CHAPTER 4
THE RISK OF EXCLUSION UNDER THE INFORMAL ECONOMY

This chapter takes a look at what effects and changes have been created by the legal and policy framework given the state's development interventions. Following this analysis, I will outline several key features of the regulations in terms of their impact upon fishing practices, and also examine the implications for fishers' lives at the local level, as influenced by state agencies. The changes that have occurred have had contradictory impacts upon fishing performance, both formally and informally. I will also highlight the extent to which the implementation of this framework has responded to the needs of local people. What is noticeable is the effect these interventions have had, not only on the livelihoods of local people, but in terms of creating the conditions that have led to the emergence of complicity between local people and local government agencies.

First, I will examine the key features of the policy framework in terms of ongoing fisheries management and give possible explanations for its success or failure. I will also focus on how state regulations operate through the allocation of fishing areas, such as commercial fishing lots, conservation and community fishing areas (under the name of Phat Sanday Community Fishery), as well as through the allocation of fishing rights. Furthermore, I will describe the implications of such state-based activities, such as the emergence of patronage relations within the context of an informal economy, and will examine how the state enforces its policies based on personal gain and the use of market mechanisms. I also briefly describe the traditional Khmer patron-client relations framework developed during pre-colonial times, and its transformation into a modern-state form, one closely related to political aspects, from the top levels and down to village life. In terms of policy, in the last section I will examine the nature of fishing employment in relation to risk taking.

Taken together, my argument is that regulations in the area take various forms at ground level and are the result of the informal economy practiced by both local people-in the sense of surviving, and the local government agencies-in terms of

attempting to gain wealth.

4.1 State Fishing Regulations and their Implications

The death of the state in an era of neo-liberalism does not apply to all countries, in the fact, such changes are subject to different political systems and pattern of social relations (Pasuk 1999). In developed countries, a minimal state is probably replaced by individual capitalists through conformity to bureaucratic rules, while in developing countries, in contrast, it is replaced by cooperation and collusion in the form of corruption and connivances. This may be presented in terms of the 'invisible hand' or 'rent seeking' versus 'profit seeking'. As Pasuk (1999) points out, the existence of a new role for the state within market capitalism needs to be cautioned against, because the state's tactics and strategies are to do with compromising and building relationships with market players, playing only a light role in imposing social sanctions. However, this is not so much concerned with problems of being unable to transform the state into a vindication of Weberian bureaucracy as a whole, but that of the state's autonomy in preventing the capital accumulation imposed by structural requirements (Evans 1989). This makes it harder to establish regularized ties with the private sector and then push them into another direction of individualized ties. This is obvious in a 'predatory state' which produces the 'absolutist domination'. Evans points out that a lack of state autonomy has "geopolitical and economic" implications, partly because the state needs market capitalism to survive in an era of competitiveness.

Taking an historical perspective of the Cambodian state's development from a statist entity to neo-liberalism, the ruling fisheries regime has been backed by a variety of state agencies linked closely to the development of the Cambodian state, so first we need to track back; to understand how the Cambodian state has emerged historically and moved towards market developments. Some scholars whose research has focused on Cambodian society claim that it is misleading to analyze contemporary Cambodian society without first taking into consideration its historical conflicts. Social organizations and the moral rural society were wiped out after 1970 due to heavy US bombing (1970 to 1973) and the rise of the Lon Nol regime, and; thereafter, the Khmer Rouge insurgency, which attempted to create a pure agrarian society and

moved to destroy the fabric of Khmer rural society. However, the foundational relationship is still intact from pre-war Cambodia, and has tended to become integrated into the market economy. Cambodia underwent thirty-years of civil war, but after Vietnam invaded in 1979 to oust the Khmer Rouge regime, Cambodia split apart; every social, political and cultural institution was in ruins and the new Cambodian state had to be rebuilt from scratch, under Vietnamese influence and a communist regime, up until 1989. The early 1990s was a major transition period for the country's reconstruction and development, transitioning from communism to a free-market economy and electoral democracy under the UN-sponsored ceasefire, with national elections taking place in 1991. This transition led to major corruption associated with extracting key forest and fish resources through the use of personal patronage networks, and more importantly a lack of capacity on the part of the state to control its lower level officials (Le Billon 2000; Hughes 2003). Hughes (2003) has said that this network existed on the back of "political allegiance, kinship, friendship, patron-client relations" during this period. As Claire and Rossalina (2006) point out, informal economies have flourished during transitional periods, particularly in the former communist regimes, resulting in a loss of trust in public institutions. Furthermore, such economies are regulated by informal rules of exchange, social relationship and production, all of which can more easily penetrate the economic lives of local people, leading to increased corruption, or at least the perception of corruption.

