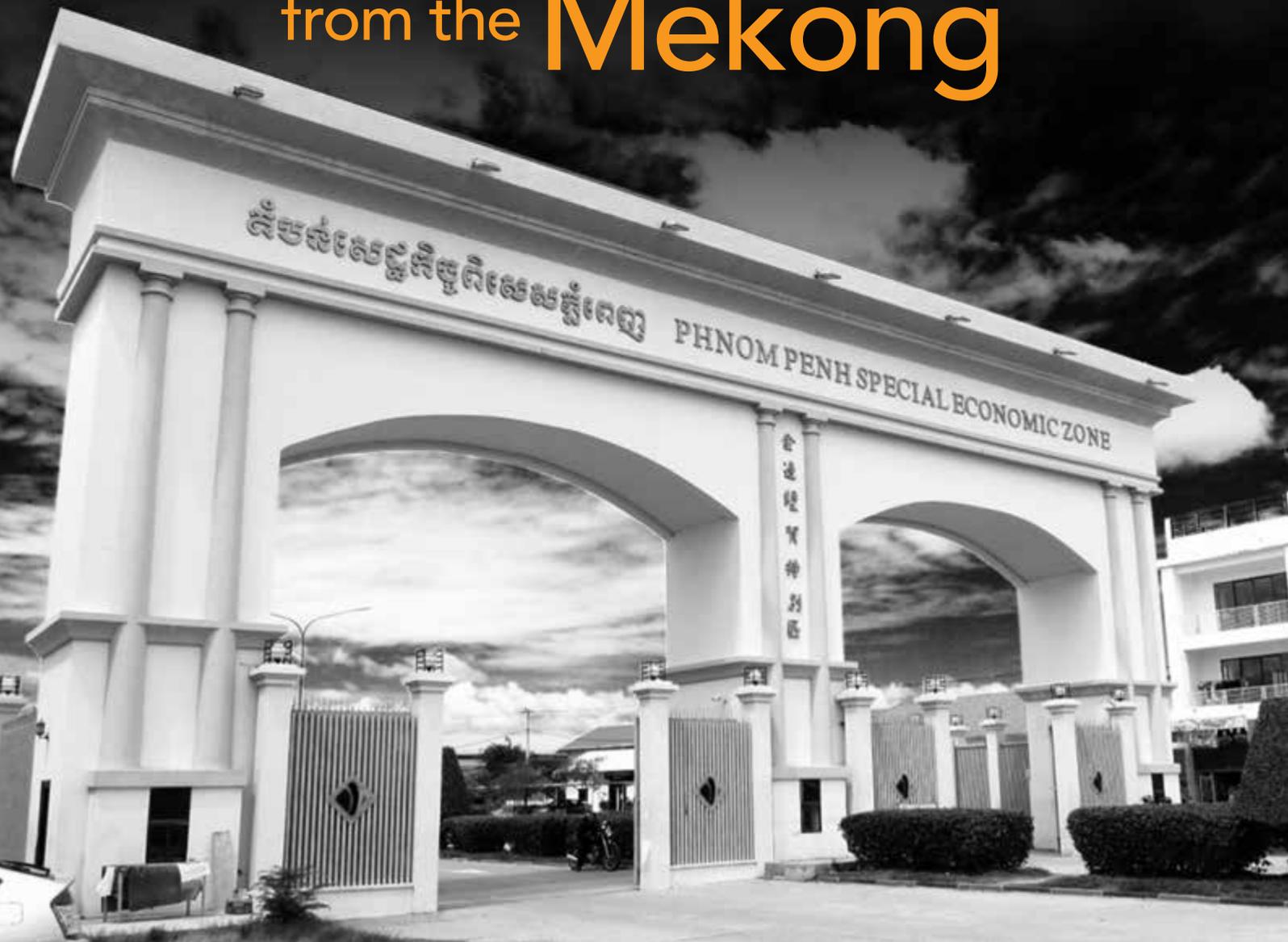


SEZs and Value Extraction from the Mekong



A Case Study on the Control and Exploitation
of Land and Labour in Cambodia and Myanmar's
Special Economic Zones

JULY 2017

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ON THE
GLOBAL
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Title

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Gates to Phnom Penh Special Economic Zone

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(First) Dawei small port
(Second) ITD worksite
(Third) Dawei small port
(Fourth) Dawei landscape

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EXECUTIVE SUMMARY

Special Economic Zones (SEZs) have been built worldwide since the 1960s to facilitate global free trade and integrate developing countries into global production and distribution networks, and have been mushrooming in Southeast Asia in recent years. They remain controversial, and are attracting growing interest from policy makers, investors, civil society, and the general public. Supporters praise them for spurring foreign investment, creating jobs, building infrastructure, and helping host countries to diversify their economies; critics argue that they entail more costs than benefits, negatively impact local communities, undermine workers' rights, and cause environmental harm and degradation. Asking why, and to what end, SEZs are being developed in the Mekong, this study develops two case studies of special economic zones in Cambodia and Myanmar, of the incentives and assurances offered to investors weighed against the protection and benefits to local communities, workers, and the environment.

It finds that SEZs have played a central role in the Greater Mekong Subregion Economic Cooperation Scheme (GMS-ECP) since the mid-1990s, a regional integration and development model of the Asian Development Bank (ADB); and are being integrated into China's One Belt, One Road initiative. Although generous enticements and guarantees are



ITD worksite (July 2017) Photo by Ridan Sun

offered to investors, similar commitments have not been extended to locals. While national and international laws and standards pertaining to land, labour rights, and environmental protection officially apply to SEZs, they have not been implemented effectively. SEZs have been developed with limited transparency and locals have been displaced without proper consultation and adequate redress. Workers face obstacles protecting rights they are entitled to under domestic and international law, and have been violently suppressed for asserting them. Environmental impact assessments have not always met international standards, and environmental regulations have been enforced selectively in some zones.

The study concludes that the legislative and governance structures covering the development and operation of SEZs have been skewed toward the interests of investors and against those of locals and the environment. It contends that SEZs have been used as tools enabling investors to capture and exploit Cambodia and Myanmar's most productive assets, their land and labour, and are facilitating the financial extraction of value from the Mekong. It also suggests that weaknesses in SEZ governance structures, and the lack of transparency and accountability in the development and administration of the zones, are heightening the risk of capture of the state by political and economic elites: whereby public power may be exercised for private gain, and preferential treatment for certain individuals or firms is woven into the institutional framework of a state.

Affirming that SEZs are essentially policy tools that can be wielded to different ends using various means, the study recommends that: 1. SEZ legislative and governance framework be revised to mediate interests of investors and locals more sustainably and fairly; 2. Governments reduce their reliance on foreign investments in land and labour intensive industries, and instead invest in local industries and public infrastructure; 3. Governments meet international standards of transparency and accountability in SEZ investment and governance arrangements to mitigate the threat of capture of the state and minimize further financial extraction of value from the region; 4. Civil society continue to work with communities affected by SEZs and engage with public officials and the private sector, as well as holding misfeasors to account. Civil society could also develop new strategies to deal with more recalcitrant stakeholders, to contribute to a more equitable and liveable region for its inhabitants.

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Dawei small port (July 2017) Photo by Ridan Sun

INTRODUCTION

Purpose and Methodology

This paper has been written for Focus on the Global South as part of a series exploring trans-boundary investment trends in the Mekong region. To this end, it develops two case studies of Special Economic Zones (SEZs) in Cambodia and Myanmar, focusing on rights and protections offered to investors compared with rights and protections offered to affected communities and workers. The primary purpose of the paper is to explore and show the impact of investment policies in the Mekong region on social and economic policy, using SEZs as an area of study, to better understand support given to investors weighed against the support and benefits given to local people. Following a background section that introduces readers to the Mekong region and the concept of special economic zones, Part 1 presents a case study of Cambodia's SEZs with a focus on Phnom Penh SEZ and Sihanoukville SEZ. Part 2 presents a case study of Myanmar's SEZs with a focus on Dawei SEZ. Both case studies are based upon findings from interviews and focus group discussions, supported where appropriate by findings from document review and desktop research. Drawing on these findings, Part 3 includes analysis and discussion of thematic areas from a regional perspective. Findings are summarised in the conclusion.

Focus on the Global South is a non-governmental research and advocacy organisation which works with a range of actors including civil society organisations, social movements, academics, researchers, policy makers, and local communities. Rather than speak on their behalf, the organisation strives to amplify the voices of these communities, social movements, and civil society; the structure of the report seeks to reflect this. Parts 1 and 2 presents the views of respondents from the two case studies, which grounds the regional and thematic analysis developed in Part 3. Findings are summarised in the Conclusion, followed by recommendations for the governments of Cambodia and Myanmar, and for civil society.

A scoping study was conducted by Focus in June 2016 to consult key stakeholders, delineate parameters of the research, and identify potential respondents. Findings and recommendations were circulated internally among Focus's partners and a shortlist of respondents was developed by the author based on the scoping study and his own network of contacts. Additional respondents in the public and private sector were included for balance and objectivity, and interviewees were invited to participate in the study by the author, Focus staff, or by local partners. The author conducted field visits to SEZs in Cambodia (Sihanoukville and Phnom Penh) and Myanmar (Dawei) in July and August 2016, with document review and desktop research conducted both before and after fieldwork to supplement and build upon a range of prior research and broaden the

study's empirical base. The Myanmar case study builds upon numerous earlier studies, and draws upon further primary data collection previously conducted by local civil society organisations.

Sixty respondents directly contributed to the study and hundreds of documents were reviewed. A total of 27 respondents were from Cambodia. Two focus group discussions were held with 15 workers (f=7, m=8) from Sihanoukville SEZ and Phnom Penh SEZs. In addition, semi-structured key informant interviews were conducted with three labour union representatives, seven Non Governmental Organisations (NGOs), two staff members from a government-related organisation, and one industry representative.¹ In Myanmar, there were 29 respondents. One focus group discussion was held with 12 respondents (m=11, f=1) from a village directly affected by the construction of the Dawei SEZ.² Nine interviews were held with NGO representatives, one with an industry representative, two officials from the Tanintharyi regional government, one advisor to the National League for Democracy (NLD) government, one academic based outside the country, one investment advisor, one former Thai Human Rights Commissioner, and one independent researcher.³ Interviews were also held with four NGO representatives in Bangkok to address regional issues and to include respondents based outside Cambodia and Myanmar who had first-hand experience with either Cambodia and/or Myanmar's SEZs.

Aims and objectives of the research were explained to participants, including the voluntary nature of participation, and verbal consent to participate obtained, before focus groups and interviews. Due to the sensitivity of the topics discussed, potential impact on their work, and the poor and deteriorating conditions for human rights defenders in the region, respondents participated anonymously in the study.⁴ Respondents were assured that any quotes attributed to them in the report would only be attributed to, for example, "a female worker in Sihanoukville SEZ", or "a male villager in Dawei SEZ affected area", or "a female NGO representative in Yangon" to protect their identity and minimise the risk of recriminations. A full de-identified list of respondents to the study can be found in the Appendix. A draft report was completed in December 2016 and circulated among respondents for feedback. Further consultations were held by Focus with partners and respondents in Myanmar, Cambodia, and Thailand in March, April, and May. Revisions were made during June and July 2017, and a final draft incorporating comments and feedback completed in July 2017.

Background

The Mekong

The Mekong is a region of remarkable cultural, ethnic, linguistic, and biological diversity, populated by some 330 million people from hundreds of ethnic groups. The region has been called Asia's "rice bowl" and its "fish basket" with approximately 80 percent of the population reliant on forestry, fisheries, or agriculture for their livelihoods at a subsistence or near-subsistence level, sustained by the Mekong river and its tributaries.

Since the end of the Cold War, concerted efforts have been made by various actors and institutions to support development of the region through industrialisation and economic integration.⁵ One vehicle driving such efforts has been the Greater Mekong Subregion Economic Cooperation Program (GMS-ECP), established in 1992 by the six states in the region—Myanmar, Thailand, Cambodia, Laos, China, and Vietnam—with the support of the Asian Development Bank (ADB), a Japanese-led multilateral financial institution. The GMS-ECP is essentially an investment-promotion programme that seeks to establish favourable conditions for the private sector through multilateral investments in infrastructure, trade, and tourism across contiguous sub regions, with the aim of increasing employment, generating



Figure 1: The Mekong Region (Demis Map Server)



Figure 2: GMS “Economic Corridors” (ADB)

income, and reducing poverty. Five of the six GMS-ECP (hereafter GMS) States are also members of the Association of Southeast Asian Nations (ASEAN). These are two highly complementary organisations which both aim to create a single market and production base in the Mekong region and Southeast Asia more broadly through the elimination of tariff and non-tariff barriers to intra-regional trade, and the integration of GMS economies into regional and global production networks and markets.

To this end, a range of trade-liberalisation agreements have been formalised, backed by significant investment in infrastructure, including roads, railways, ports, bridges, power stations, high-voltage transmission lines, and telecommunications. The ADB has supported these with \$6.7 billion in investment loans and \$124.9



Figure 4: Number of SEZs Worldwide 1959-2015 (The Economist)

The crucial difference between modern and pre-modern zones are that free ports (ancient and modern) are designed to facilitate international trade through the suspension of customs duties and taxes, while many modern SEZs are principally designed as Export Processing Zones (EPZs) to encourage industrial production, primarily for export to international markets. In addition to a dedicated governance structure to administrate the territory, SEZs are also distinguished from other types of zones, such as industrial zones, by the extension of relaxed taxation and administrative regulations to investment arrangements, management practices, and labour laws.

The first modern SEZ is generally regarded to be Shannon Free Zone, established in Ireland in 1959, with Kandla SEZ in India the first in Asia (1965).¹³ Taiwan established Kaohsiung EPZ in 1966 and South Korea established Masan EPZ in 1970.¹⁴ Promoted in the 1970s by United Nations (UN) organs United Nations Industrial Development Organisation (UNIDO) and the United Nations Conference on Trade and Development (UNCTAD),¹⁵ and by AMPO, an English language periodical published by Japan's Pacific Asia Resource Centre,¹⁶ many more EPZs followed across Asia in the 1970s as countries in the region (e.g. Thailand, Malaysia, Sri Lanka, the Philippines) began to transition from import-substitution to export-oriented growth strategies to encourage industrialisation and development.¹⁷ This transition reflected a worldwide trend in the 1970s and 80s towards promotion of global free trade, led primarily by the Global North, and spurred by neoliberal economic and political reforms undertaken domestically in the United Kingdom and United States.

Whereas in the 1950s and 1960s development was thought to largely depend on the state, which would promote modern industries over agriculture through direct ownership or protection and subsidies, free marketeers advocating privatisation and market incentives to spur growth later gained the upper hand.¹⁸ Import-substitution protects national industries through trade restrictions, while export-promotion strategies incentivise manufacturers to produce for export through tariff and custom incentives.¹⁹ A major attraction of SEZs was that they allowed countries to experiment with the latter without abandoning the former, serving as a tool that allowed states to carve out areas within their territory so that free-trade policies could be applied in relative isolation from the broader economy. The clearest example of this application of SEZs as an experimental tool for policy reform is that of Shenzhen SEZ, established by China in 1979 as part of its

'open door' policy. Four SEZs, including Shenzhen, opened doors to foreign companies to do business in China within demarcated areas, allowing the government to experiment with market-oriented reforms before rolling them out nationwide.²⁰ China has since recorded record levels of economic growth and industrialisation for various reasons, but the perceived success of Shenzhen SEZ has served as a siren call for policy makers in other countries keen to industrialise to mimic China's model.

SEZs have now become a cornerstone of trade and investment policy for countries around the world, but particularly for developing countries seeking to integrate into global markets and attract labour-intensive manufacturing from multi-national corporations to drive domestic economic growth and development.²¹ Core aims include to: i) Attract Foreign Direct Investment (FDI); ii) Create jobs; iii) Encourage industrial upgrading and diversification; and iv) Experiment with policy reform.²² They also allow developing countries to: i) Support export-promotion objectives; ii) Generate foreign exchange; and iii) Encourage regional development.²³ From the perspective of transnational investors, commonly recognised attractions of SEZs include: i) Access to low-cost labour; ii) Preferential access to markets under international trade agreements; iii) Security of investment; and iv) Lowering costs of production to support home-market competitiveness and extend product life-cycles.²⁴ Oft cited criticisms include that SEZs may: i) Entail more costs (e.g., incentives, subsidies) than benefits; ii) Encourage a 'race to the bottom' in terms of environmental and labour protections,²⁵ and tax regulations;²⁶ iii) Decrease net contributions to social welfare from business; iv) Pay low wages, especially to women; v) Have poor occupational health and safety standards; and vi) Encourage reliance on labour intensive and low value-added activities.²⁷

As a catalyst for industrialisation and economic growth, the EPZ model was a child of its time, which may be nearing its end. The model spread in an era of global trade liberalisation led by the United States and Western Europe, which facilitated the 'second unbundling' and the offshoring of production.²⁸ However, world trade is slowing and barriers to international trade are being lifted, manufacturing as a share of GDP is stabilising or shrinking, and market-oriented policies have been widely adopted by developing countries worldwide. As a result, SEZs have been subject to increasing scrutiny, even from organisations known for promoting them, such as the World Bank and ADB.²⁹ Introducing a World Bank study on SEZs, Thomas Farole notes that zones have a 'mixed record of success', with many investments in infrastructure resulting in 'white elephants', or instances in which industry has taken advantage of tax breaks without producing substantial employment or export earnings.³⁰ A more critical assessment of their present utility for promoting economic development has been drawn by the ADB's Economic Research and Regional Cooperation Department. Following a comprehensive review of SEZs in Asia, they conclude:

Special economic zones have a chequered history—a few have matched or exceeded expectations and contributed substantially to economy-wide development ... [S]everal SEZs established in the 1970s and the 1980s were well suited for the times and truly catalytic. Others have remained enclaves but nevertheless have been sources of jobs, exports and GDP growth. Numerous others have failed—and as we close in on the present—successes have become fewer; no SEZ established since the turn of the century has come close to matching the performance of Shenzhen or of the zones set up in Taipei, China and in Malaysia in the 1970s. But hope springs eternal in spite of lengthening odds against the likelihood of a zone returning an adequate return on investment—policy makers continue to pin their hopes on the potentially galvanizing role of zones and, like venture capitalists the world over, believe that one outstanding success will compensate for a dozen failures.³¹

Such critical assessments of SEZs from erstwhile advocates notwithstanding, SEZs continue to be championed by various multilateral and government-related institutions, and are mushrooming across Southeast Asia. In part, this can be explained by their role as an element of a regional model that supports economic integration.³² While accurate and up to date numbers are hard to come by, a 2007 ILO database on EPZs listed over 900 in Asia, accounting for 84 percent of total EPZ employment worldwide.³³ In the mid-2015, UNIDO reported a total of 47 SEZs (not including industrial parks) in Mekong countries (15 in Laos, 18 in Vietnam, 3 in Myanmar, and 11 in Cambodia); although this was an underestimate at the time and is already out-dated. Thailand announced the establishment of 10 SEZs in 2015, and the Japan External Trade Organisation (JETRO) listed 38 approved SEZs in Cambodia in mid-2016.³⁴ Laos also has also declared its intention to establish up to a total of 41 SEZs, and Vietnam recently announced plans for another three.³⁵

Although most research on SEZs in Asia has focussed on newly industrialised economies such as China, Korea, and Taiwan, interest in SEZs in the Mekong is growing.³⁶ Critical studies have been emerging since 2012, led mainly by NGOs and academics documenting on-the-ground experiences of SEZs. Land grabbing and forced evictions,³⁷ environmental degradation,³⁸ adverse impacts on livelihoods, disproportionate impacts on women and ethnic minorities,³⁹ and exploitation of workers, plus harassment, intimidation, physical violence, arbitrary detention, abuses of fair trial rights, restrictions on freedoms of assembly, association and expression⁴⁰, have all been documented at zones in Myanmar, Thailand, and Laos.⁴¹ Two recent studies on Myanmar and Cambodia's SEZs conducted by the International Growth Centre (IGC) and the ADB do not reflect such concerns, however.⁴² Both worked within narrow parameters. The ADB's study on Cambodia's zones included primary data collection, but only with firms, managers, and operators invested in SEZs, while the IGC recommends that Myanmar develop SEZs based merely on an analysis of the country's secondary trade data. Both are one-sided and technical, bereft of engagement with those proximately affected by the zones: workers, labour unions, local communities, and civil society organisations. Zones are helping to reshape the political economy of the

region, often with significant and adverse impacts on local communities, workers, and the environment.⁴³ Yet such costs are often obscured and treated as externalities, and crucial questions of political economy are left unasked. Who benefits and who suffers as a result of their development, and whom does such investment serve?

Two recent studies on SEZs in Myanmar by Oxfam and the International Commission of Jurists (ICJ) oppose this trend, exploring the social and environmental costs of the development of SEZs in Myanmar. Oxfam draws lessons from other SEZs in the region for Kyaukphyu SEZ, while the ICJ report presents a legal analysis of Myanmar's SEZ legislative framework based upon a case study of Kyaukphyu SEZ. Both highlight lack of transparency and accountability associated with Myanmar's SEZs, without which, according to Oxfam: 'SEZs are more likely to result in harmful environmental and social impacts and fail to deliver expected benefits, with local populations being the losers in such investments'.⁴⁴ As noted by the ICJ, several national and international laws and standards do apply to the development and operation of SEZs. States are obliged to follow the United Nations Guiding Principles on Development-Based Displacement and protect the rights of people who may be adversely affected by economic activities, including in the development of SEZs. International labour laws and standards as found in the United Nations International Covenant on Economic, Social, and Cultural Rights (ICESCR) and the International Labour Organisation (ILO) Conventions, such as workers' rights to freely organise, are binding on states and pertain to the operation of SEZs. While labour laws in Cambodia and Myanmar are often inconsistent with these standards, they nonetheless also apply in the zones, as do national land and environmental laws. In practice, however, these laws and standards are often not implemented effectively. In Myanmar, ICJ found that lack of clarity regarding the implementation of land, labour, and environmental laws in the zones has meant that legal principles have not been followed and accountability for rights violations is not clear, restricting access to redress. Moreover, they found that Myanmar's SEZs have been developed in the absence of meaningful consultation with local communities, many of whom have been forcibly relocated from their land with limited access to remedy.⁴⁵ Both the Oxfam and ICJ studies contribute to a growing body of evidence that SEZs are failing to serve the interests of the people most proximately affected by them. Incorporating a case study of Cambodia's SEZs and an analysis of various efforts to spur industrialisation and development in the region, the present study draws a similarly critical conclusion, further contributing to an emerging and increasingly negative perspective of the role that special economic zones are coming to play in the Mekong.



