.

However, there is an alternative, somewhat Buddhist in character: the middle road. Both the 'old' and the 'new' (be it introduced by foreign donors or a result of spontaneous politico-economic change) are continually involved in reproducing a contemporary reality that is neither old nor new, or is in fact both. This perspective has as much common sense appeal as the 'habituation' model but it does make life more difficult for donors because it implies taking current reality seriously.

'Habituation' assumes that 'patients' are basically the same, symptoms can be read without really examining them and treatments may take more or less

time but they are bound to work in the end. This is not true in medicine, let alone in social engineering. Without close examination of the 'patient' and an exploration of the reality underlying the symptom pattern, prescribing treatment will be a wild guess at best and positively harmful at worst. Few would dispute the principle of Doing No Harm,¹⁰ but simply assuming that positive outcomes will eventually result as long as one is persistent enough does not sit well with this principle.

For Cambodia the predominant habituation assumption means that legal reform support is not preceded by analysis that attempts to understand how and why the

system currently operates the way it does and how reform may fit into and/or change the existing incentive structures. Kheang Un's recent dissertation¹¹ analyses the functioning of the judiciary and describes

ways in which patron-clientele networks undermine the functions of the existing, and block the formation of new, horizontal accountability institutions.'

He goes on to show how

'...even if institutions are created, their establishment is not aimed at strengthening state capacity but to service the interests of patron-clientelism. (p. 162).

One of Kheang Un's examples illustrates the risks attendant upon institution building when the possibilities of misuse have not been considered:

The Royal Government of Cambodia (RCG) is aware of the critical shortage of judges, prosecutors, and lawyers in the country. To solve this issue, in 2002 the RCG established the Royal School for Magistrates with a plan to recruit 50 trainees for every promotion. The first entrance examination took place in 2003. Rumors circulated widely in Phnom Penh and in provincial towns that the amount of bribery to secure a seat at the school ranged between US\$20,000 and US\$35,000...

A judge acknowledged to have heard the rumor commented:

It is a grave situation that the judge examination involves high bribery. When these people [trainees] graduate [and become judges] they must find a way to get their money back. What will the court system be like? (p. 187-188)

The establishment of the Royal School for Magistrates received generous donor support. The way it now operates risks cementing rather than reforming the status quo. Within a couple of years the judiciary will be rejuvenated and reform opportunities that existed with a substantial proportion of judges

and prosecutors that were close to retirement will be gone. Capacity building initiatives such as this do not generally allow for a second chance. This scenario and others like it could be foreseen and pre-empted if sufficient attention was to be paid to the social reality within which foreign interventions take root.

Notes

1 E.g. The rectangular strategy, adopted in 2004, and the Socio-Economic Development Plan 2006-2010

2 McDermid, C & Rith, S (2006) Three years on, WTO legal compliance lags. *Phnom Penh Post, Issue 15 / 17*, August 25 - September 7: 'Of the 47 regulations and laws that Cambodia pledged to enact in its "Work Program" by 2006, only 19 have been adopted'.

3 US State Department, the UN, Amnesty International and Human Rights Watch.

4 It seems increasingly likely that Cambodia's oil resources are going to be commercially exploited within the next couple of years. This has made the possibility of oil becoming a resource curse a hotly debated issue. The EITI is an international multi-stakeholder and voluntary initiative, spearheaded by the UK government, enticing resource rich countries to endorse and actively implement a set of principles and criteria to ensure that the revenues from extractive industries contribute to sustainable development and poverty reduction; see <http://www.eitransparency.org/>

5 (December 2004) Situation of human rights in Cambodia. Report of the Special Representative of the SG for HR in Cambodia, p.8

6 Gottesman, E (2003) Cambodia After the Khmer Rouge: Inside the Politics of Nation Building. New Haven: Yale University Press. p.xiii.

7 Hughes, C. (2003) The political economy of Cambodia's transition, 1991 - 2001. London: Routledge, p.7

8 Hughes, op.cit. p. 6

9 Hughes, op.cit. p. 7

10 Within the aid business this principle is debated and accepted most explicitly in the sector of humanitarian relief provided in conflict areas.

11 Kheang Un (2006) Democratization Without Consolidation: The Case of Cambodia, 1993-2004. Northern Illinois University.

Children playing at a temple pond. Photo: Alexandra Kent



Landlessness, land redistribution and justice in rural Cambodia

By Robin Biddulph

Landlessness was virtually unknown in Cambodia prior to the outbreak of the civil war in 1970. The years of war and now the impact of privatization and population expansion have altered the situation dramatically. Various surveys put the landlessness rate in Cambodia between 15 and 20 percent and rising. Many families have been forced to sell land to cope with poverty and indebtedness. A few have lost land through land-grabbing by powerful figures. One response to the growing landlessness has been the preparation of mechanisms to redistribute State land to landless households. Whether this response is appropriate or feasible is open to question.

Traditionally, most rural Cambodians expect their livelihood to be based around smallholder farming of rice land. Most rural Cambodians have traditionally identified themselves as rice farmers and expected to own rice land. If you go to a Khmer village in rural Cambodia and ask about poverty, people will answer in terms of landlessness and hunger.

The Oxfam GB report 'Making the poor more visible' in 1999 argued that landlessness should be used as a poverty indicator, and that statistics based around dollar-a-day poverty lines, while valuable in some respects, are not grounded in local reality. If you go to a village and want to meet poor people and see how policies and programmes are affecting them, it is hardly feasible to ask where they sit in relation to the national poverty line. On the other hand, establishing which households have agricultural land (and weeding out the very few who, through choice, do not own agricultural land) is a relatively easy task.

Importantly, trends in landlessness are quite different to those in relation to the poverty line statistics. While debates rage about whether 36% or 39% of the population are under the

poverty line and whether poverty in relation to this is going up or down, the situation with regard to landlessness is quite different. While landlessness was negligible prior to the civil war in the 1970s, and was in the low single figures in the early 1980s, now approximately one in five rural families do not have agricultural land and do not have the means to purchase it.

The identification of this class of people provides the basis for a more grounded assessment of poverty. One might, for example, look at entrants into the labour market in order to see whether the landless are gaining access to it or not.

Reasons for landlessness in Cambodia

The 'Making the poor more visible' study was interesting in that it focused specifically on the issue of landlessness and on its causes. Within the study sample (213 villages from all provinces) 55% of landless families had never owned land. They were predominantly newly-married couples who did not have money to buy land themselves. In the 1960s they or their parents might have cleared land at the edge of the village; in the 1980s the village chief might have reserved some 'community' land for just such families as them. In today's

Cambodia, however, land prices are high and there are no areas of unclaimed land on the edges of villages that people can expand onto.

Of the remaining 45% of landless families, the vast majority of them sold their land as a result of hunger and indebtedness. The most frequent trigger for this was an illness in the family, leading to high spending on medical treatment leading to indebtedness and finally a forced sale.