In short, the Cambodia state at this time has been described as a 'hybrid', as it was reconstructed by the Vietnamese and socialist ideology in the 1980s, and again as a result of economic reforms in 1993 with the help of international financial institutions in the West, following the Paris Agreement of 1991 (Hughes 2003), and as driven by regime change. Thus, the rapid transformation of a weak state apparatus into a market economy was challenged by pre-existing civil war and internal conflicts. As a result, the state has also been described as "predatory" (Le Billon 1991), and has failed to make the country prosper, as the creation of wealth has not enhanced social welfare as a whole, but instead has enhanced exploitation based on individual opportunism in concert with neo-liberal policies which remain sharply circumscribed.

The historical vision of the Cambodian state provides clues as to how it was transformed into a market model, and this will also help describe its contemporary nature. This discussion is probably best moved forward by examining the case of Phat Sanday; how the state has imposed regulations framed by the notion of state-mapping to control resource access at the practical level. Hall *et al.* (2011) state that in a post-agrarian context, it should be taken for granted that resource access exclusion will be an inevitable and normal process, based on an understanding of state regulations.

During the People's Republic of Kampuchea period (1979-1989), fisheries policies were repeatedly reviewed, staying in line with the old version but improving some key features to ensure they could cope with the changing socio-economic statuses of fishing households, and this eventually resulted in the revised Fisheries Law of 2006. Prior to this, the 1987 Fisheries Law on fisheries management and administration (the so-called Fiat-Law No. 33 KRO. CHOR) was designed to apply a mixed state and market-based economy involving government fishing enterprises, solidarity groups (fishermen) and private entities. However, this law was very weak and unable to deal with issues at the operational level, plus did not provide enough detailed information. The revised 2006 Fisheries Law reflects the many changes to have taken place in the fishing industry, and more accurately reflects current practices. The most crucial parts of the Law contain information related to the mapping of fishing areas, the classification of resource users and the prescription of fishing gear and fishing periods (the open and closed seasons). Most noticeable, is the distinction made between three types of fishing operation and their definition, something which invited miscussion. The purpose of these regulations is to create different degrees of access to fishing areas and to change social relations, and this has led to fishing conflicts developing on the ground, and more importantly, the rise of governmental authorities backed by a number of state actors.

In Phat Sanday community, this law is embedded into the local constellation of state agencies; their policies and social forces. There are three levels to the FiA, which is directly responsible for fisheries management, namely: *the sangkat*[4] in Kampong Svay district, the FiA unit in Phat Sanday and the Fisheries Inspection Unit.

[4] *Sangkat* is a Khmer word meaning 'district'

In addition, other government agencies have in recent years relocated to the community, such as the Provincial Department of Environment (or PDoE staff) – which has authority over Stung Sen core zone, the police administration, the Office of Military Waterways Traffic, a waterways security post (B06 - under the Provincial Royal Gendarmerie in Kampong Thom province), the so-called 'Personnel Military' (PM) and another PM at the district level focused on waterways conflict resolution, plus government soldiers - whose role initially was to prevent Khmer Rouge guerillas from attacking local people (in the early 1980s and 1990s). The soldiers are stationed in a collection of village houses located along the Stung Sen River and play a key role in conducting patrols with FiA officials. The presence of these stakeholders creates inconvenience for local people, and is often perceived by them as representing exploitation rather than local security.

Although these units at the village level are all directly or indirectly involved in fisheries management, the cross-sector linkages are poor, and some or all of them frequently claim authority over giving access rights to the fisheries – by allowing fishing activities to operate and by deciding who can and who cannot access the fishing areas, rather than collaborating with each other to suppress illegal fishing activities. There is much more room among local authorities, who maneuver and compromise to organize such a process, and who are in a position to grab and monopolize them by legal and illegal means.