Dawei landscape (July 2017) Photo by Ridan Sun

PART 1. CAMBODIA'S SEZS

Background

Cambodia has been implementing reforms to encourage private sector development and attract Foreign Direct Investment (FDI) since the signing of the Paris Peace Accords in 1991, which marked the end of foreign occupation and civil war. The country has been given preferential access to world markets, holding the UN status of “Least Developed Country” since 1991, and has been a member of the Association of Southeast Asian Nations (ASEAN) and the World Trade Organisation (WTO) since 1999 and 2004 respectively. As a result, items produced for export have been given duty and quota free treatment by the EU, Canada, Australia, New Zealand, and Norway, with many items also eligible for such treatment by the US and Japan. Similar treatments have been extended by the Republic of Korea and China, while duty-free access to ASEAN’s six founding members’ markets is provided for under the ASEAN Integration System of Preferences (AISP). In the context of this international trade regime, former-Communist Cambodia has enthusiastically pursued export-oriented growth strategies, embracing the free market as the ‘engine of economic growth and poverty reduction’.⁴⁶

Cheap labour has been a major source of Cambodia’s comparative advantage for many years, helping the country to attract FDI, which has grown as a percentage of Gross Domestic Product (GDP) to 80 percent, the highest in ASEAN by a wide margin. Government budgets have become heavily dependent on private sector investment. The government has targeted \$26.8 billion in investments during the 2014-2018 period, 71 percent of

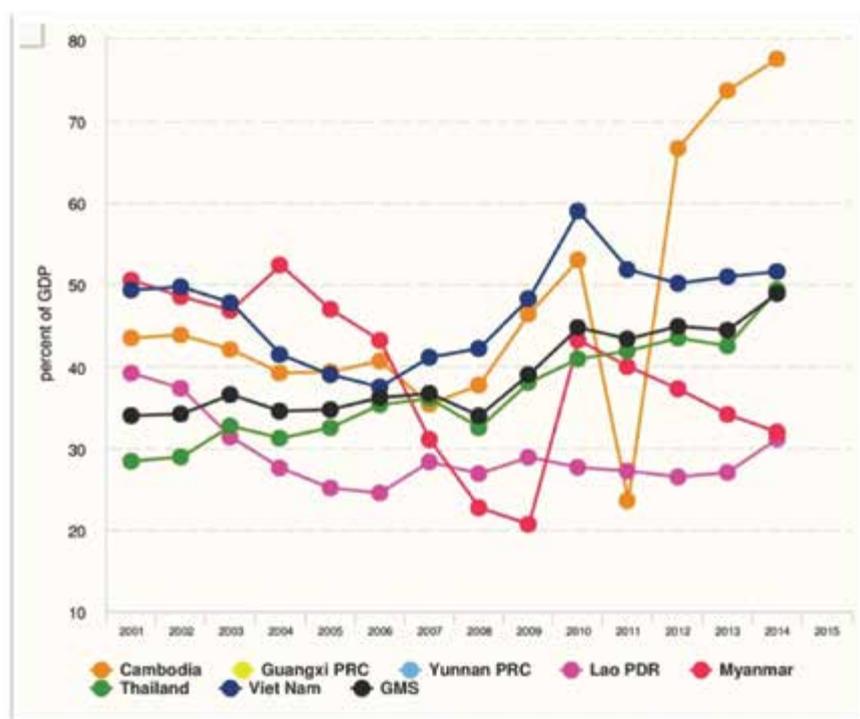


Figure 5: FDI as a % of GDP in the GMS (ADB)

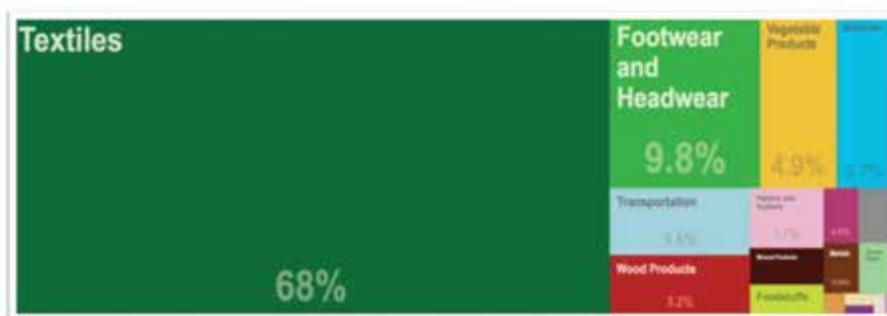


Figure 6: Cambodia's Exports (Observatory of Economic Complexity/ UN COMTRADE)

which must come from the local private sector, and half of that (49.9 percent) from foreign sources.⁴⁷ Coupled with its open investment regime and preferential treatment under international trade regulations, particularly with the United States (US) and European Union (EU), Cambodia's exports are now dominated by the garment and footwear industry, which accounted for approximately 80 percent of Cambodia's total export and foreign trade in 2014. The top export destinations were the US (22 percent), Germany (10 percent), the United Kingdom (10 percent), Japan (6.1 percent), and Canada (5.9 percent).⁴⁸

An open and liberal investment regime was established with the passing of the 1994 Law on Foreign Investment, entitling foreign investments to generous incentives including a low corporate income tax rate of 20 percent, up to nine years tax holiday, full duty exemptions, no exchange rate controls, no restrictions on repatriation of profits, no restrictions on investments in any sector, and no restrictions on company ownership.⁴⁹ The Cambodian Development Council (CDC) was established under the law and tasked with attracting and retaining private sector investment in the country.⁵⁰ The CDC is composed of senior ministers from related government agencies and chaired by the Prime Minister. Potential investors in Cambodia must obtain government approval as a Qualified Investment Project (QIP). Qualifying firms are granted certain benefits such as import and tax exemptions, as well as guarantees against discriminatory treatment as foreigners and against nationalisation of investments. Eligibility depends on certain minimum capital investment requirements and firms can locate either inside or outside SEZs and receive similar privileges. In addition to further exemptions from Value Added Tax (VAT) and special customs procedures, the main incentive for a firm to set up inside an SEZ is the hard and soft infrastructure established to support the zones.⁵¹ This includes electricity and water provided by the SEZ developer, and the SEZ governance structure provided by the state.

Legislation and governance framework

SEZs have been prioritised by the government, used as a tool to encourage private sector investment and development and to integrate the Cambodian economy into the regional economy.⁵² Zones have been developed since 2005, when the Cambodian Special Economic Zone Board (CSEZB) was established under the CDC and the SEZ Sub-Decree was passed.⁵³ This sub-decree currently governs the zones. The CDC website mentions that the Law on the Special Economic Zones was developed in 2008,

but it has not yet been passed.⁵⁴ A key feature of Cambodian SEZs is that the government has left the establishment and management of the zones to the private sector (referred to here as the SEZ developer), mostly limiting its own involvement to the licencing process.⁵⁵ As of mid-2016 there were officially 14 SEZs in the country, although the Japan External Trade Organisation (JETRO) listed 38 approved SEZs at varying stages of development.⁵⁶ Eight are currently operating, including Phnom Penh SEZ, Sihanoukville SEZ, Manhattan SEZ, Koh Kong SEZ, and Poipet SEZ.

SEZ developers must possess more than 0.5km² of land, sufficient capital and the means to develop the infrastructure inside the zone, including land, roads, electricity, and water supply, and provide security to 'ensure good public order in the zone at all time.'⁵⁷ Potential SEZ developers must themselves be registered as a Qualified Investment Project (QIP) and request approval from the CSEZB. Land concessions may be provided to developers by the State for SEZs in isolated regions or border areas, but SEZ developers must otherwise own the land, which they lease to firms (referred to here as SEZ investors) along with a package of services.⁵⁸ The CSEZB is responsible for supervising SEZ operations and for establishing "One Stop Service Centres" (OSSCs) in each zone, housing representatives of all government ministries necessary to process all documentation required by firms for export, import, employment, and other regulatory matters. Zone developers pay the government for this service, and include it in service fees charged to SEZ investors. Issues that cannot be resolved by the on-site SEZ administration may be taken to the SEZ Trouble Shooting Committee, located within the CDC, which is mandated 'to receive any complaints, and find solutions to such complaints' filed by Zone developers or Zone investors, reporting directly to the Prime Minister (see Figure 16).⁵⁹ The law makes no mention of mechanisms for receiving and resolving complaints from local communities affected by the zones, nor from workers inside them.

SEZ developers commonly include prominent business tycoons with close ties to Cambodia's ruling party.⁶⁰ Phnom Penh SEZ is owned and managed by the SEZ developer Phnom Penh SEZ Co. Ltd., which is 78 percent Cambodian and 22 percent Japanese-owned. The Chairwoman of PPSEZ also chairs Poi Pet SEZ and SAHAS PPSEZ, the firm that



Figure 7: Cambodia



Figure 8:
Gates to PPSEZ
(Charlie Thame)

provides security to PPSEZ.⁶¹ At least four Chinese companies entered into a joint venture with a Cambodian company, Cambodia International Investment Development Group Co. Ltd. (CIIDG), to establish Sihanoukville SEZ, with the backing of China's Ministry of Commerce.⁶² CIIDG is chaired by the wife of a ruling party senator.⁶³ The couple also own Pheapimex company and their business practices and relationship with the ruling party have been the subject of media and NGOs' scrutiny.⁶⁴

Phnom Penh SEZ

Phnom Penh SEZ (PPSEZ) was established in April 2006 with investments of \$92 million on 3.52km² of land 18 kilometres outside Phnom Penh on the ADB's East-West Economic Corridor.⁶⁵ Designed and developed by the Japan Development Institute, construction of the first of three phases was completed in January 2008, with the other two phases completed in mid-2016.⁶⁶ SEZ investors are permitted to lease land from the SEZ developer on a 50-year renewable contract and are charged approximately \$50 per square meter for industrial land, plus service fees to PPSEZ Company.⁶⁷ The zone is considered a success as it has attracted the highest number of investors among Cambodia's approved SEZs and is the leading destination for Japanese investment in the country. Approximately 16,000 workers were employed in the zone in 2016, which is managed by a Cambodian Chairwoman and Japanese CEO.⁶⁸ In addition to Cambodia's preferential access to regional and world markets, PPSEZ advertises its strategic location on the East-West Economic Corridor as a draw, because it provides easy access to Japan, Singapore, Thailand, and the rest of the GMS and ASEAN via ports in Ho Chi Minh City and Sihanoukville as well as cross-border links to Thailand. It also touts long-term renewable leases, a 'young and cost effective workforce,' and 'close coordination' with government

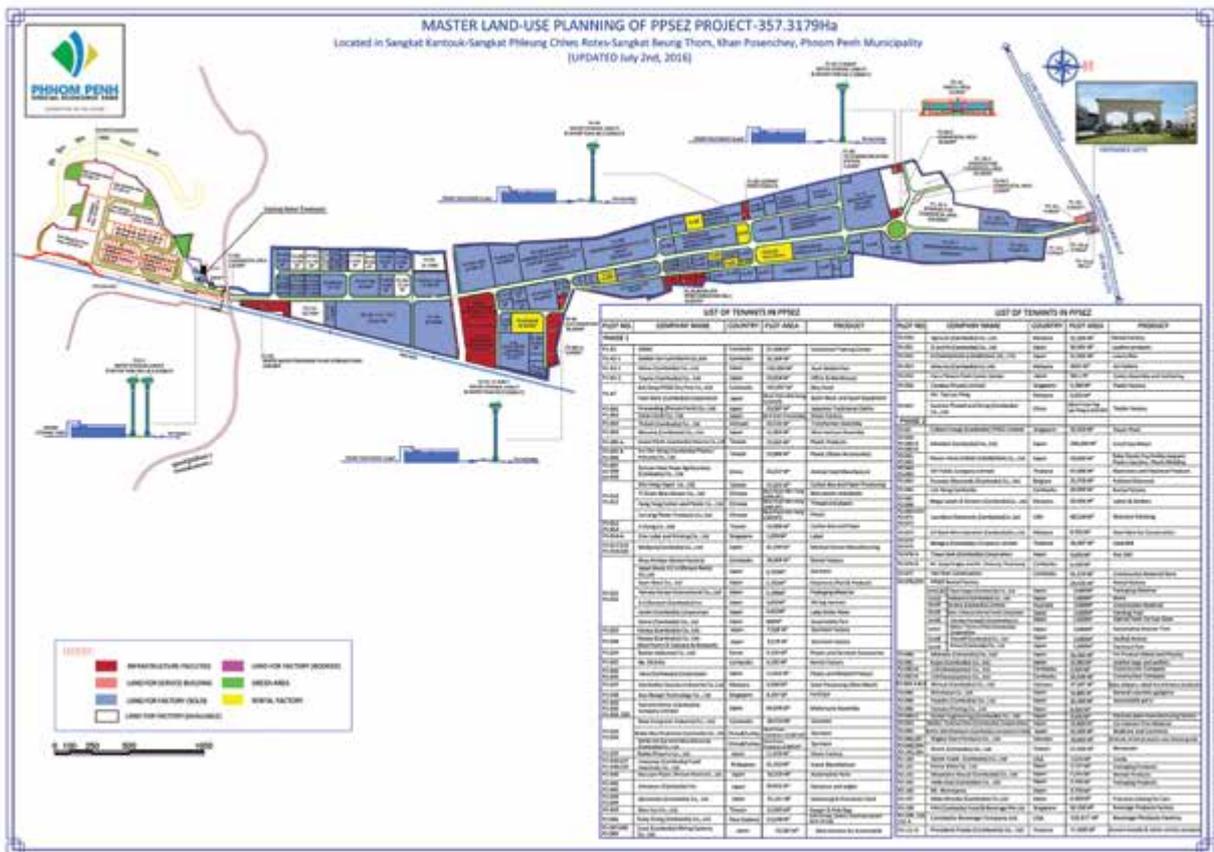


Figure 9: PPSEZ Plan (PPSEZ)

authorities to ‘create a more investor-friendly environment’ as incentives for firms that would invest.⁶⁹ In addition to garments and footwear exported worldwide, factories in the zone supply automobile parts for assembly of vehicles in Thailand and Japan (including Denso) and the agro-industry in Thailand (including Betagro). Coca-Cola and Yamaha also have factories, and the backlight on iPhones are produced in PPSEZ and supplied to Shenzhen.⁷⁰

Sihanoukville SEZ

Sihanoukville SEZ (SSEZ) is one of three SEZs in Sihanoukville, a coastal town in the southwest of Cambodia on the Gulf of Thailand boasting the country’s only international sea port. It opened in May



Figure 10: SSEZ Concept (Khmer Times)

2012 and is currently the largest SEZ in Cambodia; a total of 16.8km² was approved for development in 2008.⁷¹ SSEZ firms employed between 6,000 and 13,000 workers as of late 2016, but 80-10,000 could be employed in the zone once all phases are complete.⁷² A joint venture between a Chinese conglomerate and Cambodian company, SSEZ receives official support from both governments and has been subject to a bilateral agreement between China and Cambodia since 2012.

The zone was among the first batch of zones approved by China's Ministry of Commerce (MOFCOM) in 2006 under its Overseas Economic and Trade Cooperation Area (OETCA) zone promotion subsystem, through which MOFCOM exports the

Chinese development zone or industrial park model.⁷³ The SEZ developer's vision is for the zone to become 'Cambodia's Shenzhen' and it is a key model for China's One Belt One Road (OBOR) scheme and Maritime Silk Road.⁷⁴ It is also promoted as an "investment and trading platform especially for Chinese enterprises to extend their business in ASEAN and all over the world."⁷⁵ Developers planned to invest \$3 billion between 2008 and 2015, and anticipated an annual export trade of \$2 billion by 2015. As of June 2016, 100 companies were operating in the zone with total investments of \$280 million.⁷⁶

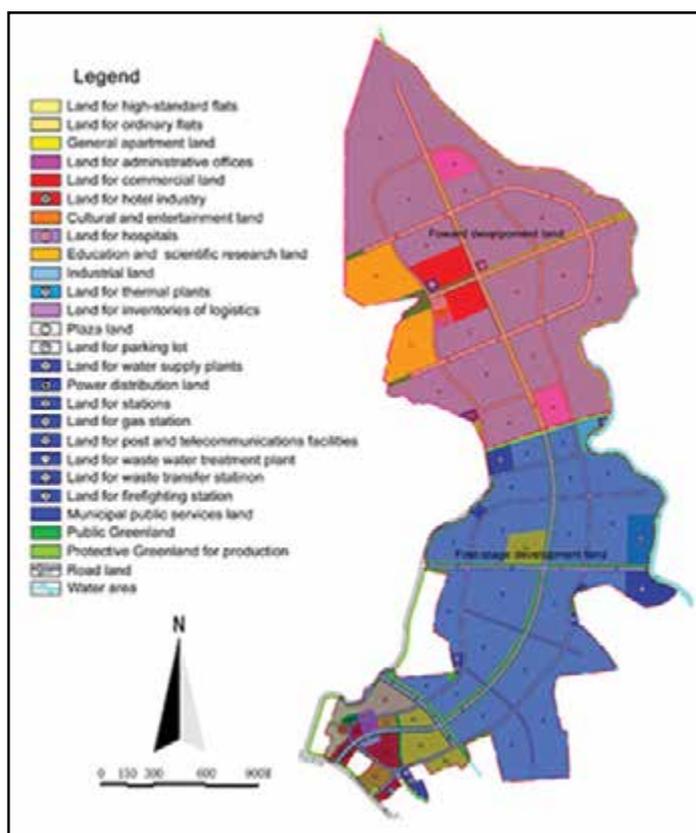


Figure 11: SSEZ Plan (SSEZ)

Conditions for workers in Cambodia

While incentives for businesses to invest in Cambodia are generous, conditions in Cambodia's manufacturing industry are notoriously poor and labour protections weak, and often simply not enforced. Following nationwide protests that turned violent and deadly, for workers, Cambodia's minimum wage was increased from \$US61 in early 2013 to \$140/month in 2016. Yet Cambodia's Ministry of Planning has estimated workers in the garment sector need at least \$157 for a living wage, while research conducted by a Cambodian union concluded \$177 was needed by those residing in Phnom Penh.⁷⁷ As well as low pay, several reports on the garment sector have documented ways in which the widespread use of short-term fixed duration contracts nationwide are used to exploit workers and prevent

them from asserting their rights.⁷⁸ This has enabled oppressive practices in Cambodia's factories to restrict fundamental rights to freedom of association and collective bargaining; force overtime; restrict holidays; deny the right to maternity leave; dismiss pregnant workers; force quotas, resulting in mass faintings.⁷⁹ Coupled with unscrupulous employers and violent and sometimes deadly military crackdowns on worker protests, these conditions conspire to enthrall many Cambodian workers in a situation that some call modern day slavery (see Box 1).

Restrictions on Cambodian Workers

'People are put into modern day slavery with two handcuffs and one weapon behind.

The first handcuff is the short-term contracts. With these you have to accept any condition the employer wants you to be in. You have the hot, stuffy environment in the factory, and if you complain the contract will not be renewed. If you are not healthy, you want to go home, you cannot say no to overtime. You want to take care of your kids? You cannot. You don't want to travel with the crowded trucks but you have to accept, because your job security is not there. A contract term is just two months, or three months. Even when the female worker is pregnant, you are worried about your job security, so you cannot maintain your pregnancy, you have to force yourself to get an abortion. You look at the age of the female workers: they are at reproductive age. A new report, from The Guardian, tells about female workers and unsafe abortion: they drink the herbal medicines to force a miscarriage. Of the 10 people who do it, only one will tell us. The others stay silent. You have to accept any condition. That is one handcuff.

Another handcuff is low wages. In principle you need enough income to survive. But your only way as a worker to get extra income is overtime—not corruption, not bribes—only working overtime. But when you are unwell, or do not want to work, you cannot reject overtime, because if you reject it, your monthly income will not be enough. You have to take care of your children, or pay the neighbour to take care of the kids. So you have to accept. The law says people are required to work eight hours, with a guaranteed minimum wage which guarantees decent living conditions with human dignity. But no workers work that: they work ten, twelve, or fourteen hour days, sometimes Monday to Sunday.

When you stand up, to demand higher wage, better working conditions, you are going to face the weapon behind you. Either violence or criminal prosecution. You will face violent crackdowns: the shooting of three workers in the Puma supply chain in 2012, or the five garment workers shot dead in January when twenty three others were arrested. Or people will face criminalisation. All the prominent union leaders have been charged and convicted for inciting workers to go on strike and destroying peoples' property. But organising is the job of union leaders. All those leaders are put under court supervision: they cannot meet workers in public, to mobilise the workers, or to organise a strike.

As long as your fundamental rights are oppressed, it is hard to expect change.'

A2. NGO Representative. Male. Phnom Penh. August 2016.