Land grabbing accounted for only 4.4% of the cases of landlessness in the sample. In other words, while examples of military leaders and well-connected businessmen forcing people off their land with impunity rightly attract the attention of journalists and politicians, it appeared that it was not a major direct cause of landlessness. In recent times the frequency with which such cases have been hitting the headlines again has caused commentators once more to speculate that land grabbing may have more recently moved to another scale. Research does not yet substantiate that.

Why programmes to supply land are a temporary and partial solution

One response to the issue of landlessness being raised has been attempts to increase the supply of



Robin Biddulph lived and worked in Cambodia from 1991 to 2001 and is a fluent Khmer speaker. His experience of the Cambodian countryside began during his work with the British humanitarian mine-clearance NGO, the HALO Trust, during the early 1990s. Since then he has led numerous research and evaluation projects, typically working alongside small teams of Cambodians with a range of backgrounds and staying overnight in Khmer villages. Robin is currently a doctoral student at the Department of Human and Economic Geography at Gothenburg University. His PhD project is provisionally entitled "Poverty and Poverty Reduction: Land, Livelihoods and Development in Rural Cambodia".

land to poor people. The 2001 Land Law provided for re-distribution of State land to poor people through a mechanism called Social Land Concessions. This proposal was elaborated in the Social Land Concessions Sub-decree approved in 2003.

The results of the landlessness study demonstrate that this can only be a temporary and partial solution to the problem. The population of Cambodia is estimated to have nearly doubled since the distribution of agricultural land in 1979. Half of the population is under 15 years of age, which means that as these young people reach marrying age and try to establish new households and families the demand for agricultural land will increase further. Even if it were possible to increase the supply of agricultural land by 20% and allocate land to all of the currently landless, rural poor, one would still have a steady demand coming from these new families.

Furthermore, for those families who have lost their land, the underlying difficulties that led to their landlessness have not disappeared. They are still vulnerable, often hungry and, if faced by a crisis such as a serious illness, need to sell productive assets, including ultimately land. I know many families where children have been sent to the provincial town, adults have moved temporarily to Thailand or to Phnom Penh and small children and the remaining adults attempt to forage, hire out labour and grow what they can at home. Such households will not usually know in the morning what they are going to have to eat in the afternoon. There will be a jar of *prahoak* (pulverised, fermented fish paste) in the corner of the living room and they will hope to get something better than that during the day. Only in the time left over after they have earned

money and food would they be able to think of working on agricultural land – an investment of labour and money that would only yield rewards several months in the future, and only if the crop survived (which it may not if there is flooding or drought or a plague of rats or someone in the family gets ill at a time when the crops need tending etc).

For such families, a diversified livelihood, including regular waged labour opportunities, including sources of food that can easily be collected from nearby waterways and forests, including their own agricultural land would be an ideal. However, suddenly supplying agricultural land would not be the magic bullet that would provide the family with a sustainable livelihood.

Risks associated with programmes to supply land

The implications of the previous paragraph are clear. If there is a programme to distribute land to poor families there will be the double risk, on the one hand that land goes to better off families who already have land; on the other hand that it goes to poor families who are actually so poor that their hand-to-mouth existences preclude them from successfully becoming self-employed farmers on their own smallholdings.

These distributional issues are by no means the only risks. The temptation for any national official (not just in Cambodia) seeing issues of landlessness and population pressure is to look at a map and search out areas of low population density. It does not take many minutes before schemes to re-locate people en masse from densely populated lowland areas to relatively lightly populated areas are hatched. In the case of Cambodia this would imply a threat to both the nation's forest resources and to the livelihoods and cultures of native

ethnic minority groups who inhabit some of the least populated areas of the country. For the least scrupulous businessmen, a scheme to distribute land to poor people could provide the perfect cover to clear-cut high value timber in Cambodia's forests.

Another group of stakeholders who might be interested in programmes to distribute land might be current and former military. During the late 1990s the World Bank cooperated with the Royal Government of Cambodia in a demobilisation project. I remember sitting in a village with a couple of commune chiefs looking at television footage of 'soldiers' who were to be demobilised and the two of them joking about how those guys had just been recruited the previous week and would never have survived the sort of struggles they had known in the 1980s. A programme to distribute land to poor people, especially if it was backed with infrastructure investments and services to the poor, might be very attractive to the same generals, possibly even to settle the same soldiers on the same land as previously.

Why should land supply programmes be pursued?

Given the risks and difficulties outlined above, is there any sense in pursuing programmes to distribute land to poor people in Cambodia? Are there any circumstances in which such a programme might do more good than harm, and might benefit poor people rather than the better-off?

At the level of individual families, I would argue that the most important single issue is that families be allocated land close to where they currently live. That would enable them to take advantage of all of their current social networks, foraging sites



Palm leaf shacks, Bovil. Photo: Alexandra Kent

and employment opportunities in order to maintain their current livelihood: the land becomes an added extra that they can take advantage of as and when circumstances allow.

At the level of national country programmes, I would argue that the key issue is that surrounding the supply of land, which is of course a political decision. Prior to the passing of the Land Law and the Social Land Concession sub-decree there was no legal way for State land to pass into private ownership. That has not prevented powerful and well-connected people in the civilian and military authorities from acquiring control of large areas of land intended for the public good. If there was genuine and sustained political will to see that at least some of this land was redistributed, then there is a chance that significant benefits might accrue. This was exactly the intention encapsulated in the Royal Government of Cambodia edict issued on 10th May 2006

and explained by the Prime Minister in his speech on 29th May. Already in August 2006 I heard reports of one provincial governor seeking assistance from an NGO in order to convert land from a cancelled economic concession into a Social Land Concession project.

At least one human rights organisation has called for retributive justice – a bringing to book of all who have occupied State land illegally. This is clearly not realistic in the current political economy of Cambodia. The progress of Social Land Concessions, will, however provide some indications of the State's capacity to deliver redistributive justice, and of other actors to support it in that.

Key references

Asian Human Rights Commission, 2006. 'General Appeal: State repossession of illegally cleared and owned woodland must be transparent and unlawful owners punished' accessed at <http://www.ahrchk.net/ua/mainfile.php/2006/1849/> 6 September 2006

Biddulph, R. 1999. 'Making the Poor more visible: where has all the land gone? Vol. 4' Oxfam GB, Phnom Penh.

Hun Sen 2006 'Selected Comments at the Inauguration of New Buildings for the Ministry of Relations with the Parliament, Senate and Inspection, 29 May 06. Unofficial Translation' accessed at <http://www.cnv.org.kh/> 6 September 2006.

Continued from p. 7 T. Jacobsen

Notes

1 This figure has been hotly contested, ranging from 800,000 to 3.39 million deaths depending upon which statistical data is used and whether one considers deaths resulting from mismanagement of in addition to outright executions.

2 For more detailed information see Trudy Jacobsen, 'Paying Through the Nose: Punishment in the Cambodian Past and Lessons for the Present', *South East Asia Research* 13, 2 (July 2005): 235-256.