From the perspective of control over fishery resources and practice, minimal management is required due to the formal allocation of fishing areas. However, delimiting fishing boundaries has been conducted in a unilateral manner, one typical of the state since French colonial times, though the process has improved in terms of the socio-economic context. The purpose of the allocation is to confine all type of fishing exploitation to conform with designated specific fishing areas. This concept fits uneasily with the reality of resource use, especially water-based resources, and in turn provides some room for maneuver and compromise. As mentioned in Chapter 2, there is a standard categorization of the fishing grounds throughout Tonle Sap Lake. Commercial fishing space has recently been converted to public fishing grounds and/or fish sanctuaries. Conservation space is divided into fish sanctuaries and the Tonle Sap Biosphere Reserve (TSBR), while public fishing space is divided into open

access and community fishing areas. Phat Sanday was located around former fishing lot 1, and surrounded by former lots 2 and 3, a fish sanctuary, Stung Sen core zone and Phat Sanday Community Fishery (CF). Therefore, the community represents hotly contested space, as constructed and reconstructed by multiple state agents, and I shall follow Lefebvre's (1991) terms "representation space", "lived space" and "perceived space" to describe this area in relation to the division of space into entities.

First, local people's livelihoods are not important in the eyes of state, as it is a space used by "inhabitants and users" (Lefebvre 1991). Phat Sanday is five kilometers away from Chhnok Trou commune, where has a relatively large population of Khmer and Vietnamese people. Thus, the nearby public fishing area is relatively crowded and competitive, and is surrounded by a large number of fishing households. The living spaces come in the form of the human settlements and boat navigation channels scattered at the edges of the Stung Sen River, part of former fishing lot 1. Mostly, the first row of boathouses is located at the edge of the water, and following this first row of houses, there is a large piece of land - flooded forest, which is surrounded during the dry season. However, this lived space is of little interest to the Cambodian state. For example, the boundary of fishing lot 1 included all these areas, and as a result, people in Phat Sanday lived inside the lot for decades.

Second is the problem of commercial fishing areas. Phat Sanday went through a number of controversial fishing conflicts in the past, though these were territorially and class-based fishing conflicts rather than ethnic-based ones. Exclusive resource users necessarily exclude others resource users. Lot 1 along the river was given out based on an auction, with a fee payable that was cheaper than other lots - with tax collection amounts being 80 million Riel or USD 20,000 per year (cited in RGC statement on 28th February 2012). The incentives were for private sector enterprises to completely exclude local people and their settlements, and so, not surprisingly, fishing conflicts erupted over a number of decades. In this sense, I call this "representation space", which is in sharp contrast to "spatial practice", in which local people reside and depend on fishing for their daily incomes and food security. This area was given over to private investors, but not only do Phat Sanday people depend on fish from the river but also lowland communities from Kampong Thom province.

Local people living on the boundary of fishing lot 1 had little opportunity to fish along the river during the open fishing season and when the fishing lot owner operated, as the river was obstructed by fishing barriers. The fishers were not only prohibited from catching fish but also from taking their boats across the boundary. As a result, they had to rely on poaching, and the river became particularly important for those with a small boat with limited fishing gear, as it was difficult for them to fish far away from the open fishing grounds. Faced with this difficult situation and with an increase in the fishers' level of mobilization and with NGO support, a petition was prepared, signed by hundreds of Khmer fishing families, requesting that the fishing lot be dismantled. However, there was no response in the sense that the interests of the small-scale fishers were ignored. After that, the leaders of Phat Sanday community fisheries continued to lobby, collecting thumbprints from Khmer fishing households to legitimate their rights to a livelihood and to live in the area. This advocacy effort resulted in unexpected success, as fishing lot 1 was closed down in 2010. Following the closure of fishing lot 1, by 2012 all commercial fishing lots had been closed around the Tonle Sap, including fishing lots 2 and 3 close to Phat Sanday community.

From my observation, in the transitional period after the closure of the fishing lots, it was not clear what the outcomes of the closure would be. However, it became apparent to me that the fishers were not necessarily benefiting from such closures. Looking at it from the local people's viewpoint, both the Vietnamese and Khmer fishers are ambivalent about the closures. First, the closures have led to a reduction in the jobs available in the old fishing lots, such as repairing nets and working as laborers; thus, a valuable source of labor has now disappeared - important for poor households with limited fishing gear and whose capacity to fish to support the family's needs is limited, as they can no longer send family members to work in the lots. Other households used to pay money to the fishing lots, to allow them to fish after the lot owners had finished harvesting the fish. However, now these areas are under the control of and managed by FiA staff, with open access and high levels of competition in terms of paying fishing fees. Compared with the lots, these areas are protected by exclusive rights and give only some benefits to the poor. One Vietnamese villager raised with me his disappointment at the lot closures, saying he has not been able to fish as much as he did in lots 2 and 3. In fact, he used to take