Box 1: Restrictions on Cambodian Workers

The same rules pertaining to minimum wages and contracts apply to both inside and outside the zones, and working conditions appear to depend more on employers than on whether or not firms are located within SEZs. Surprisingly, in some cases working conditions inside SEZs were reported to be better than outside, although they vary considerably between SEZs and between employers. Although often poor, conditions in PPSEZ were still considered better than in rural SEZs such as SSEZ, with those located in border areas reported to be even worse. Notably, workers and union leaders viewed Japanese firms more favourably than Chinese ones, with the former providing better pay, conditions, and benefits to workers.⁸⁰ This perception also applied to larger firms producing goods for internationally recognised brands.⁸¹ A union leader cited canteens provided by Japanese employers, and several workers at one Japanese firm were complimentary about their supervisor, who was responsive to workers' concerns.⁸² However, workers employed by Chinese firms in SSEZ producing non-branded generic textiles reported a much more authoritarian management style, with one recounting physical abuse in retaliation for challenging what they considered an unfair dismissal of ten co-workers: 'The supervisor said they were not happy with me, and pushed me out of the office. I told them they had to respect the law. He pushed me to the corner and pushed my head against the wall. One other guy pushed me onto the floor. Another came to kick me.'⁸³

Like frogs in a well

Officially, national labour laws apply in Cambodia's SEZs.⁸⁴ Nonetheless, it seems this may have been a concession to placate international stakeholders such as the ILO and import countries including the US and EU,⁸⁵ and workers face significant restrictions asserting their rights in practice. The 2005 SEZ Sub-decree affirms that the rights and protections contained in Cambodia's Constitution apply in the zones.⁸⁶ The Constitution enshrines the right for all citizens to form and be members of trade unions (Art.36), a right also recognised in the UN's ICESR (Art.8) and International Covenant on Civil and Political Rights (ICCPR) (Art.22) as part of the right to freedom of association. Both the ICESR and ICCPR are directly incorporated into Cambodian domestic law by virtue of being ratified by Cambodia in 1992, with such incorporation confirmed by a decision of the Constitutional Council dated 10 July 2007, which stated that 'international conventions that Cambodia has recognized' form part of Cambodian law. The right to freedom of association is also protected by the ILO Freedom of Association and Protection of the Right to Organise Convention (No. 87), which Cambodia ratified in 1999. Art.8(d) of the ICESCR also protects the right to strike.⁸⁷ Regardless, rights to freedom of association and collective bargaining are severely constrained in the zones. A civil society source consulted by lawmakers in the planning stages of the 2005 SEZ Act reportedly claimed that lawyers 'were approached by the Ministry of Commerce for technical advice and one of the things was, "well, how can we make the zones union free?"'⁸⁸ This was supported by an NGO respondent: 'the government was attempting to propose a new law that would only cover the SEZ, so that labour law would not apply in the zone. The draft law was too bad. There was no right to organise, to collective bargaining, and to strike. We opposed it and the ILO supported us. The government also came under pressure from the US, the EU, and other import countries to cancel the plan.'⁸⁹

Despite omitting such restrictions from legislation it appears tacit agreements may have been made between SEZ management and SEZ firms that zones would remain union- and strike-free. In a survey conducted for the ADB, SEZ firms reported labour costs, labour relations, and “especially freedom from strikes” as key factors influencing their decisions to invest in zones.⁹⁰ All union representatives we spoke to reported challenges in communicating with workers, often prevented from entering SEZs by security staff.⁹¹ One union representative told us that employers in the zones “were more aggressive than normal” and “have strong backup”. They explained: “When organising a single factory outside the zone, normally we are only challenging one owner. But in the zone we have two opponents. The factory owner and the one that owns the zone [i.e., the SEZ developer], so it is difficult to negotiate or campaign’.⁹² Moreover, workers inside SEZs were “definitely more timid,” according to one Civil Society Organisation (CSO) member, who reported: “There is clear communication to them: “Do not speak to outsiders, beware of unions, don’t let them come in here and organise.” They claimed that employers “deliberately instil a culture of fear to keep unions and activists out,” surmising, ‘It’s all about protecting their investments.’⁹³ As a result, another told us: “Most workers in SSEZ do not seem to know what are their rights in the workplace: about dignity, advocacy, and safe working conditions. They are like frogs in a well.”⁹⁴

Obstacles to dispute resolution

Another respondent reported they considered the main difference between inside and outside the zone was that it was harder to ensure that businesses would act responsibly inside SEZs due to even weaker enforcement mechanisms than outside. They claimed that factories inside SEZs have ‘gang protection’ from zone owners, explaining:

Whether investors are foreigners or locals, they have links with high ranking officials. So the factories inside the zone don’t care [about breaking the law]. According to the law, every business needs to apply for an environmental permit. But some factories inside the zone do not. We have found in some zones they don’t care about the environment. [According to the law] a single factory needs to apply for an environmental permit for waste disposal, liquid and solid. But some factories in the zones just don’t care; they just rely on the zone [management]. The waste disposal, the water treatment, even the legal documents on environmental protection, they don’t care.⁹⁵

When we asked if government authorities listened and responded to investors’ concerns, a respondent from an organisation providing advice to Japanese investors told us: “We have bi-annual meetings with the government. All the Japanese join. We have an agenda, such as reducing the customs fees and under-the-table costs, which are very high. The government considers [the issues] and give us a reply. This happens twice a year. The Cambodian government is very kind.”⁹⁶ SEZ firms also reported regular meetings with SEZ

administration within the zones, on average of six per year.⁹⁷ However, the government is not so responsive to workers in SEZs. A union representative told us that letters regarding issues such as unfair dismissals were supposed to be submitted to labour inspectors posted inside the zones but that they were physically blocked from doing so, only able to deliver them to security guards at the gates to the SEZ. They added: 'if they reject the notice, we cannot submit the letter.'⁹⁸ Those who did manage to submit complaints reported that authorities had little interest in addressing them, and believed officials cared more about SEZ investors than Cambodian workers: 'When we lodge a complaint with the authorities, it seems they don't care about who made the mistake, they just stay silent and say something to protect the company, not the victim.'⁹⁹ When asked if the government listened to their concerns a worker told us: "The zone has a representative from the Ministry of Labour who facilitates the [dispute] conciliation process. However, when I take a case to him he makes it easy for the Chinese manager to speak, he gives them lots of opportunities, but not to us to share our concerns."¹⁰⁰ A union representative told us that even after time-consuming and costly conciliation and arbitration processes, SEZ firms sometimes simply ignored rulings. They added: "The government's role is to protect their people based on labour legislation. But they just want to help the rich get richer so they can get income."¹⁰¹ The SSEZ website advertises the support it receives from local government, citing the provincial governor as follows:

The Sihanouk government is the powerful supporter of the SSEZ and the SSEZ Company can communicate with the government frequently. If the SSEZ Company has the difficulties during the construction of the SSEZ, the government will make efforts to solving these problems, including illegal worker strikes. If the strike or parade spread to the Sihanouk, the government will conduct a correct guidance and help the SSEZ Company to take the precaution measures positively[sic].¹⁰²

A worker commented:

We are Cambodian. The government should support us since this is Cambodia, so why do they support the investors? I feel they are corrupted; they don't care about the [Cambodian] people. They never give fairness in the conciliation process: They care 99 percent for the Chinese manager and one percent about us. It was really hurtful when I joined the negotiation process. Looking at the [other] workers waiting for our help. Seeing the Cambodian people under exploitation, it really hurt.¹⁰³

Restrictions on organising

In addition to restricting union access to zones, several workers reported restrictions on workers organising. Freedom of assembly and expression (such as protests) are both freedom of association issues, officially protected under the Cambodian Constitution and the ICCPR, but routinely blocked in practice. One worker told us: "Some factories move

into the SEZ because they have the protection. They can stop the workers' contracts, and dismiss workers without informing them. If the worker wants to do something, the factory owner can control it. It's easy for them; they have security in the zone and military support."¹⁰⁴ Another alleged: "One of the local union leaders was beaten by the soldiers, given electric shocks, and had drugs placed in his motorbike. This is how they threaten the workers not to establish unions in SEZs."¹⁰⁵ Another explained security inside and outside factories left workers in a catch-22 situation: "To hold demonstrations [in the SEZ] is not allowed. When we want to do something inside the factory the [zone] security won't let us. So we have to do it outside the factory. They will call the military to stop us demonstrating outside the factory and force us back inside."¹⁰⁶

Although workers are not allowed to organise, it appears that employers and management committees do. One union representative told us: "[Members of the garment industry association] seem to have a tight agreement to not pay more than the minimum wage. Several years ago, when workers were negotiating for pay increases, employers were telling the workers that they were not allowed to pay the workers any more."¹⁰⁷ Another alleged: 'There are secretaries¹⁰⁸ inside Sihanoukville SEZ, informal ones. They seem to represent a group of employers and they work against the trade unions.'¹⁰⁹ Two workers in SSEZ told us: 'Inside the SEZ they have a big building that they can call all the owners from the factories together and discuss how to break the union solidarity. When they hear there will be action, they discuss how to break it. They hear and intervene quickly; it makes other workers scared and stops them from following. Workers have seen that we have been dismissed, and it makes people scared.'¹¹⁰

Workers dismissed by one employer may be blacklisted, preventing them from working for other firms. One worker told us: 'The factory owner dismissed me and shared my photo inside the SEZ, it made it very hard for me to find a job.'¹¹¹ Another reported: 'When I applied for work in another factory, I spoke to the Chinese who controls the list of people. I saw my photo on their computer screen. I asked why they had my picture, and they asked if I was a member of the union. They said they didn't want people to work for them who had been posted in the "control system".'¹¹² Said another: 'When I drive into the SEZ on my motorbike the guard will call and follow us and ask why we are coming here. Actually the photos of all of us [involved with the union] have been stuck on the wall in the security guard's office and they will stop us coming in.'¹¹³ The SSEZ website mentions that a platform for communication between employers in the zone was created in 2014 to help provide 'opportunities for companies to communicate with each other, share information and develop together.'¹¹⁴ One aim of this is to: 'Strengthen the development of platform to encourage the information share such as some practical experience to improve the management abilities, efficiency and benefits [sic].'¹¹⁵ An industry representative dismissed workers' claims when asked to comment, stating: '[Union] blacklisting is a convenient excuse. We are subject to ILO monitoring, even if we were to say the Ministry of Labour are unwilling or incompetent, the ILO are not; they can still act. What you are hearing, there is no proof to substantiate it.'¹¹⁶

Cambodia's corporate—military nexus

When workers have managed to mobilise to strike or protest for wage increases, the military has been called in. One told us:

We used to demand wage increases. They put the containers in front of the SEZ and beat the workers. It happened in 2013. They closed the gate. When something happens inside, they put the container to block the road; the workers inside cannot run away. And then the military police or security have big muscles, and we are very small. Sometimes they use guns.¹¹⁷

A union leader confirmed that PPSEZ workers demanding wage increases from \$90/month during nationwide strikes in December 2013- January 2014 were suppressed by the military: 'Four or five were shot dead, and 20 went missing.'¹¹⁸ An NGO representative alleged that the military had been called in by PPSEZ management: 'We didn't get the same hard evidence as we did from the Korean Embassy, they were almost bragging, the Japanese were a little more discrete.'¹¹⁹ The use of violence against protesting workers is not an isolated incident in Cambodia's SEZs. Three workers were allegedly shot by the City Governor in 2012 during minimum wage protests at Manhattan SEZ in Bavet. He was summoned, but was not prosecuted.¹²⁰

Workers in Phnom Penh SEZ believed that the military were deployed to the zone because of links between the SEZ developer and the government. It is not uncommon in Cambodia for prominent business persons to develop close relationships with the ruling party. Sometimes these relationships may be formalised, and justified in terms of facilitating closer cooperation between the private sector and government in Cambodia's national interest. For example, the title "Okhna" is traditional status of nobility bestowed by the King and resurrected by a government sub-decree in 1994. Around 20 business people bore the title in 2004, their number ballooning to more than 700 in 2014.¹²¹ A donation of \$100,000 must be made to acquire the title, along with a commitment to direct wealth towards the public good.¹²² Following a sub-decree in February 2010, Okhnas have been encouraged to make financial donations to Cambodian military units.¹²³ Critics argue that awarding the honorific is part of an 'elite



Figure 12: "Go to Work Happily": Sign in SSEZ (Charlie Thame)

pact' between businesses and the ruling party,¹²⁴ and that the 2010 sub-decree merely formalised long-established relationships between Cambodia's military and business tycoons, officially sanctioning a 'guns-for-hire' scenario 'where businesses get military protection in return for financial backing.'¹²⁵ The 42 official partnerships announced in 2010 reportedly rose to more than 100 by 2015, including foreign firms such as China's Unite Group, which is a sponsor of the Prime Minister's Bodyguard Unit.¹²⁶



Figure 13: Military Base Adjacent to PPSEZ (Charlie Thame)

Whereas military support for PPSEZ remains implicit, SSEZ's security—from its own workers—is touted as one of its major selling points to potential SEZ investors. The list of 42 sponsors in the original sub-decree named the local partners of SSEZ and Koh Kong SEZ,¹²⁷ and SSEZ management advertises the support the zone receives from elite units of the Cambodian military on its website. During the nationwide strikes in 2013-2014, a unit of Cambodia's National Counter Terrorism Special Forces (NCTF) was deployed to the zone, led by the NCTF's Chief of Staff, who was quoted by SSEZ as saying: 'It's one of [our] most important tasks to take responsibility for the stability and harmony of all the SEZs in Cambodia ... and to eliminate signs of unrest initiatives.'¹²⁸ The SSEZ website boasts: 'Due to the security and stability supplied from Cambodian government, SSEZ didn't receive any impact during the nationwide strike at the beginning of this year', adding the Prime Minister: 'Inaugurated SSEZ to provide the powerful political security for the better and faster development.'¹²⁹

Cambodia's corporate-political nexus

Cambodia is perceived as the most corrupt country in Southeast Asia, having dropped behind Myanmar in Transparency International's Corruption Perception Index in 2015.¹³⁰ According to the World Bank, Cambodia is also amongst the worst in the world (12.5 percentile rank) in its control of corruption.¹³¹ This index captures perceptions of the 'extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as "capture" of the state by elites and private interests.'¹³² Administrative corruption is the type most people are likely to be acquainted with, referring to the selective implementation of existing laws and regulations by officials to provide benefits to a party as a result of illicit payments to public officials. This includes extortion and/or 'grease payments' to gain licenses, be given preferential treatment, or to expedite delivery of public services. State capture, on the other hand,

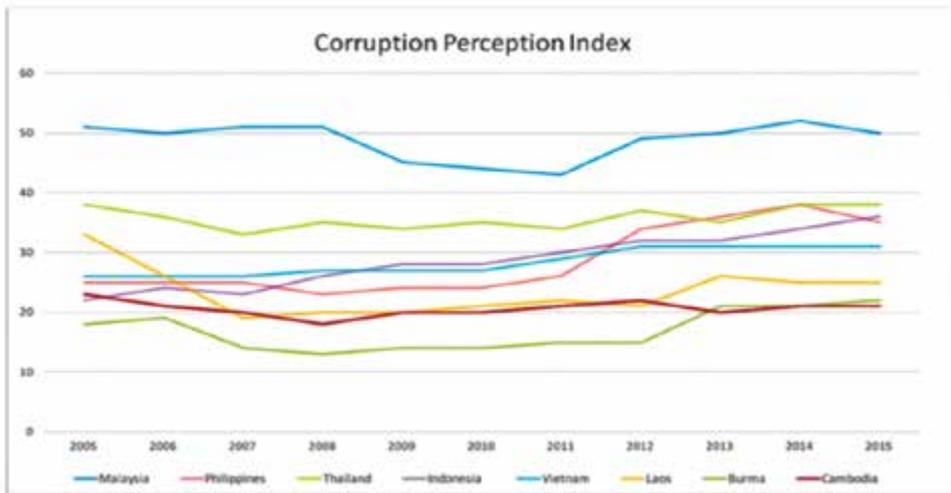


Figure 14: Corruption Perception Index: Southeast Asia (Chan Vincent/ The Cambodia Times/Transparency International)

is essentially a form of systemic political corruption whereby private firms or individuals exert undue influence on a state to shape its legal and regulatory framework to their own advantage. Coined by the World Bank in the 2000s, it describes a situation common in post-Communist ‘transition’ economies whereby preferential treatment for particular individuals or groups is essentially woven into the basic institutional framework of the state.¹³³ Both forms of corruption are distinguished from other forms of influence by the mechanisms through which private interests interact with the state. While lobbying is considered a legitimate part of the democratic process, in most mature democracies it is regulated for transparency and accountability. State capture, on the other hand, occurs when individuals, groups, or firms unduly influence the formation of government policy to their own advantage as a result of the ‘illicit and non-transparent provision of private benefits to public officials.’¹³⁴ These benefits may be conveyed through opaque financial transactions, such as deposits into offshore bank accounts; but also when the boundaries between the political and business interests of state officials are blurred: when an official has an undeclared stake in a company over which they exert regulatory authority, for example.

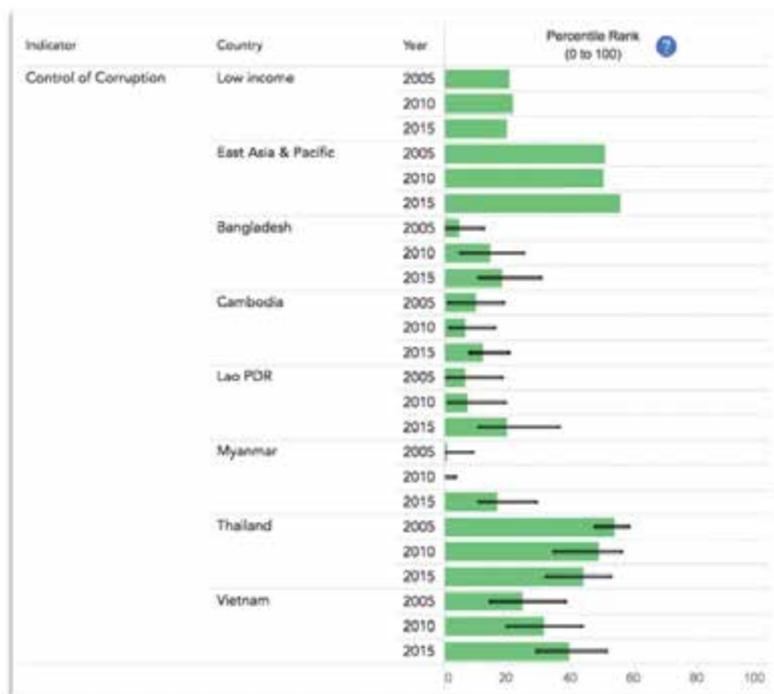


Figure 15: Control of Corruption in the Region (World Bank Governance Indicators)

The issue of corruption related to SEZs is well established. In the 1990s, SEZs in Kazakhstan had to be scrapped due to corruption and rent-seeking.¹³⁵ A 2014 ILO study estimated 10 percent of Cambodia's GDP is lost annually to corruption nationwide.¹³⁶ Given that over a quarter of Cambodia's total exports (26.6 percent), with a value of \$1.2 billion, were produced in SEZs in 2015, there are significant financial incentives for corruption in the governance and administration of Cambodia's SEZs.¹³⁷ According to the ADB, Cambodia's SEZs are 'not corruption-free', with SEZ firms reporting 'additional payments and "gifts" are demanded by government officials in most interactions.'¹³⁸ A CSO respondent linked this to the problem of low wages; gauging that eliminating corruption would mean that the minimum wage could be more or less be doubled, based on the ILO estimate.¹³⁹

The World Bank suggests anti-corruption efforts should include scrutiny of the internal organisation of the political and bureaucratic system, and addressing structural factors enabling corruption, such as ensuring there are adequate institutional restraints on state officials and limiting their discretionary power to intervene in the economy.¹⁴⁰ In Cambodia, however, the governance of SEZs and all foreign investment is highly centralised. SEZs are governed by the Cambodian Special Economic Zone Board (CSEZB), which is located within the Council for the Development of Cambodia (CDC). The latter reviews all investment applications nationwide, while the CSEZB reviews those for SEZs. Both are chaired by the Prime Minister, to whom the SEZ Trouble Shooting Committee reports directly, giving him and his council members significant power over Cambodia's investment decisions and authority over their governance. At the operational level, One Stop Service Centres (OOSC) are established in the zones. These are a common feature of SEZs worldwide and may have been promoted by the World Bank. Allowing SEZ investors to obtain all necessary paperwork quickly and onsite, they are promoted as an efficiency tool and a way of undermining petty corruption from government officials looking for 'under-the-table' money.¹⁴¹ Rather than being devolved to local authorities, the administration of these OOSCs also remains highly centralised under the CDC. Local sources reported that they do not work well and do not necessarily prevent corruption, suggesting that their impact may instead be to refocus rather than reduce it.¹⁴²

The opaque nature of channels of access between state captors and public officials means that illicit activity is notoriously hard to prove. Nonetheless, an independent and effective judiciary, a civil service with monetised, adequate pay, effective implementation of conflict of interest and asset declaration rules, and a strong political opposition and vibrant civil society to hold officials to account, are all recognised as crucial key tools in the fight against corruption.¹⁴³ Cambodia, however, was ranked 112 out of 113 for rule of law by the World Justice Project in 2016¹⁴⁴, and public sector pay is low and 'does not adequately support civil servants' daily living requirements'.¹⁴⁵ A few days after criticising the unusual wealth of the Prime Minister and his family, and calling for greater transparency following the publication of a report from an international NGO that explored their business interests, an outspoken Cambodian political analyst was murdered

in broad daylight in the capital, Phnom Penh. Meanwhile, Cambodia’s opposition party leader has been living in exile since 2015, and local civil society is facing an increasingly restrictive environment.¹⁴⁶ While at least one official at the CDC has been prosecuted for soliciting bribes, conditions in Cambodia are not currently conducive for addressing the risk of corruption at higher levels of government.¹⁴⁷

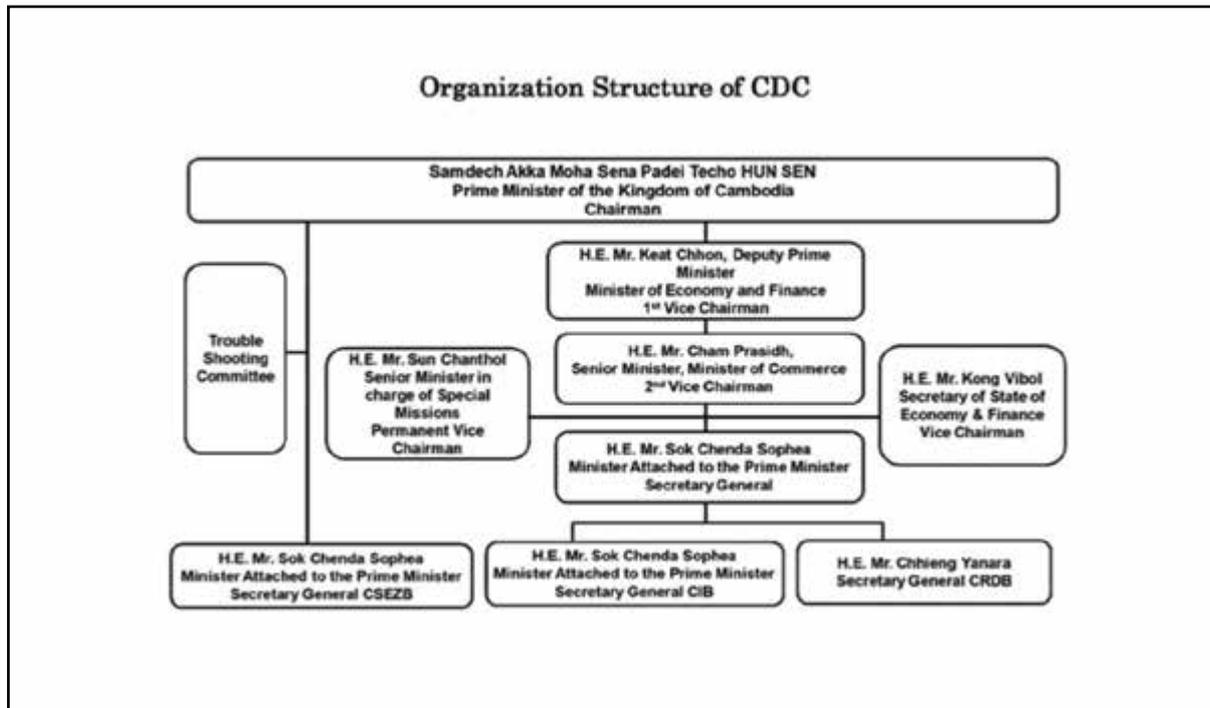


Figure 16: Organisational Structure of Cambodia’s CDC (CDC)



Dawei small port (July 2017) Photo by Ridan Sun

PART 2. MYANMAR'S SEZs

Background

Myanmar is currently undergoing a transition from a military dictatorship that has ruled the country since 1962. Economic and political reforms began after Cyclone Nargis devastated the country in 2008 and accelerated under former general Thein Sein's presidency (2011-2016). Aung San Suu Kyi's National League for Democracy (NLD) party secured a majority of parliamentary seats in the April 2016 election, and her government is currently pursuing further reforms, including a troubled peace process that would end a long running civil war¹⁴⁸, enhanced engagement with the international community, including a cascade of international development assistance, and revised legislation, including new laws on foreign investment in the country.¹⁴⁹

The SEZ concept was first floated in Myanmar in the mid-1990s with Thilawa and Dawei in frame. A feasibility study to develop a deep-sea port and SEZ in Dawei was conducted by Thailand-based construction company Italian-Thai Development (ITD) in 1996, with Thilawa also discussed at the time.¹⁵⁰ Zones were likely linked to the ADB's 1994 list of cross-border transport infrastructure routes, which were upgraded to the status of economic corridors in 1998.¹⁵¹ Fresh interest in SEZs sparked between 2006 and 2008, driven by Thailand's Prime Minister Thaksin Shinawatra and Tin Maung Thann of Myanmar Egress.¹⁵² Egress, a CSO which engaged with the military government to spur economic and political reforms between 2008-2012, sent a study team to China to explore their SEZ model and submitted a policy proposal and recommendations to the Union Solidarity and Development Party (USDP) government in 2007-2008.¹⁵³ Thaksin reportedly took a 'keen interest' in the Dawei SEZ project around the same time and gained support for the project from Myanmar's military leaders.¹⁵⁴ SEZs and industrial parks later became part of the previous government's (2011-2016) plan to boost industrial production in the country.