3 Vannak Huy, 'Opinion', *Cambodia Daily*, Monday, January 17, 2005.



Christine Nissen is currently finalising her M.A. thesis on local understandings of corruption in Cambodia at the Department of Ethnography and Social Anthropology, University of Aarhus, Denmark. She recently completed fieldwork in rural Cambodia, where she also worked for the Cambodian branch of Transparency International, the Center for Social Development in Cambodia for two and a half years. She co-initiated the network 'Languages of Corruption', which constitutes an ambitious attempt to strengthen and expand analytical and practical explorations of local understandings of corruption.

Corruption is 'cool'

Reflections on bureaucratic practices in Cambodia*

By Christine Nissen

On arrival at Phnom Penh's comfortable air-conditioned airport, you fill in the visa application forms and hand them over with US\$20 the first uniformed official in a row of officials seated behind a long desk. These officials fill in forms, write notes, use official stamps, check your photo against your passport and, finally one glues your visa into your passport. To ensure that everything follows correct procedures several superiors wearing jackets wander about inspecting every movement.

After making sure you have the right passport in your hand, you continue to one of the long lines waiting at the immigration desks, where new forms are filled in and the officer stamps your passport routinely. Here, again, a superior monitors the procedure. Finally, you may collect your luggage, pass the customs officials and step out of the airport into the arms of the airport service's taxi drivers who operate a smooth and comfortable service through the crowded streets of Phnom Penh.

All this seems ordered and well-managed. Yet what is *really* going on? After studying corruption in Cambodia for more than two and a half years I admit to thinking corruption into every observation. On several occasions, though, I have seen people discretely handing over alcohol or money to immigration officials. Having interviewed many civil servants and high-ranking officials, and having observed and studied corruption from the perspective of ordinary people in Cambodia, I know that not everything is what it appears to be; the airport's pleasant efficiency is a luxury for the few.

Hot and cold bureaucracy

An interview I did with Mr. Seima, a relatively high-ranking

official working for the provincial cabinet in a provincial capital, throws some light on the discrepancy between the observed and what is really going on.

The first time I interviewed Mr. Seima was at his air-conditioned office in a provincial department building. His answers were superficial and he appeared uncomfortable during the 30 minute interview. As we parted, Mr. Seima whispered, 'This was a formal interview, maybe you are also interested in an informal interview?'

Two days later, Mr. Seima invited me to visit him at his pleasant, two-storey concrete house where he lives with his wife, son and daughter-in-law. Mr. Seima offered me a glass of water, while looking anxiously around to check if anyone was watching us. I thanked him for inviting me and asked if he could explain what he had meant by an informal interview? Mr. Seima started explaining,

You see, there are two systems; the formal system and the informal system, they are different. Each department has a budget line for administration and so. Money from each department is budgeted but if they do not spend it all they spend it among themselves, among the provincial governor, this is corruption. The money comes to the department the right way, but

leaves it the wrong way. Not only for the administration but also for development projects. Each department makes a project proposal but when the money comes, they just want to save the money so they can share the rest among themselves and share with the provincial governor and their ministry.

This description details how the informal system functions within the official system, but in such a way that the official system is more of a screen, while the informal system is the place where everything can happen.

This description is confirmed by a male senator from Phnom Penh who, using the metaphor of a melting block of ice, likens corruption and the informal system to staying cold, contrary to the hot climate of Cambodia – a distinction that echoes the traditional Khmer bodily dichotomy of hot and cold:

You know, corruption is like buying a block of ice. First, it is delivered from the factory, the government, as a big block of ice, which you sign for in Phnom Penh. Then, when it's delivered at the ministry you sign for the same block even though it has melted a little on the way in the heat. Then you send it to the province where you again sign for the big block of ice, but now it is even smaller, and the same happens when it reaches the departments, the districts, and then maybe the commune office.

Everybody signs for the big block of ice even though it melts more and more for each level.

This description portrays corruption as the ability to afford to stay cool in contrast to the poor, who must work in the heat. The senator's story also renders the prosperous city as cooler than the poorer, hotter provinces. Further, it accords with Mr. Seima's description of the informal, 'cold' practice of corruption in the bureaucracy, like that described at the airport, which might not be as well controlled as it appears.

An institutionalised informal system of corruption operates within the framework of the formal system. This became clear when I asked Mr. Seima how it is possible to take money. He explained:

In order to make this the right way when writing the report, when accounting, and in the financial report, they get the National Audit Authority to check the reports. These auditors do not find the mistakes, but just correct the reports and then go home with a lot of money for themselves. This is how corruption works in the government. The amount depends on the budget in the department. The more a department has in the budget, the more they take.... Every department has to do this. This is corruption. [...] You know, I can show you, I have the papers at my office but it is difficult to see because they have corrected it all. I just have the papers to stamp them.

The informal system takes place in a 'cool' atmosphere, away from the hot public. However, for an outsider such as myself, members of the international donor community, and other foreigners it may be difficult to see what is really going on. In general, outsiders only meet bureaucracy in the airport, where it seems efficient. We do not have to 'work the system' as Cambodians do to get our children to school, secure



Monks receiving gifts. Photo: Christine Nissen

treatment at hospital, obtain a position in the civil service or a private company, gain access to a well, get an import/export license, acquire a birth or marriage certificate, or be permitted to sell products at the market. Ordinary Cambodians are not blind to the consequences of corruption as Mr. Narin, a secondary school teacher, complains: 'It [corruption] is the reason that the rain does not fall as it used to, and this is why it has become so hot in Cambodia. It destroys everything.' Corruption is commonly believed to be sucking up all the valuable cold, leaving ordinary people suffering in the heat.

Nursing networks to avoid the heat

This bureaucratic scam where nothing is as it seems from the 'outside' viewpoint is reinforced by Mr. Seima who ended our interview by highlighting the importance of creating networks:

Getting an appointment with an influential official, like a department chief, depends on your network. If you have relatives in the chief's network or have a good relationship then the appointment does not cost money. The department chiefs receive a great deal of money for appointments.

Those who do not have access to such networks are forced to either wait for a long time in the heat to get an appointment or a service done, or simply pay a bribe to avoid the heat.

It is important, therefore, to stay on good terms with patrons. At a rural pagoda I attended in the course of fieldwork the deputy governor of the district suddenly appeared with his wife and another high-ranking official. They were smartly dressed, with gold-rimmed glasses and watches. A layman greeted them over the loudspeakers and three chairs were placed in the shaded of the ceremony hall for them. None of them entered the hall. While they were seated, people approached them one by one, almost as in procession, and greeted them by holding their palms against each other in front of the chest/head and bending low in the traditional Khmer gesture of respect. My interpreter, Sen, and I also greeted them. I was surprised by Sen's apparent eagerness to show the deputy governor respect since he regularly complained about the deputy's abuse of

Continued on p. 22.



Heng Sreang is currently teaching philosophy at the Royal University of Phnom Penh (RUPP) and at Pannasastra University of Cambodia (PUC). He was awarded a Bachelor of Arts degree in philosophy by the Royal University of Phnom Penh in 1999 and was sponsored by the Catholic NGO *New Humanity* to study at the Ateneo de Manila University in the Philippines, where he received a Master of Arts in philosophy in 2004. In 2005 he followed the training programme offered by the Centre for Khmer Studies, Phnom Penh, entitled "Capacity Building in Cambodian Higher Education Programme". This programme focused on Contemporary Southeast Asia and included periods of fieldwork in Vietnam and Thailand.