advantage of the fishing lots by paying money in return for placing his fishing traps near the lot space. He has now lost those benefits, although this situation doesn't apply to all households in the village. As the daughter of Mr. Thy told me, before the reforms she could sell a lot of desserts and made a good profit because local people were able to earn money. Nowadays, she says it is quiet and she only sells a small number of desserts. Second, fish migration patterns appear to be shifting with the closure of the fishing lots, with reports of far more fish being found downstream of the Tonle Sap rather than in Tonle Sap Lake itself. Fishers told me that the fishing lots helped to block fish migrations through the installation of fishing barriers. Since the closure of the lots around Tonle Sap Lake, fish migrations have increased downstream along the Mekong River, and there are reports of an increase in fish catches within the Mekong River villages.

The third problem is the concept of the Community Fisheries (CFs). Following the fisheries reforms in 2000, uncontrolled and illegal fishing became rife, as the state had re-territorialized commercial fishing area and set aside some areas as CFs. The assumption underlying this project was that communities could be induced to manage fish and other aquatic resources sustainably by using a self-governing approach. However, the reality has been far removed from their expectations of a harmonious and sustainable situation, because the framework in place is unprofitable and economic incentives are not in place, leaving local people even more vulnerable.

The community fishing area in Phat Sanday is the outcome of the closure of fishing lots 1 and 3. This area was set up in 2001 but a full recognition until 2007 and consists of four villages: Phat Sanday, Neang Sav, Kampong Chamlorng and Koh Ta Pov, and is limited to only Khmer people according to the CFs by-laws. The CF has a total area of 8,110 ha (5,319 ha to the right and 2,791 ha to the left of the Stung Sen River), and there is a total of 23 lakes (*boeung* in Khmer) inside the CF (Table 4.2).

Table 4.1 Natural Resources in Phat Sanday Community Fishery

No.	Key Resource Type	Size (ha)	CF area (ha)	Community area (ha) *
1	Kbal Proush lake (potential conservation area; 1,250 m x 200 m)	20	13.20	6.80
2	Forest to the north of Stung Sen River	840.39	501.55	338.84
3	Forest to the south of Stung Sen River and Kampong Chamlorng village	47.61		

Source: Phat Sanday Commune Report (2007)
* Note: This area can be interpreted as open access area

Table 4.2 List of Lakes and Flooded Forest Areas inside Phat Sanday Community Fishery

No.	Name of Lake	Size (ha)	Fishing Period
1	Khvaing	11.83	Jan-Dec
2	Kunthor	6.18	Jan-Dec
3	Svay Chak Kro Peur	7.18	Jan-Dec
4	Khvaing Ku Thom	8.29	Jan-Dec
5	Pro Taung	9.45	Jan-Dec
6	Pro Leain Khang Khet	34.47	Jan-Dec
7	Pal Hal	39.29	Jan-Mar & June-Dec
8	Ang Deout Sam Lak	19.20	Jan-Dec
9	Smao	60.37	Jan-Dec
10	Sbov Cheurng	10.18	Jan-Dec
11	Poung	33.52	Jan-Dec
12	Kraint	30.75	Jan-Dec
13	Toung Chorng Kor	74.58	Jan-Dec
14	Kbal Proush	13.21	Jan-Dec
15	Toal Maul Khnong	28.35	Jan-Dec
16	Chang Vay Phdao Touch	1.48	Jan-Feb & June-Dec
17	Chang Vay Phdao Thom	2.19	Jan-Dec
18	Chan Ang Keurng	5.46	Jan-Dec
19	Youn Srat	5.46	Jan-Dec
20	Pro Leain	26.34	Jan-Dec
21	Tang Lang	8.67	Jan-Dec
22	Sbov Thbong	68.11	Jan-Dec
23	Sa Ray	6.09	Jan-March & July-Dec

Table 4.2 (cont.)