Legislation and governance framework

The basic concept of Myanmar's SEZs is that zone developers lease land from the state, which they in turn lease to investors in the SEZs. Zones are set up by private developers and governed by the state through SEZ Management Committees under the 2014 Myanmar Special Economic Zones Law.¹⁵⁵ This law establishes governance and investment arrangements, but references other bodies of law in relation to labour, environment, and land, which therefore still applies in the zones.¹⁵⁶ The 2014 SEZ law superseded both The Dawei Special Economic Zone Law and The Myanmar Special Economic Zone Law which were passed in January 2011, reportedly drafted by the Thai construction

company ITD itself, two months after they signed a framework agreement with Myanmar on the development of Dawei Deep Sea Port, Industrial Estate, and Road and Rail Link to Thailand.¹⁵⁷ Interestingly, a premise of the 2011 law was that it aimed to protect and safeguard the sovereignty of the State as regards foreign business, a stipulation dropped under the 2014 legislation and replaced by the aim of promoting the national economic development plan and attracting and facilitating the flow of investment.¹⁵⁸ Other specified aims were to provide employment, increase production of goods for export, and boost foreign exchange earnings. Generous concessions to foreign investors under the 2011 legislation were later overshadowed by the 2012 Foreign Investment Law, which extended similar enticements nationwide.¹⁵⁹ The 2014 SEZ law in turn offered further incentives directed toward export-oriented businesses, extended initial land lease terms from 30 to 50 years (extendable to a total of 75 under both frameworks), and formalised discretionary exemptions from import duties.

Notably, the 2014 law allowed SEZs to be established privately and wholly owned by foreigners, as well as publicly and through joint ventures.¹⁶⁰ The roles of the Central Body, Central Working Committee, and Management Committees were clarified and enhanced, with the Central Body empowered to establish new SEZs or to upgrade industrial zones into SEZs with the approval of Parliament (the Pyidaungsu Hluttaw), and to select SEZ developers, who enjoy generous exemptions on income taxes (8 years duty free, followed by low rates for a further 8 years) and on customs duties.¹⁶¹ Decision-making authority under the 2014 law was further decentralised to Management Committees, which are responsible for the management and administration of the zones, including establishing One-Stop-Service Centres¹⁶² (OSSCs), deciding SEZ tenants, and mediating disputes.¹⁶³ However, the role of these bodies, especially that of Management Committees, remains unclear; and particularly regarding responsibilities for human rights and environmental impacts, according to the International Commission of Jurists. As a result, legal procedures are not followed, Management Committees have interpreted their roles as broader than mandated in the SEZ Law, and accountability for violations has been elusive.¹⁶⁴

SEZ developers may only obtain an SEZ permit once Environmental Impact Assessments (EIAs) and resettlement plans have been completed; yet this has not occurred in any of Myanmar's SEZs.¹⁶⁵ People have been displaced from land acquired for the development of all three SEZs without proper planning for resettlement or environmental conservation, thereby contravening national and international laws, including those governing land and the environment, resulting in human rights violations and environmental degradation.¹⁶⁶ The 2014 SEZ law affirms the applicability of national environmental laws, the responsibility of SEZ investors to abide by them, and of Management Committees to supervise and ensure compliance.¹⁶⁷ Yet, as noted by ICJ, the accompanying SEZ rules (2015) undermine these national laws by delegating authority to the on-site One-Stop Service Centres (OOSC), authorising them: 'To provide necessary permits, licences and approvals for special economic zone investors'; stipulating that: 'Approval from the relevant ministries are not required'.¹⁶⁸ This has reportedly led to cases where Management Committees have intervened in the operation of OOSCs, pressuring them to pass EIAs, causing tension with

the Ministry of Environmental Conservation and Natural Resources.¹⁶⁹ Existing national labour laws, including the minimum wage, also apply in the zones according to the 2014 SEZ Law.¹⁷⁰ However, a contradictory provision stipulates that Management Committees 'may determine the minimum wages of staff'.¹⁷¹ The ICJ concludes this allows Management Committees to propose a higher minimum wage for a specific zone, but not a lower one.¹⁷² Regardless, minimum wages have not always been paid in SEZs. According to one respondent: 'There's a Thai company, [name withheld], in the [Thilawa] SEZ which pays 2000MMK [approx. \$1.50] per day. The minimum wage is 3600MMK [approx. \$2.75]. I spoke with the OSSC and asked why they allowed that. They said these are interns. The ILO says they are working, they should get the minimum wage.'¹⁷³ Several recent reports have also demonstrated even the current national minimum wage is insufficient to support a workers' basic necessities.¹⁷⁴

Management Committees are mandated to mediate and negotiate disputes between employees and employers, yet no special procedure is established.¹⁷⁵ The 2015 rules provide five articles of guidance on dispute resolution between SEZ investors and developers, but none for those between workers and employers.¹⁷⁶ Disputes involving local communities are not considered in either. The 2014 SEZ law stipulates expenses for relocation and compensation should be paid, and that affected persons should not suffer a lower standard of living as a result of the development; yet whom should meet these obligations remains unclear, the law merely stating responsibility lies with: 'The developer or the investors'.¹⁷⁷ Lack of transparency has complicated processes of land acquisition, which has violated national laws and international laws and standards on resettlement.¹⁷⁸ In the absence of effective remedy from their own state, locals have appealed to foreign governments to seek redress. Affected persons from Thilawa have travelled to Tokyo to petition the Japanese International Cooperation Agency (JICA), the Japanese government agency developing and investing in Thilawa SEZ; while Dawei civil society organisations have petitioned the Thai National Human Rights Commission (NHRC). Both JICA and Thailand's NHRC recognised problems related to the respective SEZs, but have had limited success making amends. An income restoration programme and a Multi-Stakeholder Advisory Group (MSAG) have been established in Thilawa as a result of JICA's review. To help locals engage constructively with administrators and investors, in line with the third pillar (remedy) of the United Nations' Guiding Principles on Human Rights, the MSAG included an interim community-driven operational grievance mechanism supported by EarthRights International. Unfortunately, this had limited success due to reluctance among stakeholders to take responsibility for problems raised by locals.¹⁷⁹

Myanmar's SEZs

There are currently three approved SEZs in Myanmar: Dawei, in south-eastern Tanintharyi division, Thilawa, 25kms south of Yangon, and Kyaukphyu in south-western Rakhine State.¹⁸⁰ Memoranda of Understanding (MoUs) were signed with Thailand to develop Dawei SEZ in 2008, China to develop Kyaukphyu SEZ in 2009, and Japan to develop

Thilawa in 2013. Despite being the last to be endorsed, Thilawa was the first and currently only operational zone, opening in 2015.¹⁸¹ Minor construction activities began in Kyaukphyu in 2014-15; none occurred in 2016, although preparations were made for land acquisition. Construction has stalled in Dawei due to lack of investment, though is likely to commence again soon. Significant social and environmental impacts, including human rights violations, land grabbing, destruction of agricultural land, and loss of local livelihoods have been well documented at all three zones.¹⁸² A novel concept of Special Agricultural Industrial Zones (SAIZ) was introduced by the NLD in July 2016 in their industrial policy plan, with zones planned for development in Sagaing, Bago, Ayeyarwady and Tanintharyi regions, to focus on production of agricultural products for export to China, India, Laos, and Thailand.¹⁸³ Plans for a fourth SEZ, to be located in Yangon Region, were announced in December 2016.¹⁸⁴

Kyaukphyu SEZ

Thilawa and Dawei are government-to-government projects, backed by Japan and Thailand respectively. Initiated as a Chinese government-backed project, Kyaukphyu is now a business-to-government zone, with China's largest and state-owned conglomerate, CITIC Group, the main shareholder at 85 percent.¹⁸⁵ Kyaukphyu is Myanmar's most propitious location for a deep seaport and is of considerable strategic importance to Myanmar. It also features substantially in China's economic and geostrategic planning, included as part of its One Belt One Road (OBOR) Initiative and 21st Century Maritime Silk Road (MSR) plans, which were announced in 2013.¹⁸⁶ Kyaukphyu is also crucial as regards China's sea-lane and energy security, and is part of the country's proposed Bangladesh-China-India-Myanmar (BCIM) Economic Corridor (EC). China's ability to access the Indian Ocean through Kyaukphyu cuts off 5,000-km sailing distance from China to India and points beyond, reducing logistics costs for exported goods. Kyaukphyu is already the terminus of an oil and gas pipeline to Kunming, China, which will come under the auspices of Kyaukphyu port, which CITIC considers to be a 'related product' of the SEZ.¹⁸⁷ Myanmar's proposal for a 50:50 joint venture investment arrangement for the port was reportedly rejected by the Chinese conglomerate, which demanded for a 70-85 percent stake.¹⁸⁸ Around 20,000 people risk losing their homes and livelihoods as a result of the SEZ and related developments.¹⁸⁹

The authorisation of Kyaukphyu SEZ has been subject to significant controversy. The tender was pushed through the Myanmar parliament in December 2015 as one of the last acts of the outgoing Union Solidarity and Development Party (USDP) government, a process marred by irregularities. According to one respondent, no disclosures were made about the tender prior to the parliamentary decision, and parliamentarians were under the impression the vote was only on the demarcation of the zone rather than the award of the tender. They reported: 'Most parliamentarians, even the military representatives, were opposed to the model proposed by the Chinese.'¹⁹⁰ Regardless, the tender was approved by the SEZ Bid Evaluation and Awarding Committee days after the vote. CITIC

Group, a consortium of five Chinese firms and one Thai, were granted an 85 percent stake in the zone, with Myanmar retaining the rest.¹⁹¹ Development of the zone requires an initial investment of \$14 billion and a total of \$89.2 billion over 35 years.¹⁹² Chinese banks are providing finance through mezzanine loans, whereby ownership is transferred to the lender if interest payments cannot be met. Commenting on the mezzanine financing structure, an advisor to the government reported: ‘The essence is that the lender shall take shares as an owner transfer relation with the borrower paying in shares if they cannot pay interest.’ Indignantly, they added: ‘This was losing control of one of the most strategic areas in the country.’¹⁹³

Dawei SEZ

Dawei is of similar strategic importance to Thailand as Kyaukphyu is to China. Wars have been fought over the land since the 10th century, partly because trade access to the Indian Ocean reduced transportation time between India and China and avoided the pirate-infested waters of Malacca. Dawei, Martaban, Mergui, and Moulmein were all strategic locations on Myanmar’s South-eastern coast for the Burmese and Ayutthaya kingdoms, and later the British.¹⁹⁴



Figure 17: Dawei’s Strategic Location (Global Asia)

A bilateral agreement to develop a deep seaport and road link in Dawei was signed between Myanmar and Thailand in 2008 on the side-lines of a special meeting of ASEAN foreign ministers called to discuss emergency assistance for survivors of Cyclone Nargis. A second MoU was signed three weeks later with Italian-Thai Development (ITD) PLC, Thailand’s largest construction company, expanding the project scope to include an SEZ with heavy, medium, and light industries. Myanmar formally approved the SEZ on 2 November 2008. Dawei Development Company Ltd. was established as a joint venture between ITD and Max Myanmar, one of Myanmar’s biggest conglomerates. Land was confiscated from local inhabitants and cleared, with basic infrastructure developed for the zone by the company. Max Myanmar mysteriously announced it was withdrawing from the project in July 2012. One respondent claimed that this was because senior generals’ investments in the zone were considered to have become unviable. ITD was left searching for new investment partners and construction halted.¹⁹⁵ Both governments took on enhanced roles following a third MoU signed in 2012, and established a special purpose vehicle (SPV), Dawei SEZ Development Company (DSEZDC) Ltd., in 2013.

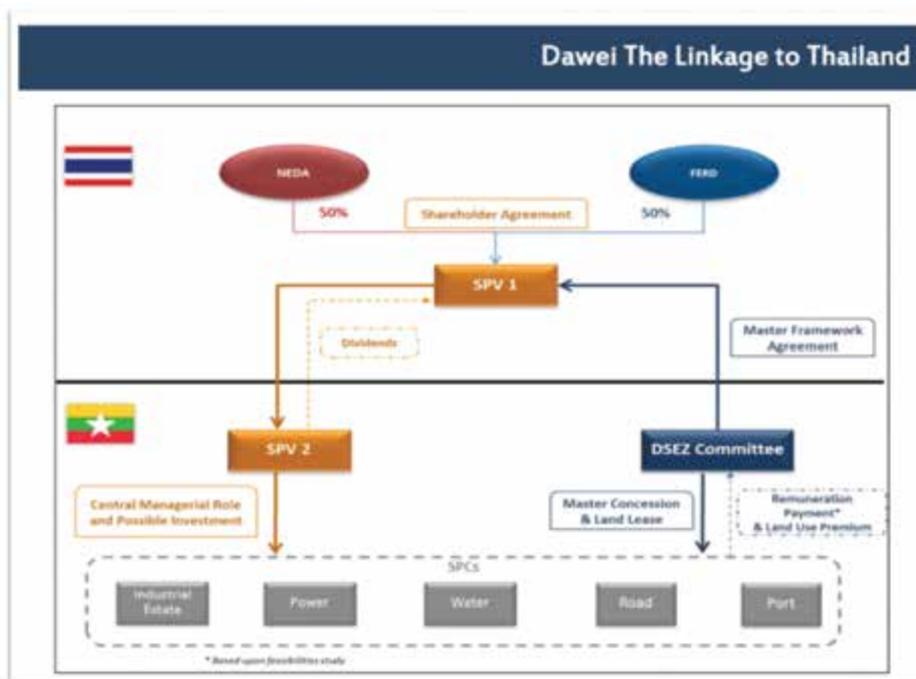


Figure 18: DSEZ Investment Structure (Thai Ministry of Finance)

ITD signed a termination agreement with the newly established SPV and Dawei SEZ Management Committee (DSEZMC) in November 2013, transferring the concession to develop the zone to DSEZDC. Costs already incurred were estimated at THB 6 billion (approx. \$170 million), for which ITD was compensated with 8.5km² land in the zone area because Myanmar lacked financial capital. The relationship between the SEZ developer and ITD is unclear but ITD appear to be a subsidiary company, responsible for attracting investment in the zone. ITD's role possibly presented as SPV 2 in the investment structure diagram below, with the developer (DSEZDC) by SPV1. ITD and their partners will nonetheless continue to be a significant beneficiary of construction of the zone as 25 percent shareholders in all eight companies awarded rights to manage ports, roads, power plants, water, and the industrial park.¹⁹⁶ Another concession was signed in March 2016 between ITD, Shell, and LNG Plus to develop a Liquefied Natural Gas (LNG) terminal. ITD also established a second joint venture with Thailand-based Rojana Industrial Park Public Company Ltd in April 2015 called Myan Dawei Industrial Estate (MIE) Company Ltd, shortly before 'ITD and partners' signed a revised initial concession development agreement for the zone in August 2015. ITD and Rojana have invested \$1.7 billion, with Japan buying into the DSEZDC SPV in December 2015. Equity was then split three ways between Japan's JBIC, Myanmar's FERD and Thailand's NEDA.¹⁹⁷

"Kick-starting" Dawei SEZ

After taking power through a military coup in 2014, one of the first acts of Thailand's military junta was to push the development of Dawei SEZ and other SEZs along its borders to spur its economy. Myanmar's new NLD government affirmed its commitment to SEZs in

November 2016 following a review conducted after taking office in March 2016. Consultant Roland Bergerhad earlier developed a new master plan for Dawei SEZ with the support of Thailand's National Economic and Development Cooperation Agency (NEDA) and several Japanese government-related organisations.¹⁹⁸ According to the new plan the zone was to be developed in two phases. The initial phase (2015-2025) will focus on labour intensive industries including seafood processing, garments, processed food products, rubber products, furniture and construction materials, as well as the LNG terminal. This phase is 27km² but 35km² will be cleared, including ITD's land. The second phase (2025-2045) will expand the SEZ to a total of 196.5km², including heavy industries encompassing an oil refinery, plastics, steel and fertilizer plants, and automobile assembly.¹⁹⁹ The initial SEZ demarcation was 250km²; it is not clear what will happen to the land not included in the revised master plan. The stated purpose of the first stage is to 'kick-start' the project and 'create momentum for the full phase'; details of which have not been released to the public. It seems that labour intensive industries will be prioritised to create jobs, generate good will with locals, and establish a beachhead; withholding development of heavy industries until the second phase, since these will face significant public opposition.²⁰⁰ Commented one NGO respondent: 'The first implementation phase is just to trick people. By saying it is small people will accept it.'²⁰¹

Financing Dawei SEZ

Under the original plans, development of the zone was estimated to cost a total of \$50 billion, with \$8.5 billion for the initial phase.²⁰² The cost of the first phase of the revised plan is estimated to be \$1.7 billion, with additional finances for further phases to be secured at a later date.²⁰³ It is not clear who is financing infrastructure for the zone, although ITD appear to be responsible for attracting investors and Thailand officially stepped in as lender of last resort in 2012, committing to finance construction if outside funds were not found.²⁰⁴ This may explain the complicated investment structure for the zone (See Figure 18 DDZEZ Investment Structure/18) Following public pressure, Thailand's Prime Minister's Office later asserted that the Thai government should not directly invest in the project, but that Thai state enterprises or the private sector may.²⁰⁵ It was reported later in 2012 that unnamed international financial institutions including export credit agencies from Japan were interested in financing the zone; JBIC officially bought into the DSEZDC SPV in December 2015, indicating the injection of Japanese public funds.²⁰⁶

Private finance is also invested in the zone. Thailand's Siam Commercial Bank (SCB) has played a significant role, mainly through support for ITD. While ITD has invested its own funds it has also received financial support from Thai banks including Kasikorn Bank, Bangkok Bank, and Krungthai Bank, in addition to SCB.²⁰⁷ A Thai legal firm claims on its website to have advised SCB on the structuring of \$8.6 billion to ITD to finance the SEZ, and in 2015 SCB announced it intended to be a 'leading arranger for the megaproject', advising ITD and providing them with bridge loans and finance.²⁰⁸ Thai banks have weak social and environmental impact assessment mechanisms and Dawei SEZ is not the first controversial project they have financed

in the region. In addition to the Xayaburi dam in Laos, SCB also financed a sugar plantation and factory in Cambodia linked to land grabbing and forced evictions.²⁰⁹

SCB is reported to be concentrating on water-related and power infrastructure, as well as the industrial estate, leaving three ports and the road-link to another party. A consortium of Chinese companies, including King Trillion and China Railway Engineering Corporation has expressed interest in these. This requires an investment of \$800 million and Myanmar has been asked to pay for the development of this infrastructure, as private banks are unlikely to support it due to low profitability.²¹⁰ An unpaved 'access road' was completed in 2012 and will be developed into a 4-8 lane highway 'road link' from DSEZ to the Thai border. A range of negative environmental and social impacts have been documented as a result of the access road and the planned road-link, including land grabbing and threats to the largest population of tigers left in the Greater Mekong region.²¹¹ Neither government of Thailand or Myanmar seems willing to foot the bill for the road; which seems to have stalled the project at the time of writing. A loan has been offered to Myanmar by Thailand's Neighbouring Countries Economic Cooperation Development Agency (NEDA) but has not yet been accepted by Myanmar.²¹² The perception among respondents is that Myanmar is expected to pay for SEZ related infrastructure from which Thailand will benefit most. According to an economic advisor to the Myanmar government: 'From what I have seen of the fine print of both places [Kyaukphyu and Dawei SEZs], they represent very bad deals for Burma [Myanmar]. This is especially the case with respect to connecting infrastructure, which the Burmese [Myanmar] government is seemingly on the hook for.'²¹³

Thailand's development agencies

While Thaksin Shinawatra pushed the Dawei SEZ concept in the early stages, Thailand's development agencies, The Office of the National Economic and Social Development Board (NESDB) and The Neighbouring Countries Economic Development Cooperation Agency (NEDA), have played a key role propelling it forward. The NESDB (referred to as "the Thai technocrats" by a Thai CSO²¹⁴) is a strategic economic planning arm of the Royal Thai Government and a key promoter of Dawei SEZ.²¹⁵ NEDA is Thailand's international development aid agency, mandated to support economic cooperation with neighbouring countries with a budget of approximately THB 8.7 billion (approx. \$242 million) to support infrastructure projects in Cambodia, Myanmar, Laos, and Vietnam. NEDA state on their website that Dawei SEZ is their second organisational priority, after encouraging the Thai private sector to play an increasingly important role in the development of the region.²¹⁶ Although the ADB had been hesitant to finance the supporting infrastructure, a partnership agreement was signed with NEDA in 2015 to support a variety of infrastructural projects in Thailand's neighbouring countries, including SEZs and the co-financing of projects.²¹⁷ According to a Bangkok-based CSO, other Thai government agencies, namely the Ministries of Foreign Affairs, Commerce, Transportation, and Finance, are all supporting the project, and Thailand's state-owned oil and gas company, PTT Group, has declared an interest, but is waiting for infrastructure to be developed.²¹⁸

Incentives for Thailand, Japan, and Myanmar

Key incentives for Thailand include providing businesses with access to the Indian Ocean, and the relocation of heavy and polluting industries from its eastern seaboard. The former Thai PM Abhisit Vejjajiva was famously quoted as saying: 'Some industries are not suitable to be located in Thailand; that is why they decided to set it [the SEZ] up there.'²¹⁹ Nevertheless, geopolitics and facilitation of international trade is perhaps a more significant factor driving support for DSEZ.