Justice in Cambodia:

A short reflection on some obstacles to implementing 'justice' within the context of the law in present-day Cambodia

By Heng Sreang

Cambodia is perhaps best known for two things: Angkor Wat and Pol Pot's 'Killing Fields', in which several million people perished. In recent years, the country has also become notable for widespread of corruption, poverty, and violation of human rights.

Civil war and various domestic conflicts have helped destroy infrastructure, social structures, and legal systems and practices. Although since the end of civil war, laws have been passed and lawyers trained, the implementation of 'justice' is still poor. This paper examines some of the major obstacles that impede the implementation of justice in Cambodia. The first section discusses the way in which power and coercion are exercised, and the second explores 'traditional' approaches to conflict resolution.

Appeal to Power/Coercion

The use of coercive power to solve problems seems to be the first choice of the rich and powerful (*nak-mean-amnarch*). Since law is not systematically implemented, coercion and explicit/implicit threat provide effective ways of dealing with many problems. For example, the government recently ordered the arrests without trial of several human rights activists, the president of the Cambodian Independent Teachers' Association, the chief of the Cambodian Labour Union, the head of a local NGO that assists legal training for community development, and the head of a private radio station, for criticizing the government's handling of the border conflict with Vietnam in 2005. Those

who possess the power to do this kind of thing are usually able to manage their disputes without recourse to the legal system.¹

In this regard, titles are extremely important. Many people spend large sums of money on securing titles such as 'Excellency' (*Ek-udom*). This is particularly evident in ministries with executive power such as the Ministry of Interior, the Ministry of National Defense, and the Department of National Security. Some of the rich oligarchs have donated as much as US \$100,000 to public charities and been rewarded with the noble title of *Okgna*.² Lower ranking officials and police officers strive for military uniforms and stars on their shoulders. Some try to acquire plates for their cars with 'State Car' (*larn-reach-kar*) on them, or 'Royal Armed Forces', (*kang-khemarak-phou-min*), or 'Police Officer' (*noko-bal*).

Titles such as *Ek-udom* or *Okgna* bring prestige and security; no one dares interfere with or touch their holders – not even relatives or friends. A popular Khmer idiom is: 'before beating a dog, you should find out who the master is.' If a conflict arises involving either the titled person or someone closely connected to them, the powerful person usually uses their authority or that of the members of their network to

deal with the issue rather than calling the police.

Some of these powerful officials also use their authority to generate income. In exchange for payments, they may utilize their positions/names to help others who are facing disputes. They may appoint themselves as representative for an aggrieved party and undertake to handle the case. This is most effective since judges are unlikely to make any judgment that runs counter to the directives of a powerful person.

It is therefore important to try and establish connections, a *kse* (Khmer, string, suggesting here a 'pipeline' through which power flows), with *nak-mean-amnarch*. Those who have strong *kse* can have their disputes solved easily, either in the form of quick, direct compensation to a plaintiff, or in securing the 'innocence' of a criminal.

Another advantage of being an *Ek-udom* or *Okgna* is that these titles make it easy and safe to do business and escape tax. Many large businesses are under the names of *Okgnas*. Some companies belong to government officials, though they do not openly show their names since their positions are incompatible with their private businesses. Yet, they are known to have great influence and the tax authorities turn a blind eye to the doings of companies

known to be owned by *Ek-udoms* or *Okgnas*.

This system is pyramidal – with the most powerful patrons occupying the top positions. The highest leader is entitled to pass judgment and a superior's decision will not be questioned, however wrong it is thought to be. The demands of the inferior are subordinated or ignored, even though they may be justified. If debate about the authority or errors of a superior begins to surface, it is quickly quelled. In this context, justice exists in the mouth of the strong, who provide a shading 'umbrella', under which those who take refuge are afforded protection. As long as the patron does not object, then no matter what crimes the clients under his protection may have committed, no one will dare to take action against them. In other words, measures to tackle injustice can only be taken by the top leader(s) (*lok-thom*).

For years, Cambodians have been reticent in disclosing information about the secret trade in hard drugs. The authorities turned a blind eye, quite possibly out of fear for their personal security or for money. In 2003, a military general (who is now a member of the anti-corruption commission) was arrested by a daring senior police officer after the discovery of some 35 kilograms of heroin in his villa in Phnom Pen. However, the charges against him were later dropped and he was released by order from a high-ranking official on the grounds that the charges lacked evidence.³ Similarly, many cases of illegal loggings by senior government officials have been kept under cover. Global Witness, an NGO that kept a close eye on deforestation in Cambodia, was forced out of the country in

2002 for publishing a report that damaged the government's leaders' interests and reputation.⁴ The report was claimed to be an exaggeration that lacked evidence.

In recent months a few provincial military chief officers were in fact found guilty of ordering illegal felling of trees in the northeastern provinces of Steung Treng and Ratanakiri.⁵ However, this resulted from the combined efforts of several NGOs', local people who protested that the felling would lead to drought, and media reports demanding that the government take immediate action to stop the deforestation.

Traditional Approach to Conflict Resolution

Cambodia has a long history of practicing traditional forms of 'peaceful' compromise for solving disputes instead of seeking solutions within legal framework in the first instance. The Khmer term for justice (*yuttethor*) is a derivative of the Khmer word for *dharma* (*thor*). *Yuttethor* implies fairness, honesty and impartiality. Justice was traditionally carried out by a monk or elder in the local *wat* (Buddhist temple). Still to this day, people try to find means to compromise rather than going to the state authority. Even the local authorities normally follow this traditional approach to conflict resolution and try first to mediate between the conflicting parties rather than involving legal process. Only in the event of this failing do they usually recommend the disputing parties appeal to judicial authority.

In rural areas in cases of rape, for instance, the village chief often tries to reconcile the victim and the perpetrator; arguing perhaps that this is a 'good way' to avoid bringing a bad reputation to the victim and

their family. Similar arguments are used in relation to the Khmer Rouge leaders now due to face trial. Some claim they do not wish to hear their painful history again; 'let's leave their sins to karma'. Justice is thus delivered through karmic consequences.

In my e-mail interviews with eighteen Cambodians between August and September 2006, all respondents claimed that because of corruption, and their consequent distrust in state authority, traditional methods of conflict resolution would be their first choice. They contended that they would be satisfied if both parties could reach agreement. The Khmer concept of 'justice' is thus rooted more firmly in traditional, moral practices of mutual understanding and agreement than in state laws/legal practices.

However, the traditional approach to conflict resolution may justify corruption by reinforcing the use of power/coercion in solving disputes. This may not help improve respect for the law and human rights. For in cases involving the ruling urban elites, who have never followed the traditions of compromise and mutual understanding in relation to rural farmers, resolution of conflict means submission to their rule – rather than agreement on equal terms by both sides. This would seem to run counter to the efforts of NGOs, international donors, and modernist scholars and politicians to strengthen the rule of law in Cambodia.