	Name of Lake	**Size (ha)**	**Fishing Period**
No.	**Types of Forest**	**Size (ha)**	
1	Flooded forest	210	
2	Sparse/ deciduous forest	5695.52	
3	Lowland flooded forest	1618.26	

Source: Phat Sanday Commune Report (2007)

Institutionalization and formalization of the CF was registered under an agreement with the DoF in Kampong Thom on 18th December 2007, and then with the MAFF on 30th December 2008. By that time, the CF was made up of 253 people (129 women) and eleven committee members (three women), who are empowered directly by NGOs and supervised by the FiA. The kinds of support the CF provides ranges from boats, lifeboat jackets, hammocks, zoom lenses and a budget for carrying out patrols. The CF includes an agreement on Community Fishing Areas, has a list of CF members and committee members, plus has by-laws, internal principles and meeting plans, all of which contain details of management activities, plus there is a list of the fishing gear allowed, defined as family fishing gear and based on the Fisheries Law, though the list varies slightly depending on the specific geographical area and conditions. The open season starts on 1st October and last until 31th May, while the closed season runs from 1st June to 30th August.

Table 4.3 List of Fishing Gear Used in the Open Season - Defined by CF By-Laws

Types of Gear	Prescribed Fishing Gear
Gillnets	Use nets of more than two centimeters in mesh size and a length of not more than 300 meters
Seine nets	Use nets of more than two centimeters in mesh size and a length of less than 50 meters
Larger nets (*Agncherng*)	Use nets of more than four centimeters in mesh size and A length of less than five meters

Table 4.3 (cont.)

Types of Gear	Prescribed Fishing Gear
Cast nets	Use nets of more than two centimeters in mesh size and a length of less than six meters
Multiple-hook lines	Use lines with less than 350 hooks
Fish trap - cylindrical bamboo cage, or *lerb luong*	Use gear with less than twenty traps
Fish trap (*lerb torl)*	Use gear of less than twenty traps
Fish trap (*lerb bangkab*)	Use gear of less than twenty traps
Fish trap, made of a tube *(lorn)*	Use gear of less than 50 traps
Leu	Use less than fifteen
Gillnets pushed by hand	Use nets of more than four centimeters in mesh size and a length of less than 50 meters

Source: Phat Sanday Commune Report (2007)

The CFs approach is problematic in practice and has several problems which need to be analyzed and require much discussion, and as a consequence, it impedes fishing activities and has ceased to function properly. First, the fishers who live around the CFs draw part of their livelihoods from them, and do not see them as helping to improve local incomes but rather as creating conflicts of interest among different groups, as well contentious practices. For this matter, the principal problem is that villagers fail to conform to the rules and regulations, and have become passive and participate little, because the CF is based on state-run activities. The scale of this problem is significant, as corruption has spread and social relations have weakened among community members, and especially with those in elective positions. The CF is managed by community leaders who bear some similarity to state agencies, as they use their positions and power to allow or disallow fishing in return for fees within a given CF area. For example, when they patrol and force non-members to pay them money to fish, the FiA staff do not have the capacity to manage and monitor this system. The emergence of the CF in the village has reflected, not only a conflict of

interest in terms of the make-up of the committees, but has also created mistrust between committee members and discredited CF members and common, local people.

I would argue that there is a lack of understanding within the fragile community in terms of holistic thinking; sometimes the actions of the NGOs have 'unintended consequences'. For example, Forum Syd provides funds directly to Phat Sandy community, because this community is more relaxed due to a lack of budgetary support for patrolling. However, this funding has impeded functional transformation, as corruption occurs at all levels, even with the functioning of the fishing community, in which conflicts of interest persist.

Last but not least, the complex composition of the fishing community outlined in Chapter 3 reflects three migration patterns - permanent, temporary and seasonal – as induced by war, and with social relations divided across different groups (Moore, 1993; Ribot & Peluso, 2003; Vandergeest, 2006; Marston, 2011), and so there was a need to pay nuanced attention to this fact when introducing the CFs, which were underpinned by temporary state practices. In addition, the management of the CF is problematic and complex, particularly as its geography varies by the season. Today, the CF partly overlaps with Stung Sen core zone (an area of 6,355 ha), which is under the authority of the Ministry of Environment (MoE). This creates issues in terms of resource governance, in addition to actual practices. In addition, during the dry season from January to July, some parts of the CF are covered by shallow water, ponds, swamps, flooded forest, shrubs and brush. At this time it is difficult for CF members to enter certain areas to patrol and manage. As a result, at such times local people, who migrate from agricultural villages, have the chance to fish because they can reach these areas using oxcarts, or can walk.