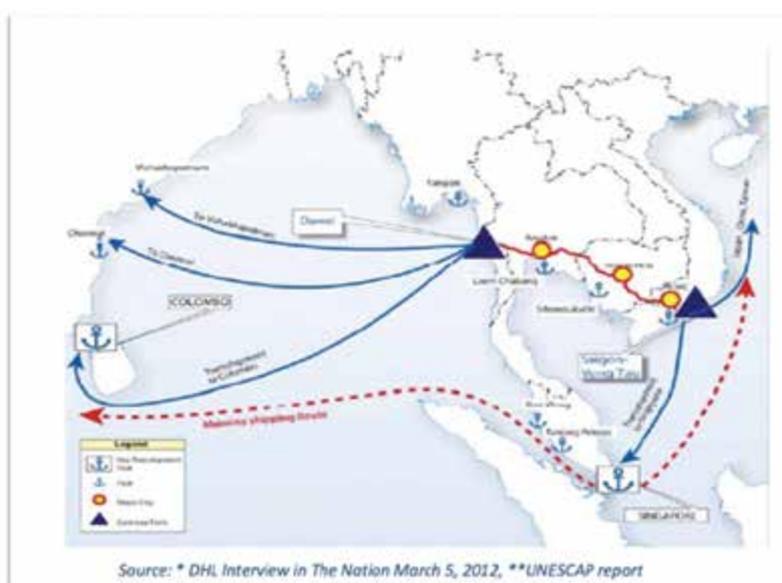


Figure 19: Dawei: Bypassing the Malacca Straits (Thai Ministry of Finance)

Kings, mandarins, and engineers have sought ways to bisect the Southeast Asian peninsula to open a passage for trade for centuries.²²⁰ The prospect of an SEZ in Dawei presents a welcome alternative for Thailand to the Kra Isthmus Canal, originally considered by Siam's King Narai in 1677, which was the subject of a national commission established when Thaksin Shinawatra became Thailand's Prime Minister in 2001, and is presently subject to renewed interest from China.²²¹ Crude oil from the Middle East is currently transported through Singapore and the Malacca Straits to net energy importers in the region Thailand, China, and Japan, with goods produced for export in China and Southeast Asia destined for Indian and European markets passing in reverse. The route is becoming increasingly congested and is considered to be a strategic chokepoint, particularly by the Chinese.



Figure 20: Where DSEZ Meets the Sea: 0KM on the Southern Economic Corridor (Charlie Thame)

Reducing travel time would also cut logistics costs of goods. A trans-peninsular pathway to circumvent Singapore and the Malacca Straits would thus be enormously disruptive to the strategic and economic landscape of the Asia-Pacific; likely to yield significant political and economic dividends to those that control it, thereby shifting the balance of power.²²² Dawei's strategic importance to the GMS was recognised early by the ADB and designated as the Western Gateway of the Southern East-West Economic Corridor. In addition to these strategic concerns, Thailand's NESDB has argued that improving its infrastructure capacity and creating a 'Logistics Shortcut' through the development of Dawei SEZ will improve the investment climate in Thailand and raise Thailand's GDP by 1.9 percent.²²³

For its part, Japan has identified three main incentives for participating in the Dawei project: 1) To help Japanese companies participate in infrastructure projects in the Dawei region; 2) To support Japanese companies' production base in ASEAN through ASEAN connectivity; and 3) To deepen economic relations between Japan and Myanmar.²²⁴ Presumably, also to compete with China for influence in Myanmar. For Myanmar, consultant Roland Berger claimed that there are three key incentives: 1) Job creation; 2) Socio-economic development of southern Myanmar; and 3) Return of Myanmar migrant workers in Thailand.²²⁵ The latter has been a priority policy for leaders of both countries, especially Thailand's military junta.²²⁶ Myanmar, Thailand, and Japan will all receive dividends from the DSEZDC SPV, and Myanmar will also receive some capital in exchange for land. According to Myanmar parliamentary proceedings in 2012, under the initial agreement the Myanmar State was in line to receive the relatively paltry sum of \$30.675 million for 204.5km² kilometres of land for the term of the concession, a rate of \$150,000 per km².²²⁷ Terms of the most recent agreement are not publicly available.

Incentives for SEZ firms

The SEZ developer, MyanDawei Industrial Estate Company (MIE), and consultants Roland Berger advertise the strategic location of Dawei, the industrial land and supporting infrastructure, integrated supply chains and logistics, a 'new source of labour', and Myanmar's abundance of natural resources, as key incentives for firms to establish operations in the zone. They tout the availability of underexploited marine, forest, agricultural, and mining resources, and imports from China and India (presumably textile raw materials), as enticements for potential SEZ investors. Further incentives



Figure 21: Distances from Dawei (MIE)

include the SEZ and foreign investment legislation, comprising tax advantages and the absence of restrictions on movement of capital, as well as the ability to lease land for 75 years; the preferential treatment of goods exported to the United States and European Union under the Generalised System of Preferences; and finally, assistance for firms to meet local regulatory requirements provided by the zone's OOSC.²²⁸

Incentives for local communities

According to the SEZ master plan, Dawei SEZ will spur socio-economic development of Southern Myanmar and enhance standards of living of local people through the provision of local infrastructure such as roads and public services like education.²²⁹ Another claim is that the SEZ will directly create 300,000 jobs for locals by 2025, and 900,000 by 2045.²³⁰ These claims are problematic, to say the least. For a start, Dawei's population (including children and elderly) is estimated at 493,576, according to the 2014 census.²³¹ A focus group of villages affected by construction of the zone was asked if the new roads were helpful: all 12 participants responded negatively. When asked why not, one replied: 'They built it on our farmland.'²³² Another added: 'The road is for the cars, or the vans: they are not building it for the village. They use the road that the villagers have built, they destroy it, and don't repair it.'²³³ Similar scepticism was expressed regarding promised job opportunities: 'They said they will have job opportunities in the zone, but if we want jobs we can only get low standard jobs, cleaning or manual labour, so we will not do it.'²³⁴ Average daily wages in Dawei are higher than the national minimum wage, at 5 000-6000MMK/day (\$3.7-\$4.4) for men and 3-5000MMK (\$2.2-\$3.7) for women. As a result, construction jobs have gone to internal migrants instead: 'There are a lot of people who have worked on the SEZ from Ayeyarwady region, the Nargis affected area, but not from here. From upper Burma they have very low wages, only 2000MMK [\$1.5] per day, so they move here. What about us? The local people can't get jobs on the site, we can't work for 3000-4000MMK.'²³⁵



Figure 22: Crossroads in DSEZ (Charlie Thame)

Land and livelihoods

Dawei has a rich ecology that has sustained land-based livelihoods including fishing and farming for hundreds, if not thousands, of years. In Cha Khan for example, a fishing village near 'KM-0', where the ADB's Southern Economic Corridor meets the Indian Ocean



Figure 23: Looking South over DSEZ: Proposed Site for Heavy Industries (Charlie Thame)

(see Figure 41) established over 100 years ago, there are currently over 30 households and three boat owners, and locals earn 5000-10,000MMK (\$3.7-\$7.4) per day from fishing for a few hours work per day. Other villagers engage in small-scale farming and animal husbandry on the land.²³⁶ A woman affected by road construction for the project expressed the importance of land for locals: ‘We take good care of our land. It’s thanks to the land that we can live. We don’t want compensation. Compensation doesn’t last. We can’t pass it on to our children. If we can pass on the land, we have nothing to worry about for our descendants.’²³⁷ A farmer displaced from land acquired for Thilawa SEZ similarly explained: ‘The farmland is important not just for us to have food to eat but also to pass on to our next generations.’ Another added: ‘I worry for the future of our children because this land was our great grandparents’, handed down to us through generations, and I won’t be able to pass it on to them.’²³⁸ Locals rely on the natural water supply for their livelihoods as well as for drinking and are particularly concerned about water scarcity as a result of the reservoirs being built to supply the zone.²³⁹ Several environmental issues related to the SEZ have been documented, including water and air pollution and the destruction of ecosystems and wildlife habitat. An environmental impact assessment for the 138km road link to Thailand was conducted by Chulalongkorn University in 2012, but the results were not released to the public.

Land grabbing

Locals in Dawei and beyond have been affected by land grabbing as a consequence of the DSEZ; both directly in the area where the SEZ is being developed, and indirectly in surrounding areas. According to a report published in 2012, land grabbing in the area demarcated for the zone affected 32,274 people, with up to 50,000 displaced when connecting infrastructure such as the dam areas and road link for the zone were included

in estimates.²⁴⁰ Even more have been affected by indirect land grabbing in surrounding areas as business-elites, speculators, and investors attempted to cash in on an anticipated economic boom.²⁴¹

Application of land laws in Myanmar is uncoordinated and legal procedures not always followed, as documented by the ICJ in the case of Kyaukphyu SEZ.²⁴² The 1894 Land Acquisition Act is the primary law used for land acquisition, with the Ministry of Home Affairs responsible under Article 82 of the 2014 SEZ law. In practice, however, Management Committees have played a central role in this process. Under the 2008 Constitution, the State is the ultimate owner of all land and resources, although many people affirm land rights under customary tenure arrangements.²⁴³ Customary tenure and women's rights to own and use land is recognised in the 2016 National Land Use Policy, which commits the government to reforming land laws in line with international human rights standards. But this is not true under current law, such as the 2012 Farmland Law, which has often been used to determine compensation entitlements along with the 2012 Vacant, Virgin, and Fallow Land Law.²⁴⁴ Citizens are now able to apply for formal tenure, in the form of 'Land Use Certificates' under the 2012 Farmland Law, but this was not possible during land acquisition for the Dawei SEZ and has been beset with complications since. As a result, according to a CSO respondent, locals were simply cut out of the process of land acquisition: 'Business cronies wanted land titles so they applied at the land administration level and got them. Without the SEZ the cronies would not come and the local people would not lose their land.'²⁴⁵ Locals who have refused to leave land they claim customary tenure over have been charged with trespassing. The respondent added: 'The law is not protective of farmers, especially the small scale farmers. If they take land grabbing cases to court the judge will ask where their land title is.' They concluded: 'Soon more and more local people will be imprisoned.'²⁴⁶ A land rights analyst has noted that foreign investment has led to a new phase of land grabbing in Myanmar: 'Whereas land grabs during previous periods were predominately conducted by military-state and non-state armed actors for their benefit alone, "crony companies" with extreme wealth and political leverage have become the new driver of land grabs in different parts of the country, often financially backed by foreign investors.'²⁴⁷

Resettlement sites

Further problems have arisen with the resettlement of displaced persons, despite claims by the consultants hired to develop the new master plan that: 'Resettlement will be conducted in line with international standards and a participatory approach.'²⁴⁸ Relocation sites have themselves also been sites of dispossession, according to a 2012 CSO study, with farmers displaced from their livelihoods during their construction.²⁴⁹ Adding insult to injury, a local NGO claimed that the houses in a resettlement site near the SEZ would collapse every year in the rainy season due to poor construction by sub-contractors.²⁵⁰ Ironically, given the plan to provide jobs for returnees from Thailand, of the four households that have actually moved to the resettlement site, three have

since moved back to Thailand to become migrant workers.²⁵¹ More problems have been reported in Thilawa's resettlement sites, which are supposed to be an example of good practice. Physicians for Human Rights concluded that the relocation village did not meet international (Sphere) standards for refugee camps, finding all the wells and pumps providing water to the village to be improperly constructed and contaminated with bacteria found in human faeces.²⁵² Relocation sites also contribute to further social dislocation as traditional familial ways of life are disrupted. As one respondent explained: 'In rural areas families have a big land plot. When the sons and daughters get married, they divide the land and give a plot to their children and their spouse. This happens for many generations. But when they are relocated [for the SEZ] they are given 25ft by 50ft plots. When their children grow up, where will they stay?'.²⁵³



Figure 24: Road in DSEZ (Charlie Thame)

Compensation and accountability

Some villagers have been compensated for their land while others have not, and tensions between villagers were evident in a focus group discussion in an SEZ affected village. One villager told us how things had improved for him as he had received compensation for his land, while another retorted: 'You said life was good, but it is not for us. There are a lot of bad things that have happened. Our lands are damaged and our farms cannot produce.'²⁵⁴ Three participants walked out at this point, visibly upset, and one did not return. Another villager pointedly commented: 'The local people, ordinary people, never benefit [from the SEZ]. The brokers benefit. Brokers are the people who run big businesses, but there are also brokers in the villages who cooperate with outsiders.'²⁵⁵ A CSO respondent questioned the propriety and impartiality of local authorities as regards practices related to compensation provided to villagers, and Oxfam has reported allegations of collusion between land purchasers and village administrators in Kyaukphyu.²⁵⁶ The ICJ has noted that SEZ Management Committees have often

interpreted their role as wider than that explicitly mandated in the 2014 SEZ law, and lack formal accountability when committee members have failed to protect human rights and the environment.²⁵⁷

In one community, 21 villagers reported that their land had been damaged as a result of SEZ construction. One told us: 'ITD promised to compensate us but never took action. We heard from the news that there would be compensation for 62 people who had lost their land and livelihoods. But this has been the message for a long time, for two years already.'²⁵⁸ None thought that the government listened to them and had the following view of SEZ companies: 'Today they will say they will help us tomorrow, then tomorrow they will say they will help the next day.'²⁵⁹ A CSO respondent explained how there were unclear lines of accountability for the project now that it has been taken over by the three governments: 'The companies make promises. But when we complain they say this is not our responsibility, it is the government's. We have a lot of debate with the government officials, who say this is the company's responsibility. There's a lack of accountability between them.'²⁶⁰ The transnational nature of ITD's investment in Dawei SEZ further complicates locals' efforts to hold developers to account. CSOs have petitioned the Thai National Human Rights Commission, which investigated and recommended that ITD should consider providing compensation and remedy to local villagers, and that the Thai government should establish mechanisms to oversee transnational investments of Thai companies and regulate their activities under the United Nations' Guiding Principles on Business and Human Rights. States are under growing pressure to better regulate business enterprises to prevent and address human rights abuses committed as a result of their operations. The UN Guiding Principles, endorsed by the UN Human Rights Council in 2011, are presented in a 'Protect, Respect, Remedy' framework, a global standard based upon: 1) States' duty to protect human rights under international law; 2) The corporate responsibility to respect human rights; and: 3) States' responsibility to provide access to remedy and prevent and remediate human rights abuses.²⁶¹ ITD was invited to a public hearing in Bangkok but did not attend.²⁶²

One Dawei-based CSO claimed local officials were biased towards the developer and that this created a climate of impunity, adding that it was too soon for foreign investment in the country due to the weak rule of law. They concluded: 'This is not the right time to invest. We don't have rule of law. Laws are there but officials don't implement them.'²⁶³ Asked about the new government, respondents indicated there had been progress but that challenges remained. 'The problem is that nobody cares, it is seen as the issue of the previous government. The people fighting to claim their land back are still being jailed. The country is half paralysed. At the parliamentary level they are changing but at the operational level they are the same people. The judges, the judicial system, the village administrators, the police: they are the same as the previous government. Just a few weeks ago another farmer was sued and detained for two months in prison for protesting land grabbing.'²⁶⁴



ITD worksite (July 2017) Photo by Ridan Sun

PART 3. REGIONAL AND THEMATIC ISSUES

Why are SEZs being developed?

China's infrastructural investment in the Mekong

China's 'One Belt One Road (OBOR) initiative (sometimes referred to by its components: the Silk Road Economic Belt or 21st Century Maritime Silk Road, or more recently, the Belt and Road Initiative (BRI)) was announced in 2013 and has become a centrepiece of China's foreign policy and international economic and geopolitical strategy.²⁶⁵ It also adopts the economic corridor approach developed by ADB in the Mekong,

expanding it to a nearly global scale.²⁶⁶ One aim of the initiative is to sustain China's economic growth by developing links with external trade partners; this is sometimes seen in Southeast Asia as a way of China exporting its overproduction capacity abroad, seeking new market access, and developing foreign policy initiatives.²⁶⁷ Although SSEZ predates OBOR, both it and Kyaukphyu now fall under OBOR's umbrella. Requiring a total initial investment of \$1.4 trillion, a Silk Road Fund has been established with \$40 billion to develop infrastructure and promote connectivity across 65 countries, including the GMS.²⁶⁸ The Asian Infrastructure Investment Bank (AIIB), with \$100 billion capital, and the New Development Bank, with capital of \$50 billion (set to rise to \$100 billion), are both poised to invest in OBOR infrastructure.²⁶⁹ Chinese President Xi Jinping pledged a total of \$124 billion to the OBOR initiative at a summit in May 2017, including an extra \$14.5 billion to the Silk Road Fund, \$37 billion in loans from the China Development Bank, and \$20 billion in loans from the Export-Import Bank of China.²⁷⁰



Figure 25: One Belt One Road (OBOR) (Hong Kong Development Council)



Figure 26: GMS Southern Economic Corridor (MIE)

One contrivance of OBOR is the Lancang-Mekong Cooperation (LMC) mechanism, launched in November 2015. This encompasses all six Mekong basin countries: China, Myanmar, Lao PDR, Thailand, Cambodia, and Viet Nam, and directly competes with the United States' backed Lower Mekong Initiative, which excluded China. China regards the Mekong sub-region as: 'the most suitable experimental area for the Belt and Road Initiative to make a breakthrough' and countries in the region fall under the ASEAN-China Free Trade (ACFTA) framework.²⁷¹ Focusing on Laos, Thailand, and Cambodia, the mechanism augments support provided by the ADB, piggybacking on the GMS scheme to 'upgrade' it.²⁷² To this end, China is pumping capital into the sub region to 'vigorously develop infrastructure' including economic cooperation zones and industrial zones.²⁷³ To increase capital available for factory building and industrial development, \$1.5 billion of loans and up to \$10 billion in credit lines were extended for infrastructure through the China Development Bank at an LMC meeting in March 2016.²⁷⁴

Global supply chains

PPSEZ and Dawei SEZ are located on the GMSECP's Southern Economic Corridor, while SSEZ is on the GMS Southern Coastal Corridor, which links with Thailand's heavily industrialised eastern seaboard and joins with the Southern Economic Corridor at Bangkok. PPSEZ and SSEZ are also located on the Central Economic Corridor, which runs north to Kunming, China. Kyaukphyu SEZ is located on China's BCIM Economic Corridor. Such infrastructure has been developed to deepen intra-regional connectivity and lower the cost of cross-border transportation. Under the umbrella of global, regional, and bi-lateral free trade agreements, this has facilitated what Baldwin has called the 'second great unbundling'.²⁷⁵ The first was the unbundling of production and consumption, whereby falling transportation costs allowed factories to be located far away from consumers, allowing, for instance, garments worn by consumers in Europe to be produced in China. The second 'great unbundling' is that of the process of production itself, whereby falling communication and coordination costs mean that it is no longer necessary to perform most stages of production in close proximity.²⁷⁶ Sometimes referred to as fragmentation, slicing

up the value-added chain, and offshoring, this unbundling introduces global competition to drive down the costs of production in areas such as labour, since factories can move labour intensive parts of production to countries where wages are lower without fundamentally disturbing their production process.

Concurrent with these processes has been the development of 'Factory Asia', referring to the rapid growth of Asia as a global hub of manufacturing, coupled with the disaggregation and regionalisation of production and distribution networks across the continent, and beyond.²⁷⁷ Mekong countries have been encouraged to liberalise their markets and offer incentives to foreign investment to further integrate into these global and regional networks. To this end, many have established dedicated government agencies tasked with enticing foreign investment, such as the Myanmar Investment Commission and Council for the Development of Cambodia. In exchange, foreign investors are offered special privileges and protections under these countries' foreign investment laws, including tax breaks and guarantees against nationalisation of investments. International financial institutions often help LDCs to write these laws: The World Bank's International Finance Corporation assisted Myanmar draft its new Foreign Investment Law, for instance.²⁷⁸ Once established, these government agencies are under pressure to meet investment targets, and megaprojects such as SEZs are easy ways to meet them.²⁷⁹ Coupled with a fundamental commitment to economic growth, this was identified as an incentive for governments to approve SEZs, despite their costs and drawbacks.

The government wants to show how much the GDP increases. They want to say [in the future] that from 2015-2020 it has improved by six percent.²⁸⁰

One of the reasons [for protecting the rights of investors] is that Myanmar wants to increase foreign investment in the country. The Directorate of Company Administration, DICA is under pressure because there is a certain quota they have to meet for foreign investment in the country. Their job is to attract FDI, by relaxing their duties and obligations in the country. In general, the law is missing a lot of protections for the rights of the people in the country. It also permits a lot of tax evasion.²⁸¹

Government want to show economic growth with numbers, and the mainstream stakeholders are using these numbers. As a government they need to show the people that the economy is growing, and an SEZ is an easy way to show growth. But the pain and suffering underneath? No one sees.²⁸²

Investment means a lot to the powerful people, the agencies that govern the policy. In terms of boosting the economy, if you have some megaprojects somehow that allow you to include them in the national economic growth. But we have been challenging this for a long time; megaprojects only serve a few people—the big corporates and the construction companies.²⁸³

Selling land and labour to foreign capital

Access to low-cost land and labour have been two key attractions for foreign investment in Mekong countries, which have mainly integrated into regional production networks through low labour cost competitiveness in import-substituting, export-oriented manufacturing. Following the global financial crisis of 2007-2008, the significance of both resources rose again. As investors lost confidence in financial products such as derivatives, productive assets such as land, labour, and resources necessary to produce food became increasingly attractive.²⁸⁴ Infrastructural investment also became more desirable, particularly for China and Japan, and the Chinese and ASEAN economies were touted to become the new engines for global economic growth, responsible for propelling the global economy out of recession.²⁸⁵ Against this backdrop, SEZs have been subject to renewed interest from both China and Japan: attractive policy tools to facilitate the transfer of over accumulated capital and direct it towards productive outlets in the Mekong. A Cambodian industry representative also implied they have been used as tools to circumvent domestic laws prohibiting the sale of land to non-citizens, claiming: 'The SEZ idea came about as a vehicle to sell land to foreigners'.²⁸⁶

Dawei SEZ and Kyaukphyu SEZs are clear examples of Thailand and China clawing their way to exert control of land strategically important to them.²⁸⁷ In Cambodia, SEZs have also been used to capture and control productive labour, and are increasingly important locales for production; exports from Cambodia's SEZs increased 80 percent between 2014 and 2015.²⁸⁸ Warned one CSO respondent:

The trend is to move all the factories into the SEZ. Sooner or later they will do that. They will remove all the factories along Veng Srengstreet. They say it's to avoid traffic jams and so on, but there are two things we may consider. One is that there are rumours that the SEZs are controlled by the PM or his family, who have shares in them. Second, they see the potential to control the labour movement, because the union cannot easily access the members in the zones. In public they say they want to protect the businesses, the investors; the unspoken agenda is to weaken the union movement. They will move all the Tier 1 factories into the zones sooner or later, and all the subcontracted factories will move to the provinces.²⁸⁹

Cambodia has some of the lowest wages in the Asia Pacific, comparable with Nepal, Sri Lanka, Bangladesh, and Pakistan. While minimum wage increases were implemented in 2013, 2014, and 2015, the response from industry has been to increase labour productivity, including longer working hours and short-term contracts, including forced overtime.²⁹⁰ The de facto restriction of rights to freedom of association, which is protected under domestic and international law, and collective bargaining in Cambodia's zones effectively captures workers in zones, divides them from the labour movement, and undermines their resistance to the imposition of practices such as forced overtime, quotas, and denial of maternity leave, enabling incremental increases in productivity to be further squeezed from their labour.