Conclusion

Law enforcement in Cambodia is still far from effective, although laws exist on paper and the framework of a justice system has been established. Disputes are rarely resolved in a just way. Those higher up the hierarchy – the rich and those with strong connections – are virtually



Bullock cart laden with pottery. Photo: Alexandra Kent

untouchable. The system is deeply authoritarian. Courts can offer just solutions only in minor civil cases in which neither the defendants nor the plaintiffs can afford to bribe anyone. Court officials are empowered to dictate everything and thus also to whitewash cases.

In Cambodia today, the choice to take disputes to court results in victims of the system being treated unjustly. Traditional approaches may sometimes be worthwhile. Even if they fail, they do not imply economic risks for the disputing parties. The establishment of a genuinely independent judiciary that is not steered by political parties or bribes would, in my opinion, be the best option for Cambodian society.

Notes

¹ See, Prak Chan Thul. "Lecturer Ordered to Prison on 'Disinformation'." In *The Cambodia Daily* (Wednesday, 6 September 2006, p. 16). See also, Prak Chan Thul. "Lecturer Who Taught Own

Textbook Arrested." In *The Cambodia Daily* (Thursday, 7 September 2006, p. 17)

² The title 'oknea' was originally given by the king to people (normally royal officials) who had made some special contribution to their country; the title conferred certain privileges and immunity to low-level officialdom. Nowadays, the title is usually awarded to those who make large donations to charities (see also, Sophal Ear, 'The Political Economy of Aid, Governance, and Policy-Making: Cambodia in Global, National, and Sectoral Perspectives'. PhD Dissertation, University of California, Berkeley, 2006, p.121).

³ Erik Wasson and Prak Chan Thul. "Lack of Anti-Corruption Law Begets New Unit." In *The Cambodia Daily* (Tuesday, 5 September 2006, p. 12)

⁴ See, "Taking A Cut: Institutionalized Corruption and Illegal Logging in Cambodia's Aural Wildlife Sanctuary" (A Report by Global Witness, November 2004)

⁵ Van Roeun and Phann Ana. "Court Officials Investigating Logging in Ratanakiri." In *The Cambodia Daily* (Friday, 10 February 2006, p. 17)

Continued from p. 19. C. Nissen

power, land grabbing, and corrupt behaviour. When the three visitors left some 30 minutes later I asked Sen why he had been so respectful. He shrugged his shoulders and said, "That's just how you must behave." Smiling and paying respect to the 'rich' and 'powerful' does not denote trust but is simply a strategy for staying on good terms with influential patrons.

Conclusion

These brief stories betray a society deeply split into those who have access, through networks and corruption, to the efficient, 'cold' side of bureaucracy, while those who do not must smilingly suffer in the heat or avoid bureaucracy altogether. Even the smooth bureaucracy of the airport may be deceptive. Each time I extended my visa during my stay in Cambodia, the official told me to pay US\$ 145, gave me an official looking receipt with an official looking stamp to prove my payment; printed on the visa itself, however, was the word 'gratis.'

Note

*This article is based on anthropological fieldwork I undertook in two provinces in Cambodia from January to May 2004 under the title "The Impact of and Attitudes towards Corruption in Cambodia" in association with the Cambodian branch of Transparency International, Center for Social Development. All names used here are fictive

Continued from p. 9**L. McGrew**

About your question, I learned from Johan Galtung, that there are many kinds of reconciliation. To have reconciliation, the KRT needs to happen, as much knowledge can be gained and we must follow the law – when people do wrong things, they need to be punished, and you need to receive information that you have done this wrong thing.⁵

But, there have been conflicting views on how the trials can lead towards healing. Some mental health experts fear that the process of the trials and investigations will actually cause more re-traumatization than healing. Research discussed in the Stover and Weinstein multi-country study (2004) has shown that the degree of trauma suffered can affect people's attitudes towards justice and reconciliation. In any case, mental health services are woefully inadequate in Cambodia today, and the ECCC itself has limited capacity to provide any services. Thus it is extremely important that adequate counseling and mental health services be provided before, during and after the ECCC.

In conclusion, it is apparent from the above brief description of a very complex subject, that much more attention is needed to explore the links between justice, the ECCC and longer-term reconciliation. And in order to do so, much more consultation of the Cambodian people is required.

Notes

1 Documentation Center of Cambodia survey of 35 Cambodians, June 1997, www.dccam.org, also described in Jaya Ramji, 'Reclaiming Cambodian history: The case for a truth commission', 24 *Fletcher Forum of*

World Affairs 137, 2000; IFRASORC (Institut Français de la Statistique, de Sondage d'Opinion de Recherche sur le

Cambodge, national survey of 1,503 Cambodians, 1998; Cambodian Human Rights Action Committee, petition calling for KRT signed by more than 100,000 Cambodians; *Cambodia Daily*, informal survey of 24 rural Cambodians, January 12-13, 2000; the Center for Social Development undertook three public forum to discuss the KRT in 2000; Laura McGrew, *Truth, Justice, Reconciliation and Peace in Cambodia: 20 years after the Khmer Rouge*, www.advocacynet.org, (February 2000), full report available from the author, lamcgrew@igc.org, written survey of 48 Cambodians and focus groups and individual interviews of 50 additional Cambodians; Suzannah Linton, *Reconciliation in Cambodia*, Phnom Penh: Documentation Center of Cambodia, Documentation Series No. 5, (2004). Reports on DC-Cam nationwide survey distributed through monthly magazine, between January and September 2002, 712 respondents; Khmer Institute of Democracy, 'Survey on the Khmer Rouge Regime and the Khmer Rouge Trial.' www.dccam.org; KID, October 2004, www.online.com.kh/users/kid, conducted 536 interviews.

2 Statement made by civil society leader at a meeting on reconciliation, 15 August 2006.

3 Author's interview with IO staff person, 21 August 2006.

4 Author's interview with NGO staff person, 10 August 2006.

5 Statement made by IO staff person at a meeting on reconciliation, 15 August 2006.

References

Galtung, Johan (2001) 'After Violence, Reconstruction, Reconciliation and Resolution: Coping with Visible and Invisible Effects of War and Violence', in Mohammed Abu-Nimer, *Reconciliation, Justice and Coexistence: Theory and Practice*, Lanham: Lexington Books.

Hun Sen (2000) Prime Minister of the Royal Government of Cambodia, 'Speech at the Third Asian-German Editors Forum', Hotel Le Royale, January 31, unofficial translation.

Kriesberg, Louis (2001) 'Changing Forms of Coexistence', in Mohammed Abu-Nimer, *Reconciliation, Justice and Coexistence: Theory and Practice*, Lanham: Lexington Books.

Lambourne, Wendy (2004) 'Post-Conflict Peacebuilding: Meeting Human Needs for Justice and Reconciliation', *Peace, Conflict and Development*, 6 (Issue 4, April).

McGrew, Laura (2000) 'Truth, Justice, Reconciliation and Peace in Cambodia: 20 years after the Khmer Rouge', www.advocacynet.org, February.

Montville, Joseph V. (2001) 'Justice and the Burdens of History', in Mohammed Abu-Nimer, *Reconciliation, Justice and Coexistence: Theory and Practice*, Lanham: Lexington Books.

Stover, Eric and Weinstein, Harvey M. (2004) *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*, Cambridge: Cambridge University Press.



Temple pond, Bovil. Photo: Alexandra Kent

Your gateway to *Asia*

NIAS SUPRA



The NIAS SUPRA programme offers scholarships and research facilities to PhD and MA students in the Nordic region

NIAS SUPRA scholarships:

- Nordic Scholarships – research at NIAS, all expenses paid!
- Öresund Scholarships – research at NIAS for students from the Öresund region, daily commuting costs from Sweden paid!

NIAS SUPRA possibilities:

- Thesis advice
- Courses and workshops
- Learn about publishing (NIAS Press)
- Free subscription to *NIAS Nytt – Asia Insights*
- 'Work place' at NIAS
- Media support

Further information:
Visit NIAS:

www.nias.ku.dk/SUPRA
Leifsgade 33 • DK-2300 Copenhagen S • Denmark

Staff news



A warm welcome to **Karen Mikkelsen**, who joined NIAS Press on 1 August. Like all Press staff, she needs to handle a multitude of tasks at the same time but especially those relating to sales, distribution and new title acquisitions.

Karen brings a wide range of experience and languages to the Press from both the academic and commercial worlds. It remains to be seen how much we can indulge her passion for visiting foreign countries.



Maria Pi Højlund Nielsen, studies at the Department of Anthropology at Copenhagen University. She is writing her MA thesis on *Urbanism in China. Private Property & Rights: Defending places to Live and Spaces of Memories*. She has a study place at NIAS until February 2007.



Lisbeth Vestergaard has a Bachelor degree in Japanese Studies and Scandinavian Cultural Studies from Aarhus University and is studying International Relations and Development at Aalborg University, Institute for History, International and Social Studies. At NIAS (October 2006–May 2007), she will be writing her MA thesis, based on material collected on a recent field study. Her topic is on 'Ethnic minorities in Vietnam and their involvement in nation building'.



Martin Bech is working as a project coordinator for the Asian Century Research School Network (ACRSN) and organizes many of NIAS's external activities including communication and press contact. Furthermore, he helps develop the NNC partnership and related network activities in the business sector and among student communities.

Martin's blogspot: <http://acrsn.blogspot.com>.



Henrik Kloppenborg Møller has a work place at NIAS in September 2006–January 2007. He is a student at Copenhagen University's Institute of Anthropology, and did a 7-month fieldwork in Shanghai. His MA thesis has the working title *'This Market Is Abnormal': On the Negotiations of Social and Economic Values and Positions among Migrant Vendors at a Shanghai 'Fake' Commodity Market*.

Recent visitors



Dr **Shashi Tharoor**, India's candidate for the post as UN Secretary General after Kofi Annan, visited NIAS in August. He gave a seminar presentation on *The Future of the UN - An Asian Perspective*, at the Danish Institute for International Studies (DIIS),

Dr Tharoor is UN Under-Secretary-General for Communications and Public Information and has led the Department of Public Information (DPI) since January 2001. In this capacity, he is in charge of the Organization's communications strategy, with particular responsibility for ensuring the coherence and effectiveness of the United Nations' external message.

Südostasien *aktuell*

Journal of Current Southeast Asian Affairs

Call for Papers

Südostasien aktuell – *Journal of Current Southeast Asian Affairs* is an internationally refereed academic journal published by the Institute of Asian Affairs (part of GIGA German Institute of Global and Area Studies), Hamburg. The bimonthly journal focuses on current developments in Southeast Asia. It has a circulation of 750 copies and reaches a broad readership in the academia, administration and business circles. Articles to be published should be written in German or English and submitted exclusively to this publication.

Südostasien aktuell is devoted to the transfer of scholarly insights to a wide audience. The topics covered should therefore not only be orientated towards specialists in Southeast Asian affairs, but should also be of relevance to readers with a practical interest in the region.

The editors welcome contributions on contemporary Southeast Asia that are concerned with the fields of international relations, politics, economics, society, education, environment or law. Articles should be theoretically grounded, empirically sound and reflect the state of the art in contemporary Southeast Asian studies.

All manuscripts will be peer-reviewed for acceptance. The editors respond within three months. Research articles should not exceed 10,000 words (incl. footnotes and references). Manuscripts should be submitted to the editors in electronic form: suedostasien-aktuell@giga-hamburg.de. For detailed submission guidelines see: www.giga-hamburg.de/ifa/stylesheet.

Recent topics:

- *ASEAN: Cooperative Disaster Relief after the Tsunami*
 - *Confronting the Past – The Difficult Road to Accountability in East Timor*
 - *Burma: Drug Control Progress and Possibilities*
-

Editors: Marco Bunte • Howard Loewen

Institute of Asian Affairs
GIGA German Institute of Global and Area Studies
Rothenbaumchaussee 32 • 20148 Hamburg • Germany
Phone: +49 40 4288740 • Fax: +49 40 4107945
Website: www.giga-hamburg.de



Japan *aktuell*

Journal of Current Japanese Affairs

Call for Papers

JAPAN aktuell – *Journal of Current Japanese Affairs* is an internationally refereed academic journal published by the Institute of Asian Affairs (part of GIGA German Institute of Global and Area Studies), Hamburg. The bimonthly journal focuses on current developments in Japan. It has a circulation of 500 copies and reaches a broad readership in the academia, administration and business circles. Articles to be published should be written in German or English and submitted exclusively to this publication.

JAPAN aktuell is devoted to the transfer of scholarly insights to a wide audience. The topics covered should therefore not only be orientated towards specialists in Japanese affairs, but should also be of relevance to readers with a practical interest in the region.

The editors welcome contributions on contemporary Japan that are concerned with the fields of international relations, politics, economics, society, education, environment or law. Articles should be theoretically grounded, empirically sound and reflect the state of the art in contemporary Japanese studies.

All manuscripts will be peer-reviewed for acceptance. The editors respond within three months. Research articles should not exceed 10,000 words (incl. footnotes and references). Manuscripts should be submitted to the editors in electronic form: japan-aktuell@giga-hamburg.de. For detailed submission guidelines see: www.giga-hamburg.de/ifa/stylesheet.

Recent topics:

- *Japan's leading role and EU influence on financial integration in East Asia*
 - *Economic mega trends in Japan and their implications for the industrial structure [in German]*
 - *Japan's securitization towards North Korea [in German]*
-

Editors: Anja Walke • Dirk Nabers

Institute of Asian Affairs

GIGA German Institute of Global and Area Studies

Rothenbaumchaussee 32 • 20148 Hamburg • Germany

Phone: +49 40 4288740 • Fax: +49 40 4107945

Website: www.giga-hamburg.de



Recent visitors



Johanna Nilsson from the Faculty of Law, Lund University, had a SUPRA Øresund Scholarship in June–July. She is writing an MA-thesis on *Implementing the Right to Reproductive Choice in Indonesia*.