Who Benefits from SEZs?

Industrialisation, job creation, and the expansion of capital

Special economic zones and the industrialisation of Mekong countries are commonly justified by multilateral institutions and foreign investors as drivers of job creation and poverty alleviation. A Japanese advisor commented: 'The Cambodian population are mainly farmers, not all have jobs. No job equals no income; this is a problem. The Japanese government is encouraging the investors to move from agriculture to industry.'²⁹¹ Similarly, the SSEZ website states that its Training Centre was established: 'To make the Cambodian farmers into modern industrial workers.'²⁹² Yet problems arise when new jobs do not deliver decent work and a living wage sufficient to support a worker's basic needs.²⁹³ As one CSO respondent told us: 'Rural people are not poor: they have land, they have cattle, they have a home. The problem is when they are made to convert their "in kind" wealth to "monetary wealth." Bringing people into the cash economy is moving them out of subsistence and self-sufficiency into debt traps.'²⁹⁴ The region's transformation from largely agrarian and subsistence based economies to industrialised ones has lifted many out of poverty, but has also been marked by exploitation and inequality. As noted in a study of border economic zones in the GMS by the Mekong Migration Network, it is often challenging for former agricultural workers to find jobs in oversaturated industrial labour markets and many often end up: 'Toil[ing] on the fringes of the sub-region's capitalist transformation, struggling to maintain precarious jobs in growing informal economies.'²⁹⁵

Although SEZs create jobs, their development across the Mekong has been accompanied by the enclosure of land by the state and private interests, leading to evictions and the proletarianisation of rural populations. The role of SEZs as a form of primitive accumulation and accumulation by dispossession has been well documented, particularly in the case of India, as well also in the Mekong.²⁹⁶ Whereas primitive accumulation refers to the historical production of the conditions of capitalism whereby means of subsistence and production are turned into capital and immediate producers are turned into wage-labourers, accumulation by dispossession involves re-creating the conditions of capital's expansion.²⁹⁷ For Harvey and others, accumulation by dispossession is a structural drive that is an on-going and permanent feature of the reproduction of capitalist and colonial social relations.²⁹⁸ In Dawei SEZ, where investors are offered a 'new source of labour', locals have been dispossessed of their customary lands and traditional livelihoods.²⁹⁹ Notably, for indigenous peoples such as those forcibly evicted and resettled in Dawei, the process of the expansion of capital is also destructive of traditional social relations, which are usually based on principles of egalitarianism and deeply reciprocal relations with the environment.³⁰⁰ As demonstrated in the case of Cambodia, the outcome of the establishment of the SEZs is the dispossession of workers' rights to freedom of association and collective bargaining, which facilitates their exploitation by allowing further surplus value to be extracted from their labour through productivity drives they are unable to resist.

Social protections

A central problem in Mekong economies is that economic growth has not been accompanied by a complementary set of social and economic policies such as social protections, redistribution, and serious commitments from governments to ensure decent work.³⁰¹ As demonstrated by Polanyi, the transition to market society is enormously destructive of traditional ways of life.³⁰² With their traditional livelihoods damaged or destroyed, locals affected by SEZs are often forcibly assimilated into market society without any of the social protections that have been established in developed societies, and in some cases, such as in Cambodia, violently suppressed by their governments when they mobilise to demand fairer treatment. Cambodia's GDP growth was one of the highest in the world between 2011 and 2015, to which the garment and footwear industry contributed to 45.4 percent.³⁰³ However, wages remain below the living wage and, according to the ILO, due to absence of social protections many impoverished Cambodians: 'Cannot afford to be jobless for long, leading to increased participation in unsafe vulnerable employment'.³⁰⁴ Despite rapid economic growth, public expenditure on health in Cambodia amounted to merely 1.3 percent of GDP in 2014—one of the lowest in the world.³⁰⁵ Similarly, only 2.6 percent of GDP was spent on education in 2010, well below the global and low-income countries' averages of 4.5 percent and 3.9 percent in that year.³⁰⁶

Investment and inequality in the Mekong

The Mekong region has been one of the fastest developing regions in the world over the last ten years. From the inception of the GMS programme in 1992 to 2014, annual economic growth rate measured in GDP per capita among countries in the region averaged 7.5 percent per year, with exports growing 12.3 percent annually.³⁰⁷ GDP at purchasing power parity has been steadily rising during this period. However, these statistics do not reveal how the gains of economic growth have been distributed. Wealth and inequality have become an issue of significant concern worldwide in recent years. According to Oxfam, the wealth of the poorest half of the world's population has fallen by a trillion dollars since 2010 (-38 percent) while the wealth of the richest 62 percent has increased by more than half a trillion dollars in the same period.³⁰⁸ Income can be broadly split between labour income and capital income. The first is generated by workers in the form of wages, salaries,

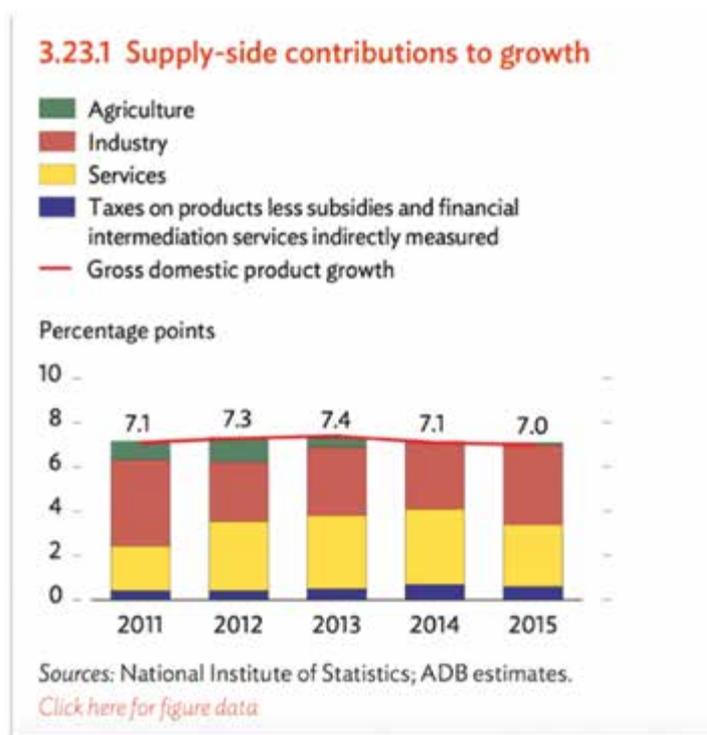


Figure 27: Supply-side Contributions to Cambodia's Economic Growth (ADB)

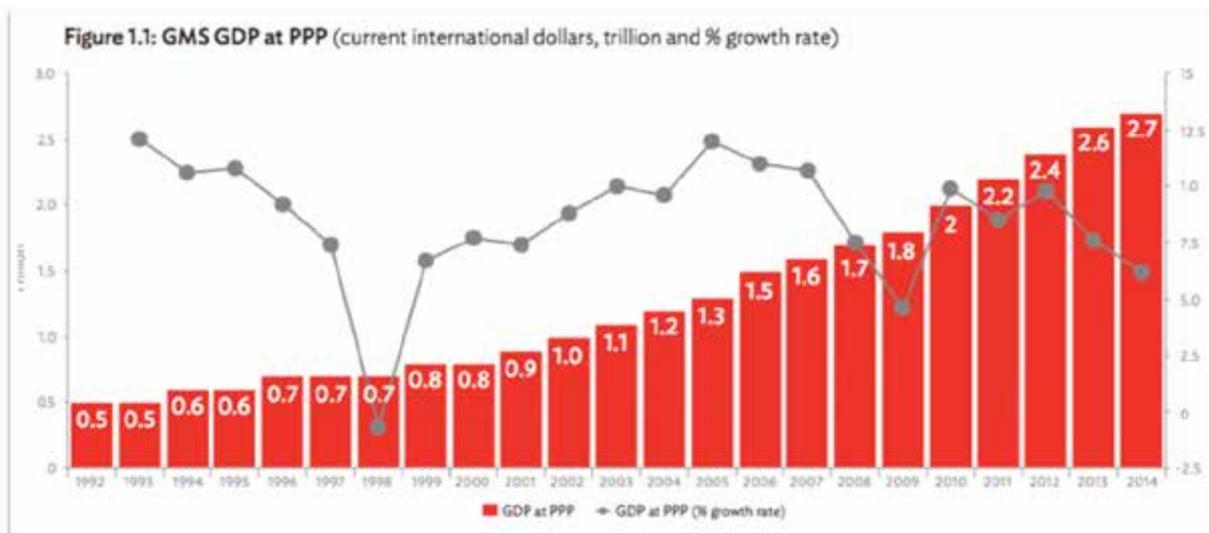


Figure 28: GMS GDP at PPP (1992-2014) (ADB)

and benefits; the second is from dividends, interest, and retained company profits. One of the key ways that capital and wealth is accumulated at the top is a result of the increasing return to capital rather than labour, with the share of income going to labour declining in most countries around the world.³⁰⁹

Regional investment policies that have dominated the development agenda since the 1980s, such as financial liberalisation; regressive taxation; privatisation in the context of weak regulation; and labour market policies that lead to precarious forms of employment have exacerbated inequalities in the region, according to the United Nations Economic and Social Commission for Asia and Pacific (UNESCAP). Although designed to create a ‘race to efficiency’ through market incentives, the UNESCAP explains that in fact: ‘These policies have, in certain contexts, created a “race to the bottom”’.³¹⁰ Such inequalities, it concludes, increasingly ‘jeopardize the social cohesion and stability of societies’ since the “inequality trap” risks exacerbating social exclusion and creating a “bottom billion” group that would be left behind as countries reap the benefits of global and regional integration.”³¹¹ According to the Asia Pacific Wealth Report 2015, there were 4.7 million individuals in the Asia-Pacific with over \$1 million in financial assets. Combined, these individuals held \$15.8 trillion in wealth. The number of high net worth individuals (HNWIs) in China and Thailand grew in 2014 by 17.5 percent and 13 percent; their wealth grew by 19.3 percent and 14.9% respectively.

Capture of the State

Economic inequality has political implications, including capture of the state. As Oxfam and others have demonstrated, although a country’s economy and its political system are supposed to be separate, they are intrinsically linked, with the relationship between economic power and political power and inequality creating an iniquitous cycle that affects the design of institutions created to govern national economies.³¹² According to Oxfam:

Wealth has the potential to capture government policy making and bend the rules in favour of the rich, often to the detriment of everyone else. The consequences of this include the erosion of democratic governance, the diminishing of social cohesion and the reduction of equal opportunities for all. In the past, some excesses were reduced through the power of unionized workers and their influence over economic institutions, but the global decline of private sector unionization has weakened this power and this decline has been closely associated with rising inequality.³¹³

More nefariously, in addition to enriching business and finance and reducing welfare in client economies through structural adjustment programmes, Washington Consensus policies such as privatisation, deregulation, and free capital movement have led to a 'corruption eruption' in the Global South, which has since spread back to the Global North.³¹⁴ Respondents to this study made numerous allegations and suggestions of collusion and corruption between private and public agents with interests in SEZs; no zone was exempt. A few have also been intimated in the literature.³¹⁵ Due to strict criminal defamation laws and cases of judicial harassment of human rights defenders in Thailand, Myanmar, and across the region, these will not be repeated here. Suffice to say that political will and irregular movement of capital are two important and underappreciated factors behind the establishment of SEZs, and that zones pose a very significant risk to entrenching capture and control of states in the region by political and economic elites.



Figure 29: Population and Wealth Growth Rates in the Asia-Pacific (Cap Gemini and RBCC Wealth Management)

Beneficial ownership

Relatedly, one respondent alerted us to challenges in identifying beneficial owners of companies involved with SEZs, and that there was no transparency when it came to where money was coming from and where it went. According to a 2014 Global Witness report on Myanmar's extractive industry:

Corrupt politicians all over the world use companies and trusts with hidden ownership to seize public property worth billions of dollars. This deprives ordinary citizens of money that should be spent on development and empowers unaccountable elites, often helping them gain and maintain power at the expense of democracy, human rights, and peace. Revealing the real people behind companies is critical to achieving genuine reform in Myanmar, where military families and crony tycoons have long benefited from control of natural resources.³¹⁶

The recent release of the Panama Papers demonstrated how political elites around the world have siphoned off funds through financial intermediaries and offshore facilitators including accountants, lawyers, private offshore banks, and trust companies; yet, it only scratched the surface and hinted at the scale of the problem.³¹⁷ Concerns about 'informal networks' and 'rent-seeking value chains' involving elites, their brokers, and external suitors, with 'well-established practices of structuring elaborate deals using offshore vehicles to camouflage the identities of beneficial owners' have already been raised in studies of the OBOR scheme.³¹⁸ Such vehicles facilitate the evasion of taxes, bribe payments, and the skirting of sanctions.³¹⁹ They are likely to become an issue of increased importance with the roll-out of more large-scale infrastructure projects in the region, and 'may further fuel additional rent-seeking on behalf of predatory elites'.³²⁰ According to one Financial Times report, Chinese officials privately expect to lose 50 percent of their investments to



Figure 30: "In a period of Japanese supporting to ASSK, Myanmar old juntas (thieves) still in trolley to take benefit from it."

corruption in Myanmar.³²¹ Global Financial Integrity, a Washington-based non-profit, has estimated that unregulated inflows into Myanmar in 2013 totalled \$10 billion, over 20 percent of GDP.³²² They estimated that 45 percent of such illicit flows end up in offshore financial centres.³²³

Governance challenges

While 'capture of the state' generally refers to the relation between economic power and political power affecting the design of economic and social policy and institutions at the national level, whereby rules may be designed or bent to benefit the wealthy at the expense of everyone else, the problem becomes more acute with governance of SEZs. As noted in the introduction, SEZs are usually accompanied by dedicated governance structures, mandated with authority to establish and administrate the zones. In Cambodia, this authority lies with the CDC and the CSEZB, as well as One Stop Service Centres (OSSCs) established inside the zones. In Myanmar, it lies with the Central Body, the Central Working Committee, the SEZ Management Committees, and the OSSCs. In the case of Kyaukphyu, the Bid Evaluation and Awarding Committee was mandated by the government to select and appoint a consulting firm and developer(s) for the zone. Total investment required to fully implement Kyaukphyu SEZ is estimated at \$89.2 billion, and at \$50-80 billion for Dawei. Estimates for SSEZ and PPSEZ are not available, but SSEZ required an initial investment of \$3 billion and total implementation cost is likely to be comparable to Dawei and Kyaukphyu. Annual exports worth \$2 billion were expected to be processed through SSEZ by 2015. When such large sums of foreign capital are invested into such small enclosures with dedicated administrative structures, governance challenges are inevitable. Yet comments from respondents in both Cambodia and Myanmar suggest that the impact could be particularly pernicious in lesser-developed countries, which lack the stronger and more independent institutions to ensure transparency and accountability among public officials often found in their more developed counterparts.

Within the organisational structure of Cambodia and Myanmar's SEZ governance mechanisms, OSSCs in Cambodia have come under most scrutiny. Governments are encouraged to establish OOSCs so that SEZ firms can side-step pre-existing regulatory procedures that impose high operating costs by allowing them to meet all regulatory requirements in one fell swoop.³²⁴ They have also been touted as a way of cutting opportunities for rent seeking. However, as noted in Part 1, this has not been entirely successful. Irregularities have been reported with the authorisation of both Kyaukphyu and Dawei SEZs, and individuals with significant stakes in PPSEZ and SSEZ are close to the Cambodian Prime Minister, as documented in Parts 1 and 2. Concerns have also been expressed about actions taken by SEZ management in Thilawa SEZ, Sihanoukville SEZ, and Phnom Penh SEZ, which have favoured the interests of foreign investors over those of citizens, sometimes by passing social and environmental protections. In the absence of strong dis-incentives such as independent oversight, monitoring, and accountability mechanisms, SEZ governance structures in Cambodia and Myanmar could permit collusion between private and public agents to affect outcomes in SEZs that favour foreign capital over the national public interest.

Enabling predatory relations between capital and labour

While several workers we spoke to were happy to have jobs in their respective SEZs, they reported that employers not following the law undermined decent working conditions.³²⁵ You have to do over time; if you don't, they dismiss you. It is exploitation. If we had the mechanism to monitor the employers and investors and to force them to respect the labour law [it would be better]. If the law says only two hours of over time, it should be no more than that.³²⁶

It is good the SEZ was established because it absorbed a lot of people, it gives work to them, but there's also a lot of exploitation. We need support to make conditions good inside the SEZ. I want the factory inside the SEZ to obey the law.³²⁷

For their part, industry representatives claim upward pressure on wages is hurting Cambodia's national competitiveness and that firms will relocate to countries such as Bangladesh if profitability is threatened, resulting in job losses; yet factories keep opening and export data continue to grow. According to the Garment Manufacturers Association in Cambodia (GMAC), the garment industry has enjoyed a "meteoric rise" since 1992, and the number of footwear factories has doubled and exports quadrupled over the last six years.³²⁸ Further undermining the argument of industry representatives, a CSO dismissed the premise as based on a false dilemma:

The premise is that it is simply impossible to provide decent working conditions, that there isn't enough money in the industry. The money is there but it's in the wrong hands. It's interesting to look at the list of the richest people in the world. Bill Gates, you can understand that, but why is the owner of IndiTex, or the owner of H&M there? If they can be that rich, then surely there's money in the garment industry. The brands have the money. It is the brand's responsibility to ensure workers get a decent wage.³²⁹

The development of Economic Corridors and SEZs in the Mekong make it easier for footloose investors to disaggregate their production networks and cheaper for them to establish new operations, thereby facilitating predatory relations toward labour in order to keep production costs down. A CSO reported:

Factory owners are being told they can get \$2.50/dozen pieces, but then the next year buyers are saying: 'We can only afford \$2.40, take it or leave it.' In a sense the factory owners are like a worker. Individually they don't have any power, they are played off against each other and don't dare to speak out.³³⁰

By enabling the further fragmentation of a global supply chain where labour exploited at the bottom and value is captured at the top, lesser-developed countries' support for SEZs and infrastructural connectivity in the name of job creation and poverty reduction is a fool's errand.³³¹

The SEZ, it is a cage

'The assumption is that you need a job so that you can survive. But sustainable livelihoods do not mean selling your livelihood to the company so they can exploit you. They introduced the hamburger, but it was a trick. They told us we would get money, so you can buy this, or buy that. But in order to get this deal you have to reduce the tariffs. We don't have equal power in these bargains; that bread is poisoned bread, we've been eating it since the early 2000s and we are sick. We've been poisoned: we are living with the disease of low wages, the disease of no social protections, the disease of no freedom of assembly. We are told to be better and to be nice. We used to be free range, but now we are in a cage. *The SEZ, it is a cage. You are moving a free range animal into a cage.*'

A8. NGO Representative. Female. Phnom Penh. August 2016.

Box 2: The SEZ, it is a cage

Investment in infrastructure and financial extraction from the Global South

Growing inequality has been documented and publicised by organisations such as Oxfam and the wealth gap by authors such as Piketty.³³² A recent study by Nicholas Hildyard explores one of the mechanisms through which capital is accumulated by the one percent, contending that these levels of inequality do not happen by accident.³³³ While societies in the region with growing populations and increasing demands require investment in infrastructure such as roads, schools, and hospitals to deliver basic goods and services, not all infrastructure is developed purely out of concern for the public interest. Indeed, Hildyard argues that investment in infrastructure is being used as a subsidy for the already wealthy, as infrastructure is turned into an asset class through public-private partnerships (PPPs) which guarantee investors stable, contracted income streams at the public's expense. In a chapter on infrastructure corridors, Hildyard notes the trillions of dollars that planners are demanding for infrastructure are simply not available without tapping a wider pool of finance beyond the state, private banks, and multilateral institutions. As a result, PPPs are being pushed by governments and development banks to entice capital: 'Global capital markets are now the new target source, Public-Private Partnerships are the inducement, and transforming infrastructure into an asset class, the currently favoured means of raising the funds.'³³⁴ Analysing inducements offered to investors, Hildyard argues that mechanisms such as PPPs have become less about financing development than they are about developing finance: In other words, providing a profitable outlet for over accumulated capital, rather than investing in a society's essential needs.

Finance for investment in infrastructure, such as SEZs, is being sourced from pension funds, sovereign wealth funds, high-net-worth individuals (HNWIs), and a range of other players, and channelled through infrastructure funds or private equity and venture capital.³³⁵ Hildyard explains that investors can either purchase equity or debt, where equity relates to provision of financial resources by investors in return for an ownership interest or an asset, and debt refers to money lent either through bank loans or the purchase of tradable IOUs such as bonds.³³⁶ These are usually directed through infrastructure companies listed on stock exchanges. As a result, according to Hildyard:

Much of the \$3 trillion plus invested by private investors in infrastructure is one step or more removed from direct holdings in actual bricks and mortar. Instead the investments are in the parent companies that are developing projects (rather than the subsidiaries that build them) or in the companies that stand to benefit from infrastructure contracts, for example, construction and engineering companies, designers and equipment suppliers.³³⁷

These investments are lucrative for the elite. Infrastructure funds typically provide a rate of return of 15 percent, meaning that \$1 billion will balloon into \$1.5 billion over 10 years, according to Hildyard. Private equity and venture capital funds have higher rates still. These sources of finance are invested in infrastructure when prospects emerge, and expect returns of around 20-25 percent at a minimum.³³⁸ A typical strategy is to create value by building up a portfolio of contracted revenues and improving the business model, then flipping the investment either as a private sale or by taking the company public through a stock market listing.³³⁹ Developers and construction companies (they are often both) such as ITD and CITIC stand to make a lot of money in Dawei and Kyaukphyu. In addition to winning concessions and the construction contracts they will likely award to themselves to build the SEZs, once the zones are up and running they can sell their stakes in the companies for considerable profits. As a point of reference, ITD sold its 15 percent share in Nam Thuen 2 Dam in Laos after four months of operation for a return on equity of approximately 63 percent (\$67.5m sold for \$110m).³⁴⁰ For its \$3.5 billion investment in the controversial Xayaburi Dam in Laos, SCB reportedly receives \$450 million per year.³⁴¹ It is more likely that this capital is disbursed among company shareholders in Thailand than reinvested into productive uses in Laos. States are also in on the game. According to an independent report, Pakistan will pay China \$90 billion over 30 years for \$50 billion in loans and investments in the China-Pakistan Economic Corridor: a 40 percent return on investment for China. This is part of the OBOR scheme, like Kyaukphyu and Sihanoukville SEZs.³⁴²

The economic metabolism of loans and guarantees —a word or two from Rosa Luxemburg

'It is just over a century since Rosa Luxemburg, the revolutionary German socialist and Marxist thinker, published *The Accumulation of Capital*. Written in just four months (a period Luxemburg, who was later murdered by right-wing thugs, described as belonging to "the happiest of my life"), the book sought to understand the dynamics behind the imperial conquests of Britain, France, Germany, and other colonial powers. Her thesis was that capitalism is inherently driven to expand into areas where there are non-capitalist social transformations and to absorb them. This, she argued, was necessary because there was never sufficient demand to purchase all the goods produced at any one time by capitalists: and without such demand, the surplus value needed to keep the accumulation process going could not be fully realised. Additional demand, she concluded, must therefore be generated by incorporating those living outside the circuits of capital accumulation. This was accomplished in part through military conquest but also through making loans to create "new opportunities to beget and realise surplus value."

One example that Luxemburg explored in some depth was the loans made by Germany to Turkey to build a railway line from Konya in Turkey to Baghdad. To repay the loans, the Turkish government assigned the tithes collected from peasants in a number of districts as security. These tithes were generally "paid" in the form of wheat, which was then sold by a local tithe collector, who handed the money (less a commission) to the government.

"This money," writes Luxemburg, "is nothing but converted peasant grain; it was not even produced as a commodity. But now, as a state guarantee, it serves towards paying for the construction and operation of railways." In this process, "further means of production of German origin are used, and so the peasant grain of Asia, converted into money, also serves to turn into cash the surplus value that has been extorted from the German workers." The money "rolls from the hands of the Turkish government into the coffers of Deutsche Bank, and here it accumulates, as capitalist surplus value, in the form of promoters' profits, royalties, dividends and interests in the accounts of Messrs. Gwinner, Siemens, Stinnes, and their fellow directors, of the shareholders and clients of the Deutsche Bank and the whole intricate system of its subsidiary companies."

At bottom, argues Luxemburg, it is "an exchange between German capital and Asiatic peasant economy, an exchange performed under state compulsion."

Reproduced from Hildyard, Nicholas. *Licensed Larceny: Infrastructure, Financial Extraction and the Global South* 27-28

Box 3: The economic metabolism of loans and guarantees

CONCLUSIONS AND RECOMMENDATIONS

The enduring role of SEZs in the Mekong

Special economic zones spread across the world during an era of growing liberalisation of international trade, which they catalysed by offering governments a way of negotiating integration into the global economy. As territorially demarcated areas within which market-friendly and export-promotion policies could be tested, they allowed governments to experiment with free-trade policies and open the door to foreign investment while still protecting national industries. For foreign investors, they provided access to low-cost labour, new markets, and security of investment with guarantees against nationalisation. The most successful zones were those established in the 1970s in China, Malaysia, and Taiwan, such as Shenzhen, and were 'well suited for the times'; yet today SEZs are increasingly delivering only marginal gains at best.³⁴³

Trade and fiscal incentives for establishing SEZs have conspicuously declined in significance as barriers to international trade have been removed and many countries have adopted market-friendly and export-oriented principles. Foreign investment laws in both Cambodia and Myanmar offer generous incentives for firms to operate in the country and pertain nationwide. As an industry representative remarked: 'The investment law in Cambodia is pretty generous to exporters. We really enjoy the benefits of SEZs without being in the SEZs. The conditions nationwide are like an SEZ.'³⁴⁴ Similarly, Myanmar's 2012 Foreign Investment Law effectively made the Dawei SEZ Law (2011) and the Myanmar SEZ Law (2011) redundant. The 2014 Myanmar SEZ law stipulates further financial incentives for firms to invest in zones, but a 2011 World Bank study found that fiscal incentives such as tax breaks have 'no measurable impact' on a zone's success; noting instead that provisioning of serviced industrial land and low cost labour is more significant.³⁴⁵ Consequently, based on the analysis of SEZs in Cambodia and Myanmar here, as trade and financial incentives have declined in significance, the importance of SEZs as tools to facilitate international trade and provide supporting infrastructure for businesses is increasing. It is this that explains their enduring appeal for development assistance programmes in the Mekong.

SEZs have been promoted in the Mekong by the ADB since the 1990s as connective nodes on trans-boundary infrastructure corridors that are being developed to criss-cross the region. They are part of a regional development model that has historically been driven by Japan, but which has recently attracted increasing interest from China through OBOR and the Lancang-Mekong Cooperation Mechanism. Under the umbrella

of international trade regimes such as the World Trade Organisation (WTO), ASEAN Institutionalised System of Preferences (AISP), and ASEAN Free Trade Agreements (FTAs), and in anticipation of future regimes such as the Regional Comprehensive Economic Partnership Agreement (RCEP), and at least until recently the Trans Pacific Partnership (TPP), the aim of these models has been to provide an enabling environment for business and investment in the region. They have done so in two key ways. The first is that they reduce the cost of transporting goods from locales of production (or sometimes simply extraction) to locales of consumption; the second is that they enable the disaggregation of production itself. With regards to the first, the development of infrastructure in the Mekong has provided corporations access to underexploited natural and human resources, enabling value extraction. Thai seafood processing firms are keen to invest in Dawei, for example, because Myanmar's marine resources are more abundant than the overexploited Gulf of Thailand; energy companies are keen to secure distribution points and reduce logistics costs of imported resources such as Liquefied Natural Gas (LNG) in Dawei; similar concerns motivate Chinese investment in Kyaukphyu SEZ. As well as natural resources, SEZs provide access to human resources. As sites of production themselves, SEZs have been developed to provide firms access to low cost labour and to absorb and develop a workforce. This is the case in Sihanoukville SEZ, which attracts labourers from rural Cambodia, while Dawei SEZ is also touted as a 'new source of labour' for investors.³⁴⁶ Goods produced using these resources can then be quickly brought to market. The Phnom Penh SEZ is attractive to Japanese investment because its location on the East-West Economic Corridor provides cross-border access to Thailand and to Japan via the port in Ho Chi Minh City, allowing goods produced in these zones to be quickly and cheaply transported to the next stage of the production process, or for consumption in regional and global markets.

The second key way infrastructure contributes to an enabling environment is that it facilitates the disaggregation of production networks and the further development of 'Factory Asia'. Increasing intra-regional connectivity allows multinational firms to relocate parts of their production process to areas where resources cost less, and thereby slice up the value chain; retaining profitable stages and exporting low-value added or socially or environmentally damaging aspects of production. As labour costs have risen in China, for example, garment firms are looking to relocate production to Cambodia and Myanmar, while Japanese automobile and electronics firms are relocating some stages of production to Cambodia and Myanmar from Thailand, and Thailand itself intends to relocate heavy industries from its eastern seaboard to Dawei. SEZs also provide a way of expanding a firm's production base with a reserve, so that output can be increased quickly if necessary should production be disrupted in other locales. These types of operations are usually referred to as 'Thailand-plus-one' or 'PRC-plus-one' models: Japan's diversification of supply chains in the production of electronics equipment to Cambodia as a result of the 2011 Bangkok floods is a case in point.³⁴⁷ While firms invest in these countries and create jobs, investment occurs as the structural conditions are developed within which downward pressure can be applied to wages, and governments can be pressured to adopt policies that are increasingly skewed to favour the interests of foreign capital.

SEZs and capture of the state

Based upon the case studies of Cambodia and Myanmar presented here, what is often underappreciated is the role of soft infrastructure, and in particular its shortcomings, as an incentive for foreign investors to encourage the development of SEZs. Whereas hard infrastructure refers to physical networks such as roads, ports, and electricity, soft infrastructure refers to institutions and governance mechanisms. SEZs worldwide are usually accompanied by dedicated governance structures, which are commonly justified in terms of efficiency and for reducing opportunities for corruption. However, absent strong transparency and accountability, mechanisms to ensure conflicts of interest do not arise between public officials and zone investors, the concentration of foreign capital investing in SEZs exerts significant influence over holders of public offices, who tend to bend to the will of foreign investors rather than to citizens. In short, the dedicated governance structures accompanying SEZs have become reliable mechanisms through which foreign firms can exert significant influence over a country's resources, further compounding capture of the state in the region.

In both Cambodia and Myanmar these structures have enabled predatory relations between international capital and local land and labour. Decisions regarding the authorisation of zones have been marred by irregularities, while the special administrative treatment given to SEZs has further weakened national mechanisms to enforce social and environmental protections, resolve disputes between citizens and investors, and hold investors to account for harmful actions. Indeed, it seems Cambodia's zones were designed to maintain an uninformed, disempowered, disconnected, and docile workforce; a resource to exploit rather than one in which to invest. This appears to have been part of a strategy to undercut upward pressure on wages and working conditions by denying fundamental rights to freedom of association and collective bargaining in the zones. In Myanmar, SEZs have effectively permitted the sale and control of strategically important land to Thailand and China, allowing their neighbours to secure their trade routes at the expense of local communities and Myanmar's own national development. An internal review has been conducted of Kyaukpyu and Dawei for the new NLD government, yet it remains to be seen whether Myanmar was able to renegotiate terms of these projects—which are widely regarded as unfavourable—given the strictures of investor-to-state dispute mechanisms.³⁴⁸

Globally, one of the central characteristics of SEZs, as spaces where ordinary regulatory and governance standards do not apply, is presented as a sort of incubator for new and 'better' forms of governance. In practice, however, zones in the region have directly undermined the content and implementation of specific regulations, and the legitimacy and accountability of central government governance structures (specifically, through the OSSCs), in a way that privileges the interests of capital over those of local land, labour, and ecology. As a result, it may be the case that SEZs in the Mekong support not so much the 'capture' of the state, as the 're-capture' of the state; or even a reconfiguring of the already captive state. In Myanmar and Cambodia this involves creating SEZs as

new nodes of centralising and distributing power and economic rents; initially alongside existing ones (such as the Jade mines in Myanmar) and involving the same players, but increasingly linking them to transnational and more mainstream networks of economic extraction.³⁴⁹

SEZs and value extraction from the Mekong

The connection between SEZs and capitalist processes of primitive accumulation and accumulation by dispossession has been made elsewhere. What has not yet been brought to light is the role SEZs are playing in financial extraction from the Global South. Local governments in the Mekong do not possess the financial resources to develop zones independently and need external financial support to do so. Consequently, while SEZs elsewhere are commonly owned and operated by states, public-private partnerships have become increasingly common mechanisms to develop SEZs in Cambodia and Myanmar. While Thilawa and Phnom Penh SEZs have received Japanese support, Japan and Thailand have supported Dawei SEZ; with Kyaukphyu and Sihanoukville SEZs backed by China. However, the interests of foreign capital may not align with national development priorities, and the question arises as to whose interests are most effectively served by these investments. As explained by Soe Linn Aung, investment in infrastructure can be directed toward different ends, one of which is towards the public good: Infrastructure for all in the Keynesian sense of public provisioning by developmental states. Another is to serve corporations, private interests, and state bodies linked to private financing. Aung argues the latter to be the case in Thilawa.³⁵⁰ It would be hard to argue against the view that this thesis also applies to other SEZs in Myanmar and in Cambodia.

Hildyard's ground-breaking work helps us lift the veil further. By turning infrastructure into an asset class to entice private investment, he argues there are three major functions of PPPs in financing infrastructure. The first is for the public to subsidise the role of infrastructure in propping up the bottom line of corporate enterprise in late capitalism, as governments usually guarantee these investments (e.g., Thailand's 'bailout' of ITD).³⁵¹ The second is as a guaranteed profitable outlet for surplus investment capital in a time of chronic over-accumulation (e.g., the renewed interest in infrastructural investment after the Global Financial Crisis). The third is to facilitate the commodification of new areas of life, which can thereby be incorporated into the cash nexus (e.g., Dawei's marine resources, or Cambodia's land concessions in the case of rural SEZs).³⁵² Further research must be conducted and information disclosed to establish whether, to what extent, and how such financial tools are deployed in the context of SEZs in the Mekong. Since details of the financing of Cambodia and Myanmar's SEZs are not publicly available, we might use an analogous example of ITD and SCB's investment in two dams in Laos to shed light on incentives for foreign investors, given that these two firms are significant investors in Dawei SEZ. As noted in the previous section, SCB reportedly receives \$450 million per year for its \$3.5 billion investment, while ITD sold its stake in another dam for a return on investment of 62.96 percent (\$67.5m sold for \$110m).³⁵³ While it is problematic to

generalise from these figures—it is not clear whether similar deals pertain to Dawei SEZ, or to other private and state-linked private financiers of zones in the Mekong—they might nonetheless explain why investors tend to be more enthusiastic about the development of SEZs than those evicted from their land for their development, or those who end up labouring within them.

Notably, most value extracted from the development of this infrastructure is unlikely to be reinvested in Cambodia or Myanmar. After all, SEZ laws stipulate no restrictions on the movement of capital or repatriation of profits. Indeed, on the basis of the case studies of Cambodia and Myanmar presented here, it is hard to draw any other conclusion than to regard SEZs in the Mekong as tools to enable the capture and control of Cambodia and Myanmar's most productive assets—land and labour—by foreign capital, and to facilitate value extraction to the more industrialised economies of Japan, China, and Thailand; possibly with the collusion and complicity of national elites. That Japan, China, and increasingly Thailand, have pushed the development of SEZs in the Mekong is not surprising; it was only through the combination of American land, African slave labour, and English capital that the limits of English agrarian capitalism were eventually surmounted.³⁵⁴ Bearing in mind China's growing interest in the region and the funds earmarked for infrastructural development in its OBOR initiative, it looks unlikely that the cascade of finance for zones will dry up any time soon.

Recommendations

Special economic zones are essentially policy tools that may be deployed by national governments to different ends through various means: they are neither inherently 'good' nor 'bad'. Nonetheless, experiences with zones in Cambodia and Myanmar have exposed significant shortcomings with the way they have been deployed in the region to date. Most significantly, these relate to legislative and governance frameworks. These can be adjusted. Sound and detailed recommendations for the Myanmar government, civil society and lawyers, and private sector actors, to work toward these ends have been made by Oxfam and the International Commission Jurists. Most of these are in principle transferable to Cambodia, and need not be rehearsed in detail here.³⁵⁵ They include a call for a moratorium on SEZ developments and new related investment agreements until: 'Laws, policies, and practices related to the development and implementation of SEZs are reviewed and amended to ensure alignment with the state's international law obligations and international standards to protect human rights'³⁵⁶, and for large-scale and long-term investments to be: 'Matched with plans for significant investment and support to improve essential services and livelihoods prospects as well as to mitigate negative impacts for local communities.'³⁵⁷ That said, the following recommendations are made:

- 1. The governments of Cambodia and Myanmar could revise SEZ legislative frameworks and governance structures to mediate the interests of capital with those of the environment and their citizens sustainably and fairly.**



Highway master plan of ITD. Photo by Ridan Sun

Countries such as Cambodia and Myanmar want investment in public infrastructure and economic development for poverty alleviation, for which they may need to attract capital from abroad. This is usually leveraged against their natural or human capital: their environmental resources or their labour force. At the most basic level, people in Cambodia and Myanmar want sustainable livelihoods; yet the current trend with their SEZs is for governance structures to protect the rights of financial capital against those of people or the environment. For rural communities, sustainable livelihoods have been derived from natural capital, natural resource stocks such as soil, water, the ocean, and the hydrological cycle, for generations. For those entering the workforce as economies industrialise, sustainable livelihoods could be derived from gainful employment, characterised by decent work with a fair income; security in the workplace; social protections; better prospects for personal development and social integration; freedom to express their concerns; and to organise and participate in the decisions that affect their lives.³⁵⁸ Governing the territory within which livelihoods are pursued, the role of the state is to balance these needs with the occasionally conflicting interests of investors. They must do in a way that does no harm, enhances peoples' capabilities, and maximises their citizens' welfare.³⁵⁹ More tangibly, this means ensuring that investments are not, on balance, harmful or destructive to the environment or to peoples' livelihoods; taking into account peoples' self-esteem, security, vulnerability, power, and their inclusion, as well as their material interests. At present this is happening neither sustainably nor fairly. Governments could level the playing field by revising SEZ legislative and governance frameworks, and ensuring adequate support for those whose livelihoods have been disrupted by the development of SEZs, and for those whose livelihoods have come to depend on them. This includes, but is not limited to, appropriate compensation for those displaced, and removing obstacles to people freely organising to realise their rights in the workplace.

- 'It is good the SEZ was established because it absorbed a lot of people, it gives work to them, but there's also a lot of exploitation. We need support to make good conditions inside the SEZ. I want the factory inside the SEZ to obey the law.' M2. SSEZ Worker. Male. July 2016
- 'Industrial jobs are not sustainable. They are in the interests of the investors. If they are happy, then OK, they will run a business here. If they are not happy, they move. If a farmer has land, it is stable work to farm and get produce from the land: their land is their lives.' A8. NGO Representative. Female. Phnom Penh. August 2016.
- 'The companies, the government, and the workers are not equal or balanced. The company can pressure the workers directly, and they use money to pressure some government officers. Nowadays, if we are talking about power, the employer is at the top, the authorities are in the middle, and the workers are at the bottom. I would like to see the three bodies in balance. The government should be at the top, and the company and the worker should be equal. They would be independent, not corrupt, and the worker and the employer would be equal under the law.' A6. Workers' Union Representative. Male. Phnom Penh. August 2016.

- ‘Low wages and restrictions on fundamental freedoms and rights is not a long term sustainable plan for a business. You cannot just close the mouths and the eyes of the people. We have experience of revolutions, changing from slavery to employment, already, in the 1980s. Businesses should join hands with labour to fight against corruption; they should think about the liveable minimum wage, and they need to make it happen.’A2. NGO Representative. Male. Phnom Penh. August 2016.
- ‘How to put it in a way that doesn’t sound cruel? If all the workers in Bangladesh were unemployed, it might make the economy change direction and give them a chance for a better life. A couple of times we have seen factories close down and we’ve been like: “Fine, it was a crappy factory, good riddance.” What we tell workers is that if we push for change, maybe the factory will close, but there’s no guarantee that it won’t close anyway, or that if you don’t push they’ll stand behind you cracking the whip for the rest of your life.’A12. NGO Representative. Male. Bangkok. September 2016.

2. The governments of Cambodia and Myanmar could prioritise investments that best serve the interests of their citizens and reject those which do not. They could work to reduce reliance on industries that unduly profit from the exploitation of their natural and human resources by establishing a supportive environment for responsible investment, and invest in local industries and public infrastructure, including education, health, and welfare.

Infrastructure and mega-projects such as SEZs are primarily being pushed in Cambodia and Myanmar by China, Japan, and Thailand. Internal and external pressure on local administrations to maintain and accelerate economic growth, measured through indicators such as Gross Domestic Product (GDP) and Foreign Direct Investment (FDI) data, encourages governments to cooperate. Yet integration into regional and global production networks and markets is strengthening the structural power of capital over labour, leaving Cambodia and Myanmar in an increasingly disadvantaged position, and at risk of becoming trapped in the least profitable and most unsustainable part of global value chains. They are not powerless, however. Governments could prioritise national development plans over regional models, and direct productive resources towards these ends rather than servicing external interests. They could develop an enabling environment for responsible business, and engage strategically with investors to encourage only sustainable and inclusive investment. At the same time, they could consider alternative development paths and long-term strategies to reduce reliance on resource extraction and labour intensive production. Many of these jobs will become redundant due to automation before long, and governments need to plan for this.³⁶⁰ Suggestions from respondents included investing in local industry and public infrastructure, such as education and health care.

- ‘The question is: What sort of investment should we have; if these investments are accountable, or not? We can only accept responsible business. Even though our regulatory measures and frameworks are weak, we prefer responsible businesses.

Our message to investors is: "If you do the right things, we will accept you and support you. Otherwise we will oppose you." 'A24. Government Advisor. Male. Yangon. August 2016.

- 'We want investments that focus on our local needs, on the local people. We have the sea, beaches, and seafood, but we send all the raw materials to other areas like Thailand or elsewhere in Myanmar. We want our cashew nuts to meet high standards so we can send them to other countries. We should have investment based on an industry of local products; not coal mining, oil refineries, or dirty, toxic industry. We welcome development, but it should be real development for locals, not for outsiders: not for helping the rich get richer.' A17. NGO Representative. Female. Dawei. August 2016.
- 'We need investment that is responsible, sustainable, and suitable to the local context. Local industries, fisheries, agriculture, tourism, things that can benefit the local people. Otherwise the only people who benefit from investment will be Thai.' A26. NGO Representative. Female. Bangkok. September 2016.
- 'SEZs are strategically located in rural areas so that people can get jobs there, but there should be more facilities in the zone for locals: such as health and education services, and skill development for local people. I want long term thinking from the government: invest in Cambodians; don't just rely on foreign investment, it is unstable.' A2. NGO Representative. Male. Phnom Penh. August 2016.
- 'The government signed an agreement with European countries. The main product that Europe imports is sugar. The way the government responds is to provide huge economic concessions to businesses. It affects the community through land grabbing. Why not do the opposite? Offer the farmers social land concessions and support them to develop sugar plantations. Why don't we promote local products and make sure they have markets for their crops? In the garment industry, even though it has operated for more than ten years, we import raw materials from China and India. We import cottons, threads, garments, from other countries. Give social land concessions to the farmers, train them to plant cotton, and they can supply cotton to the factories.' A2. NGO Representative. Male. Phnom Penh. August 2016.

3. The governments of Cambodia and Myanmar could meet international standards of transparency and accountability in SEZ investment and governance arrangements to mitigate the threat of capture and re-capture of the state by local and international political and economic elites, and minimise further financial extraction of value from the region.

All prior and future discussions, agreements, and practices related to SEZs could conform to the highest possible standards of transparency, accountability, participation, and inclusion. Terms and conditions of SEZ investment arrangements could be disclosed, and reviewed if necessary. Public officials in positions of authority over SEZs could be subject

to rigorous asset disclosures that meet international standards to ensure official decisions are not improperly affected by private interests.³⁶¹ This would encourage fair public decision making through public scrutiny. Governments committed to this goal would empower local and international civil society to contribute toward these aims.