Md. Munjur E. Moula from the Department of Social Policy, University of Helsinki, held a SUPRA Nordic Scholarship in June–July. He is working on a Ph.D. thesis on *Services for the Street Children in Bangladesh*.



Ingrid Jæger from the Institute of Anthropology, University of Bergen, held a SUPRA Nordic Scholarship in October. She is writing an MA thesis on *The Impact of Modernity on the Ageing Ladakhi Population*.



Professor Anthony P. D'Costa Worked at NIAS in September. He also participated in the “New Asian Dynamics in Science, Technology and Innovation” conference in Gilleleje, 27–29 September, where he gave a presentation on *Exports, Institutional Architecture, and Innovation Challenges in Bangalore's (and India's) IT Industry*.



Lena Lindberg from the Department of Human and Economic Geography, Göteborg University, and **Bjarne Skov** from the Department of Cultural and Oriental Studies, University of Oslo, each held a SUPRA Nordic Scholarship in August. Lena is working on a Ph.D. project on *The Regionalisation Process in Southeast Asia: Economic and Spatial Outcomes of Current Integration and Cooperation Schemes*. Bjarne is writing an MA thesis on *My Homeland Punjab – Values and Attitudes in Urdu Textbooks from 1st to 5th Grades in Pakistani Government Schools*.



Dr. Nicola Piper worked at NIAS, and was also a visiting scholar at the Centre for East and South-East Asian Studies, Lund University, in September 2006. Nicola Piper is Senior Research Fellow at the Asia Research Institute, National University of Singapore. She is currently working on a book manuscript co-authored with Prof. Jean Grugel, entitled *Marginalising the Many: Critical Perspectives on Liberal Global Governance*.



Jenni Mölkänen from the Department of Social and Cultural Anthropology, University of Helsinki, held a SUPRA Nordic Scholarship in November. She is working on her MA thesis on *State Formation and Ways of Governance in Indonesia*.



Milena Atanasova from the Centre for East and South-East Asian Studies, Lund University, held a SUPRA Øresund Scholarship in September–October. She is writing an MA thesis on *Himalayan Realities – Gender, Buddhism and the Challenge of Change in Bhutan*.



Lars Barsballe from the Institute of Political Science, University of Aarhus, held a SUPRA Nordic Scholarship in September. Lars Barsballe is writing an MA thesis on *U.S.-China Relations during the Carter Presidency*.



Inga Fritzen Buan from the Centre for Development and the Environment, University of Oslo, had a SUPRA Nordic Scholarship in August–September. She is writing an MA thesis on *Development First, Then Environment? Incentives and Disincentives for China to Clean Up its Act: The Case of Shanghai Jiading Industrial Zone*.



Jasmin Lorch visited NIAS on a SUPRA scholarship in November 2006. She is a doctoral candidate at the Albert-Ludwigs-Universität Freiburg and a member of the Finland-based Conflict Transformation Group.

Jasmin's PhD thesis focuses on the question of what kind of state constitutes what kind of civil society, using Vietnam and Bangladesh as case studies.

While at NIAS, she worked on two articles on Burma/Myanmar with Timo Kivimäki.



Hanne Louise Svane from the Institute of Social Anthropology, University of Bergen, had a SUPRA Nordic Scholarship, and **Kamila Szczepanska** from the Centre for East and South-East Asian Studies, Lund University, had a SUPRA Öresund Scholarship in September. Hanne Louise is writing an MA thesis on *Handling of Identity among the Shan in Ban Kung Mai Sak, Northern Thailand*, and Kamila's MA topic is *Towards Becoming a "Normal Country". Historical Revisionism and Sino-Japanese Relations in the Koizumi Era*.



Markku Heiskanen, Associate Senior Fellow, visited NIAS in November. His work concentrated on a project comparing the Åland experience and the territorial issue of the Kurile islands between Japan and Russia. The project is coordinated by the CPAS (Center for Pacific Asia Studies) of Stockholm University and University of Waterloo, Ontario, Canada. Participants in the project are renowned experts from Japan, Russia, United States, Canada, Sweden and Finland.



Alan Aguilar from the Department of Political Science, University of Oslo, and **Else Mejer** from the Department of Political Science, University of Aarhus, had each a SUPRA Nordic Scholarship in September–October. Alan's MA thesis is on *Peace and Security in the Asia-Pacific: The Asian Way of Diplomacy*; Else's MA thesis is on *Chinese Security Policy in Relation to the US and Japan*.

The Asia Intelligence Service

10-day free evaluation opportunity

AsiaInt's 'Asia Intelligence Service' is a comprehensive information resource for everyone with professional or business interests in Asia. It comprises two 'monthly reviews', a weekly briefing service, special reports, and 24/7 access to the AsiaInt on-line intelligence database.

You may register for a 10-day free evaluation by visiting <http://www.asiaint.com> and selecting the free-registration link.

Asia Intelligence Ltd, 33 Southwick St, London, W2 1JQ, +44-20-7402-4044

Fuhui Li from the Institute for Educational Research, University of Oslo, and **Sisko Luoto** from the Department of History, University of Oulu, held each a SUPRA Nordic Scholarship in October. Fuhui Li's MA thesis is called *A Comparative Study of School Leadership Training in China and the USA*. Sisko is writing her MA thesis on *The Image of Korea by the American Missionaries during the Sino-Japanese War, 1894–1895*.



NUMBER 9-10 NOW AVAILABLE

Moussons

**Social Science Research on Southeast Asia
Recherche en sciences humaines sur l'Asie du Sud-Est**

SPECIAL ISSUE

AGRICULTURE IN SOUTHEAST ASIA AN UPDATE

(Guest Editor: Marc Dufumier)

**Fourteen Contributions in English on Indonesia,
Thailand, Laos, Vietnam, Cambodia, the Philippines**

COMPTE RENDUS / *REVIEWS*

SALES & SUBSCRIPTIONS

EDISUD, La Calade, RN 7, 13090 Aix-en-Provence, France
Ph.: 33-(0)4-42216144 - Fax: 33-(0)4-42215620
www.edisud.com - E-mail: commercial@edisud.com

**Subscription: 30.50 euros
Back issues: 18.30 euros**

MOUSSONS, c/o IRSEA, Maison Asie Pacifique
Université de Provence, 3, place Victor-Hugo, 13003 Marseilles, France
Ph.: 33-(0)491106114 - Fax: 33-(0)491106115
E-mail: moussons@newsup.univ-mrs.fr

Forthcoming Cambodian studies from NIAS Press

LOST GODDESSES

The Denial of Female Power in Cambodian History
Trudy Jacobsen

- ☒ First study to address the place of women in Cambodian history.
- ☒ Revises accepted perspectives in the history and geopolitical organization of Cambodia since c. 230 C.E.

Women had a high status in pre-modern Southeast Asia; this is constantly stated, especially in relation to discussions on the status of women today in the region. Why, then, is it that the position of women there today is far from equitable? Few studies have examined how or when - let alone why - this change came about.

In a narrative and visual tour de force, Trudy Jacobsen examines the relationship between women and power in Cambodian history. Here, she seeks to describe when and why the status of women changed and what factors contributed to these changes. Although Cambodian women have been represented at different times as 'powerless' in western analyses, the author argues that they have continued to exercise authority outside those areas of concern to western constructs of power.

Gendering Asia, 3
 April 2007, 336 pp., illus.
 Pbk • 978-87-7694-001-0 • £16.99, \$35

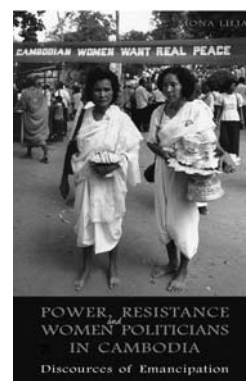
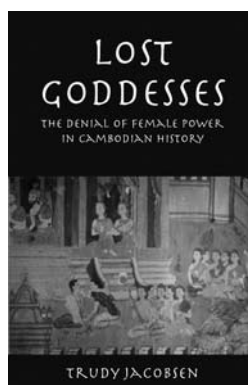
POWER, RESISTANCE AND WOMEN POLITICIANS IN CAMBODIA

Discourses of Emancipation
Mona Lilja

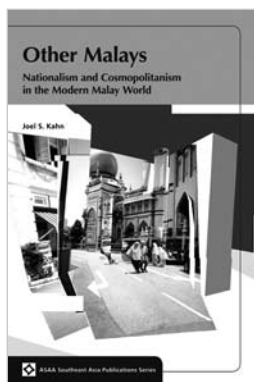
- ☒ Gives a unique insight into the political struggles of Cambodian women.
- ☒ Offers new insights to studies of power.
- ☒ Extends the concept of resistance and creates a framework of analysis that will inspire researchers in other fields.

In a world where there are few women politicians, Cambodia is still noticeable as a country where strong cultural and societal forces act to subjugate women and limit their political opportunities. This book focuses on Cambodian female politicians and the strategies they deploy in their attempts to destabilize the cultural boundaries and hierarchies that restrain them. In particular, the book focuses on how women use discourses and identities as means of resistance, a concept only recently of wide interest among scholars studying power.

NIAS Monographs, 108
 June 2007, 224 pp., illus.
 Hbk • 978-87-91114-71-7 • £40, \$70



now available



OTHER MALAYS

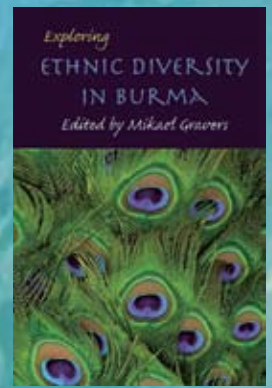
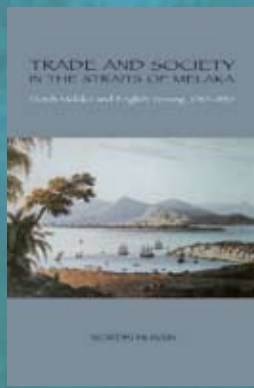
Nationalism and Cosmopolitanism in the Modern Malay World
Joel S. Kahn

- ☒ A stimulating new reading of constructions of ethnicity in Malaysia and Singapore.
- ☒ Important contribution to understanding the powerful linkages between ethnicity, religious reform, identity and nationalism in multi-ethnic Southeast Asia.

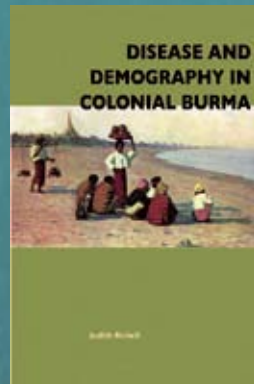
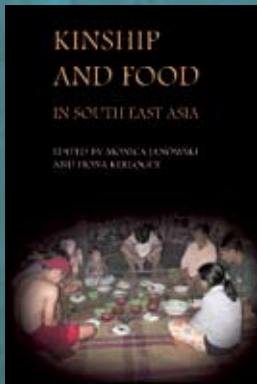
The narrative of Malay identity devised by Malay nationals, writers and filmmakers in the late colonial period associated Malayness with the village or *kampung*, envisaged as static, ethnically homogenous, rural, etc. Joel Kahn challenges the *kampung* version of Malayness, arguing that it ignores the immigration of Malays from outside the peninsula to participate in trade and commercial agriculture, the substantial Malay population in towns and cities, and the reformist Muslims who argued for a common bond in Islam. Owing to a rising dissatisfaction with the established order and new modernist sensitivities, especially among the younger generation, the author argues that it is time to revisit the alternative, more cosmopolitan narrative of Malayness. '[T]he questions Kahn asks are the important ones, and the material is drawn together in quite new ways' (Janet Carsten, University of Edinburgh).

ASAA Southeast Asia Publications series
 August 2006, 248 pp., maps
 Pbk • 978-87-7694-007-2 • £14.99

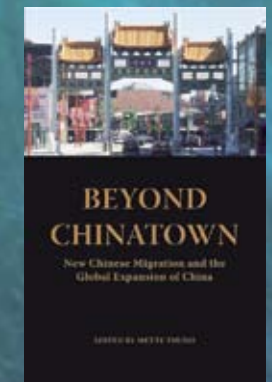
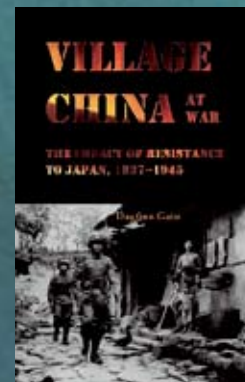
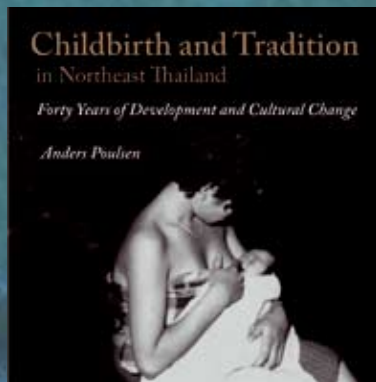
Sorry if your Christmas card is late. We are rather busy.



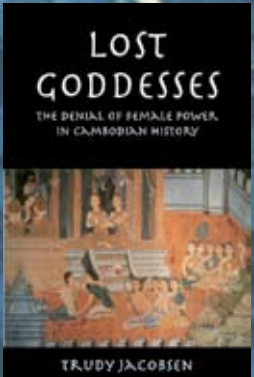
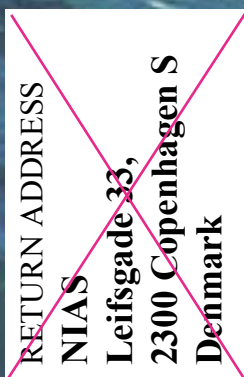
On their way – copies available late January



More details at www.niaspress.dk



Nearing completion – copies available in spring 2007



In the meantime, Merry Christmas.

nias PRESS