- 'We are told they are good, that they generate jobs, but the government needs to be transparent about employment, positions, training, the development of Cambodia's industrial base. The statistics on the mechanics, the human side of the SEZs, are not readily available. If they are confident about the benefits they bring, the government should be more transparent. Put together a centralised hub for SEZ information including the list of concessions, who owns them and how long they last.'A3. NGO Representative. Male. Phnom Penh. August 2016.
- 'Interviews with community members reveal concerns regarding the transparency and fairness of incoming investment and land acquisitions, including allegations of collusion between village administrators and land purchasers.'³⁶²
- 'Burma [Myanmar] does not have laws that force government or foreign investors to publicly disclose contractual details of development plans, nor does it have adequate mechanisms to ensure that revenues are managed accountably and transparently. This would fuel corrupt practices.'³⁶³
- 'Chinese investors are notorious for less accountability and corruption. They have their own international standards for foreign investments, but it is only available in Mandarin. It is always difficult for us to hold them accountable to their own standards. The challenge is the language and the enforcement mechanism. Who should I contact? The Chinese Embassy in Myanmar? The Ministry of Foreign Affairs in Beijing? Where is the enforcement mechanism? In comparison with American investors, they have to follow certain procedures here and report back to the US Embassy. At least we can report and feed into that mechanism here. Such a mechanism is missing for Chinese investment.'A22. NGO Representative. Male. Yangon. August 2016.
- 'Experience in Southeast Asia has shown that without transparency and accountable governance, or a clear strategy for local linkages, SEZs are more likely to result in harmful environmental and social impacts and fail to deliver expected benefits. The local population are the losers in such investments. ...Evidence shows that better outcomes are possible in terms of resettlement, women's empowerment, and sharing benefits of growth, if transparent and participatory governance mechanisms are put in place. Conversely, weak and unaccountable processes are likely to lead to increased environmental damage, exacerbated poverty and vulnerability, and ongoing tensions and conflict.'³⁶⁴
- 'All forms of state capture are directed toward extracting rents from the state for a narrow range of individuals, firms, or sectors through distorting the basic legal and

regulatory framework. ... Reducing state capture involves shifting private sector influence from illicit, nontransparent, and highly preferential channels of access toward legitimate, transparent, and competitive forms of interest intermediation. It also involves developing clearer boundaries between the political and business roles of state officials in order to prevent conflicts of interest.³⁶⁵

4. Civil society in Cambodia, Myanmar, the region, and beyond, could continue to engage with and amplify the voices of local communities and workers to make sure they are included in decisions that affect their interests, and holding governments and corporations accountable for activities related to SEZs.

Civil society plays a crucial role in defending and protecting the rights and interests of people and their environments in the region, often in challenging conditions and at significant personal risk. Civil society actors should continue to constructively engage with public officials and the private sector to advocate on behalf of those affected by the development and operation of SEZs, and working to hold misfeasors accountable when they do not act in the public interest.

Since national elites may see no alternative to the dominant neoliberal 'free trade' model of economic growth and development, civil society should also proactively contribute to elaborating alternatives; not least by attempting to shift the terms of discourse from economic growth as an end in itself, to a means to an end: the welfare of people and the environment. This may focus on sustainable livelihoods, and ensuring that appropriate and sufficient social and environmental protections accompany the industrial transformation of the region.

Some officials and businesses will be more receptive to this than others, and civil society actors should develop strategies to deal with those who are more recalcitrant. This may involve new ways of organising and mobilising to contest, and if necessary disrupt, harmful developments and practices. For example, transnational civil society partnerships around SEZ issues have had success and should be encouraged. The work of Japan-based Mekong Watch and Thailand-based Spirit in Education Movement with CSOs in Myanmar are cases in point. These partnerships can help circumvent challenges that local organisations might face when operating within restrictive national jurisdictions.

Moreover, Noisecat, a Native American scholar and activist, reiterates an oft-made argument for greater solidarity between indigenous people and the Left that is as relevant for the Mekong region today as it is for North America. Taking cues from Native American resistance to the Dakota Access Pipeline at Standing Rock, he suggests indigenous people and the Left collaborate to target and exploit pressure points beyond the workplace to oppose and transform unjust, unequal, and undemocratic systems.³⁶⁶ Harvey has similarly argued for greater solidarity between urban trade unions and peasant and environmental movements. Such cross-sector mobilisation could be directed toward infrastructure, protecting labourers from exploitative working conditions, and supporting

'keep it in the ground' fossil fuel divestment movements. While SEZs have been used to prevent and suppress workers in Cambodia, it is worth noting that increasing reliance on economic corridors in the region to facilitate disaggregation of production and distribution introduces new points of vulnerability. Given the influence of speculative capital in the development of zones in the region, social movements may also gain leverage by targeting financial instruments and policies that support SEZs, or if returns on investments were to be affected. This may help encourage more responsible investments in the Mekong's natural and human resources, and promote a more equitable and liveable region for its inhabitants.

- 'It is the system and the process that needs to be challenged: how people and economists see growth in the economy. It is about big buildings, modernity, luxury items; to get these they have to squeeze resources as much as they can, but they don't see the consequences. The model of our economy is not sustainable: it is leading to exploitation of workers and our natural resources.'A10. NGO Representative. Female. Phnom Penh. August 2016.
- 'Governments considering trade and investment deals have to make sure there are real benefits with social protections, human rights, environmental rights, and land rights. It is a political commitment. The Cambodian government cannot challenge it alone, but they should stop making propaganda and accept the truth that Cambodians are living in crisis: the crisis of the dream of economic growth. If only someone could admit this and be humble, listen to the people, and take their voice into account. The peoples' voice: the government can take that as a tool to facilitate better terms. If they are not humble, there will only be problems: the 1999 Revolution³⁶⁷, the Arab Spring, and the Egyptian Uprising, that's the evidence. I don't think people are dumb, they are numb. People need to make a noise: challenge the government and the corporations. If all countries do that the voices will connect. Powerful groups always have the opportunity to take control and to dominate: in the US, Japan, the EU, and in ASEAN; in ASEAN we have small giants, they have learnt from the US. I believe in miracles: when you reach the limit, resistance will happen. I don't think there will be a revolution, but there will be resistance. We are small but we will resist.'A8. NGO Representative. Female. Phnom Penh. August 2016.

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APPENDIX. ANONYMISED LIST OF RESPONDENTS

Key informant interviews

- A1. Workers' Union Representative, Male. Sihanoukville. July 2016.
- A2. NGO Representative. Male. Phnom Penh. August 2016.
- A3. NGO Representative. Male. Phnom Penh. August 2016.
- A4. NGO Representative. Female. Phnom Penh. August 2016.
- A5. Workers' Union Representative. Male. Phnom Penh. August 2016.
- A6. Workers' Union Representative. Male. Phnom Penh. August 2016.
- A7. Industry Representative. Male. Sihanoukville. August 2016.
- A8. NGO Representative. Female. Phnom Penh. August 2016.
- A9. NGO Representative. Male. Phnom Penh. August 2016.
- A10. NGO Representative. Female. Phnom Penh. August 2016.
- A11. Industry Representative. Male. Bangkok. August 2016.
- A12. NGO Representative. Male. Bangkok. September 2016.
- A13. NGO Representative. Female. Yangon. August 2016
- A14. NGO Representative. Male. Yangon. August 2016.
- A15. NGO Representative. Male. Dawei. August 2016.
- A16. NGO Representative. Male. Dawei. August 2016.
- A17. NGO Representative. Female. Dawei. August 2016.
- A18. Regional Government Representative. Male. Dawei. August 2016.
- A19. Regional Government Representative. Female. Dawei. August 2016.
- A20. Industry Representative. Male. Dawei. August 2016.
- A21. NGO Representative. Male. Yangon. August 2016.
- A22. NGO Representative. Male. Yangon. August 2016.
- A23. NGO Representative. Male. Yangon. August 2016.
- A24. Government Advisor. Male. Yangon. August 2016.
- A25. NGO Representative. Female. Bangkok. August 2016.
- A26. NGO Representative. Female. Bangkok. August 2016.
- A27. NGO Representative. Female. Bangkok. September 2016.
- A28. Former Thailand National Human Rights Commissioner. Male. August 2016.
- A29. Academic. Male. Personal Correspondence. September 2016.
- A30. Investment Consultant. Male. Personal Correspondence. September 2016.
- A31. NGO Representative. Female. Personal Correspondence. September 2016.
- A32. NGO Representative. Female. Interview. September 2016.

Focus group discussion participants

- W1. SSEZ Worker. Female. July 2016
- W2. SSEZ Worker. Female. July 2016
- W3. SSEZ Worker. Female. July 2016
- W4. SSEZ Worker. Female. July 2016
- W5. SSEZ Worker. Male. July 2016
- W6. SSEZ Worker. Male. July 2016

W7. SSEZ Worker. Male. July 2016
W8. PPSEZ Worker. Female. July 2016
W9. PPSEZ Worker. Female. July 2016
W10. PPSEZ Worker. Female. July 2016
W11. PPSEZ Worker. Male. July 2016
W12. PPSEZ Worker. Male. July 2016
W13. PPSEZ Worker. Male. July 2016
W14. PPSEZ Worker. Male. July 2016
W15. PPSEZ Worker. Male. July 2016
V1. Villager in DSEZ Affected Area. Male. August 2016.
V2. Villager in DSEZ Affected Area. Male. August 2016.
V3. Villager in DSEZ Affected Area. Male. August 2016.
V4. Villager in DSEZ Affected Area. Male. August 2016.
V5. Villager in DSEZ Affected Area. Male. August 2016.
V6. Villager in DSEZ Affected Area. Male. August 2016.
V7. Villager in DSEZ Affected Area. Male. August 2016.
V8. Villager in DSEZ Affected Area. Male. August 2016.
V9. Villager in DSEZ Affected Area. Male. August 2016.
V10. Villager in DSEZ Affected Area. Male. August 2016.
V11. Villager in DSEZ Affected Area. Male. August 016.
V12. Villager in DSEZ Affected Area. Female. August 2016.

ENDNOTES

- 1 The government-related respondents were interviewed together and are counted as one interview. The interview with the industry representative was held in Bangkok.
- 2 Women were significantly underrepresented in the study in part because a funeral was underway in a neighbouring village during our visit, many women from the target village were involved in preparations. A planned second FGD was not conducted due to a Buddhist holiday. For an account of how Dawei SEZ has affected women see Tavoyan Women's Union. 2014. "Our Lives Not for Sale," December, 1-31.
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- 6 Asian Development Bank. "Greater Mekong Subregion Statistics on Growth, Infrastructure, and Trade," xiii
- 7 Both ENDS, "ADB and Special Economic Zones."
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- 10 Singa Boyenge, "ILO Database on Export Processing Zones (Revised)," 1.
- 11 See The Economist, "Political Priority, Economic Gamble." and Farole, and Akinci. 2011. Special Economic Zones. 3
- 12 Maruschke, "Are There Connections Between Previous Free Port Practices and Current Special Economic Zones? the Case of Mumbai's Ports."
- 13 Amirahmadi and Wu, "Export Processing Zones in Asia."
- 14 *ibid.*, 833.
- 15 *ibid.*, 834.
- 16 Jayawardena, "Free Trade Zones," 429 n.10. See AMPO: "Free Trade Zones and Industrialization of Asia: Special Issue: AMPO: Japan-Asia Quarterly Review"
- 17 Amirahmadi and Wu, "Export Processing Zones in Asia," 831.
- 18 Key developments in this regard were the abandonment of the Bretton Woods system of fixed exchange rates by the United States in 1971 and the Third World Debt Crisis of the 1970s and 80s. See Cronin, "Global Rules: America, Britain, and a Disordered World."
- 19 UNIDO, "Economic Zones in the Asean," 28.
- 20 Zeng, "Global Experiences with Special Economic Zones - with a Focus on China and Africa."
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- 23 UNIDO, "Economic Zones in the Asean," 34.
- 24 *ibid.*, 34.
- 25 Vadlamannati and Khan, "Race to the Top or Race to the Bottom? Competing for Investment Proposals in Special Economic Zones (SEZs): Evidence From Indian States, 1998–2010."
- 26 Abbas and Klemm, "A Partial Race to the Bottom: Corporate Tax Developments in Emerging and Developing Economies;."
- 27 UNIDO, "Economic Zones in the Asean," 36.
- 28 Baldwin conceptualises globalisation as a process of two 'great unbundlings': the first of production and consumption; the second of production itself. During the first, goods produced in one country may be consumed in another as a result of international trade. In the second, the production of a good itself may be disaggregated across several countries. The classic example of the first is of French wine being traded for English cloth, while the production of electrical goods such as computers which has been disaggregated across East and Southeast Asia is an example of the second. Further explanation and analysis is presented in Part 3. Baldwin, "Globalisation: the Great Unbundling(s),".

- 29 Asian Development Bank. "Asian Economic Integration Report 2015: How Can Special Economic Zones Catalyze Economic Development?" 65.
- 30 Farole and Akinci. "Special Economic Zones." 4 Lost revenues from such tax breaks are significant. According to India's Controller Auditor General, SEZs in India had given \$16.62 billion dollars in tax abatements since the beginning of SEZ policy. Khandelwal and Teachout, "Special Economic Zones for Myanmar," 20.
- 31 Asian Development Bank. "Asian Economic Integration Report 2015: How Can Special Economic Zones Catalyze Economic Development?" 104-105.
- 32 Overlooking this aspect of the role of SEZs, Oxfam's recent paper suggests SEZs 'have a rather unclear economic rationale, but often appear to be following an "agglomeration economy" approach based on industrial clusters.' Nash. "Responsible Investment in Myanmar: Lessons from Experiences of SEZ Developments" 5.
- 33 Singa Boyenge, "ILO Database on Export Processing Zones (Revised)," 2.
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- 35 Maierbrugger, "Laos to Set Up 41 Special Economic Zones." Reuters, "Vietnam plans to open 'outstanding' special economic zones".
- 36 Warr and Menon. 2015. "Cambodia's Special Economic Zones." A recent Oxfam Discussion Paper is an exception to this rule. Nash. "Responsible Investment in Myanmar: Lessons from Experiences of SEZ Developments"
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- 41 Laungaramsri. "Commodifying Sovereignty: Special Economic Zone and the Neoliberalization of the Lao Frontier."
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- 43 Some of these have been well documented, such as those of Dawei SEZ in Myanmar. See Dawei Development Association, "Voices From the Ground: Concerns Over the Dawei Special Economic Zone and Related Projects." and Tavoyan Women's Union, "Our Lives Not for Sale."
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- 45 ICJ. "Special Economic Zones in Myanmar and the State Duty to Protect Human Rights".
- 46 Royal Government of Cambodia, "Cambodia National Strategic Development Plan 2014-2018," 49. For an overview of private investment in Cambodia see Grimsditch, "The 'Engine of Economic Growth'."
- 47 Royal Government of Cambodia, "Cambodia National Strategic Development Plan 2014-2018," 206.; Grimsditch, "The 'Engine of Economic Growth'," 7.
- 48 UN COMTRADE; Garment Manufacturers Association in Cambodia, "Yearly Bulletin," 10.
- 49 Chenda, H E Sok. "Welcome Message from H.E. Sok Chenda."
- 50 Council for the Development of Cambodia (CDC), Cambodian Investment Board (CIB), & Cambodian Special Economic Zone Board (CSEZB), "Who We Are."
- 51 Council for the Development of Cambodia (CDC), Cambodian Investment Board (CIB), & Cambodian Special Economic Zone Board (CSEZB), "Special Economic Zones / Incentives."
- 52 Royal Government of Cambodia, "Cambodia National Strategic Development Plan 2014-2018," 96.
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- 54 Council for the Development of Cambodia (CDC), Cambodian Investment Board (CIB), & Cambodian Special Economic Zone Board (CSEZB), "Legal Frame for the Special Economic Zone (SEZ) Scheme." It is not clear why this legislation has not been passed.
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- 56 Cambodian Special Economic Zone Board (CSEZB), Council for the Development of Cambodia (CDC), "Special Economic Zone in Cambodia."; JETRO 2016 Internal Document, Map of Cambodia's SEZs with key statistics.
- 57 Royal Government of Cambodia, Sub-Decree No. 148 ANKr.BK on the Establishment and Management of the Special Economic Zone (Art. 4.4d.).
- 58 *ibid.*(Art. 7.6).
- 59 *ibid.*(Art.4.1).
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- 62 Forbes, "Gateway to Cambodia: the Mysterious Couple Who Bring Investments in to Cambodia." Khmer Times. "Economic Zone Reaches Milestone."
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- 64 See, for example: <https://opendevelopmentcambodia.net/tag/pheapimex/>.
- 65 Sovan, "SEZ Investors Get One-Stop Service in Phnom Penh."
- 66 Katsumata, "Phnom Penh SEZ Project Report."; Chenda, H E Sok.. "Welcome Message from H.E. Sok Chenda."
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- 69 *ibid.*; ZoomInfo.com, "Phnom Penh SEZ Co. Ltd Company Profile."
- 70 A7. Industry Representative. Male. Sihanoukville. August 2016.
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- 72 *ibid.* SSEZ. "Brief Introduction."; Xin, Liu. "China, Cambodia Ink 31 Agreements."
- 73 Pei and Zheng, China's Outbound Foreign Direct Investment Promotion System, 177.
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- 76 AidData. "Chinese Companies Invest in Sihanoukville Economic Zone.;" Xin, Liu. 2016. "China, Cambodia Ink 31 Agreements."
- 77 A1. Workers' Union Representative. Male. Sihanoukville. July 2016.
- 78 Yale Law School, "Tearing Apart at the Seams;" Fair Action, "A Short-Term Solution;" Human Rights Watch, "'Work Faster or Get Out'."
- 79 *ibid.*; Labour Behind the Label Community Legal Education Centre, "Shop 'Til They Drop."
- 80 A5. Workers' Union Representative. Male. Phnom Penh. August 2016.
- 81 A2. NGO Representative. Male. Phnom Penh. August 2016.
- 82 W12. PPSEZ Worker. Male. July 2016; W13. PPSEZ Worker. Male. July 2016; W9. PPSEZ Worker. Female. July 2016.
- 83 W6. SSEZ Worker. Male. July 2016.
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- 85 A2. NGO Representative. Male. Phnom Penh. August 2016.
- 86 Royal Government of Cambodia, Sub-Decree No. 148 ANKr.BK on the Establishment and Management of the Special Economic Zone (Art.11).
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- 88 Kennard and Provost, "Inside the Corporate Utopias Where Capitalism Rules and Labor Laws Don't Apply."
- 89 A2. NGO Representative. Male. Phnom Penh. August 2016. The draft law is not publicly accessible.
- 90 Warr and Menon. "Cambodia's Special Economic Zones." 3.
- 91 A new Trade Union Law has recently been drafted to restrict unions nationwide. For an analysis see Cambodian Centre for Human Rights, "Trade Union Law 2016 (the "TUL")."
- 92 A6. Workers' Union Representative. Male. Phnom Penh. August 2016.
- 93 A12. NGO Representative. Male. Bangkok. September 2016.

- 94 A1. Workers' Union Representative, Male. Sihanoukville. July 2016.
- 95 A2. NGO Representative. Male. Phnom Penh. August 2016.
- 96 A7. Industry Representative. Male. Sihanoukville. August 2016. They were presumably referring to the Cambodia-Japan Public-Private sector meeting.
- 97 Warr, Peter, and Jayant Menon. "Cambodia's Special Economic Zones." 12
- 98 A5. Workers' Union Representative. Male. Phnom Penh. August 2016.
- 99 A1. Workers' Union Representative, Male. Sihanoukville. July 2016.
- 100 W3. SSEZ Worker. Female. July 2016
- 101 A1. Workers' Union Representative, Male. Sihanoukville. July 2016.
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- 103 W2. SSEZ Worker. Female. July 2016.
- 104 W15. PPSEZ Worker. Male. July 2016.
- 105 W11. PPSEZ Worker. Male. July 2016.
- 106 W14. PPSEZ Worker. Male. July 2016.
- 107 A12. NGO Representative. Male. Bangkok. September 2016.
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- 109 A1. Workers' Union Representative, Male. Sihanoukville. July 2016.
- 110 W1. SSEZ Worker. Female. July 2016; W3. SSEZ Worker. Female. July 2016
- 111 W6. SSEZ Worker. Male. July 2016.
- 112 W4. SSEZ Worker. Female. July 2016'
- 113 W6. SSEZ Worker. Male. July 2016'
- 114 SSEZ, "Creating a Communicating Flat Form[Sic], Harmonizing the Atmosphere in SSEZ."
- 115 *ibid.*
- 116 A11. Industry Representative. Male. Bangkok. August 2016.
- 117 W15. PPSEZ Worker. Male. July 2016.
- 118 A5. Workers' Union Representative. Male. Phnom Penh. August 2016.
- 119 A12. NGO Representative. Male. Bangkok. September 2016.
- 120 A2. NGO Representative. Male. Phnom Penh. August 2016.; Chen and Narim, "Court Issues Summons for Bavet Governor Over SEZ Shooting."
- 121 Odom and Henderson, "As Oknha Ranks Grow, Honorific Loses Meaning."
- 122 *ibid.*
- 123 Hunt, "Cambodia's Well-Heeled Military Patrons."
- 124 Verver and Dahles, "The Institutionalisation of Oknha: Cambodian Entrepreneurship at the Interface of Business and Politics," 48.; Son Chhay, Chief Whip for the opposition CNRP, cited in Odom and Henderson, "As Oknha Ranks Grow, Honorific Loses Meaning."
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- 127 CPP Senators Ly Yong Phat and Lao Meng Khin are the owners of Koh Kong and Sihanoukville SEZs, respectively. *ibid.*
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- 129 *ibid.*
- 130 Jensen and Pheap, "Cambodia Perceived as Most Corrupt in Region."
- 131 Transparency International rates Cambodia even lower, in the 8.5 percentile.
- 132 Kaufmann, Kraay, and Mastruzzi, "The Worldwide Governance Indicators: Methodology and Analytical Issues," 3.
- 133 See Anderson et al. *Anticorruption in Transition: A Contribution to the Policy Debate.*; Hellman et al. "Seize the State, Seize the Day: State Capture and Influence in Transition Economies".
- 134 Anderson et al. *Anticorruption in Transition: A Contribution to the Policy Debate.* Xv.
- 135 Asian Development Bank. "Asian Economic Integration Report 2015: How Can Special Economic Zones Catalyze Economic Development?" 85.
- 136 International Labour Organisation, "The Enabling Environment for Sustainable Enterprises in Cambodia," 57.

- 137 The Cambodia Herald, "Cambodia's 2015 Goods Export Value Up About US \$4.5 Billion."
- 138 Warr and Menon. "Cambodia's Special Economic Zones." 10-11.
- 139 A12. NGO Representative. Male. Bangkok. September 2016.
- 140 Anderson et al. *Anticorruption in Transition: A Contribution to the Policy Debate*.xii-xiii. The World Bank explains: "At the root of this form of corruption is discretion on the part of public officials to grant selective exemptions, to prioritize the delivery of public services, or to discriminate in the application of rules and regulations." Ibid. 2.
- 141 Sovan, "SEZ Investors Get One-Stop Service in Phnom Penh."
- 142 A3. NGO Representative. Male. Phnom Penh. August 2016.
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