Recognizing these problems, it will not be easy to build on the 'CF' participation approach, as there is little sense of community or mutual assistance in terms of livelihood matters in the area, only contentious fishing practices. The CF as a whole has been commoditized, leading to contested practices developing, often involving collusion, as benefits continue to flow to the local elites and beyond the CF areas mandated by the FiA. The idea that subsistence would be improved by the CFs has not materialized.

Then there is the problem of the formal allocation of fishing rights – a not insignificant issue. Making distinctions between social groups and allocating rights is a central feature of the fishing regulations, so as well as zoning, the management framework makes a distinction between subsistence, commercial and industrial fishing based on the concept of scale (small-, medium- and large-scale). Three types of fishing exploitation can be distinguished - the medium-, small- and large-scale fishing activities, based on the revised Fisheries Law of 2006. Such a formal allocation of fishing rights is susceptible to informal practices being used which oppose government regulations, because this concept serves to limit what fishers can do in the fishing areas - a major source of their incomes. The idea of subsistence has been left unclear and vague, and the law assumes fishers are not innovative and fully integrated into the market economy. According to the Fisheries Law of 2006, in Chapter 7, Article 31 – it states that "subsistence fishing shall be operated at anytime in the open access area and in the family-scale fishing areas, in freshwater fishing lots during the closed season or in marine fishery domains by using small-scale fishing gears". Interpreted liberally, this passage shows that there is no proper definition at all, but proves that fishing practices work in line with designated and specific fishing areas. This is an incorrect approach and has disrupted real-life livelihood patterns. In addition, there is no distinction made in terms of fishing practices. Fishers themselves see fishing areas around them rather as sites of struggle, in which different groups compete and marginal fishers are oppressed by rich and wealthy fishers and outsiders who want to profit from fishing resources at their expense. Thus, the politics of scale have had a profound impact on local people's livelihoods, though they still play a significant role by using their own fishing gear, which I will discuss in the following chapter

This situation has led to fishing conflicts developing along social and capital holdings lines. Not all fishing conflicts in the past were concerned with the fishing lots; some conflicts also broke-out between the medium-scale and small-scale fishers. Phat Sanday commune was made infamous in the media in 2008, in relation to the use of seine-nets (nylon fine-meshed nets pushed by a motorized boat). This operation can only be deployed legally if a fisher has a fishing license authorized by an autonomous province; however, in practice, seine-nets are operated beyond the designated

boundaries through the paying of informal fees to the local authorities. There is no follow-up and monitoring carried out by FiA agents at the local level and the nets traverse beyond the assigned boundaries. The owners of these nets are not always local people from Phat Sanday and other communities in Kampong Thom province, but from other areas, in particular Kampong Chhnang province, which is close to the community. Later on, the use of seine-nets was prohibited by the Cambodian government in an effort to mediate fishing conflicts, for it is a destructive fishing gear which destroys fishing resources much more than other medium-scale gear (fixed fishing gear) such as bamboo-fence traps, which are placed in one location. When I visited the village the second time, I was shown how rolling up the seine-nets and taking them out of the boat is hard and dirty work, and it seemed to me that the fishers were not used to using these nets, so I asked them what they were doing with these nets, and they told me that the nets are banned, but they prepare them and keep them in their houseboat.

The motor boat dragged nets use very small mesh and the operators hire ten to fifteen laborers to help push and pull them, trapping juvenile and young fish in their nursery grounds and on the lakebed. However, this type of net moves and pushes all the living animals on the bed and destroys entire ecosystems, but is more profitable in the short-term. The problems caused by these nets adversely affect the small-scale fishers' operations, who fish with small boats and simple fishing gear such as gill nets, cast nets and traps. The larger operators also destroy the nets cast by the fishers as they traverse the waters overlapping with the public fishing ground. This situation has given rise to fishing conflicts breaking-out between small-scale and medium-scale fishers.

In short, the most important impact of these regulations is that they promulgate a legitimation discourse between right and wrong, as masked by legal requirements and sanctions that in practice are rarely enforced, but are used as a means to extract bribes and to discipline the population. The regulations related to the allocation of fishing areas and fishing rights based on the seasons and the gear used are not always functional in practice, and more recently, the dismantling of the fishing lots has not resolved these problems for all resource users.

4.2 Patronage Relations and Informal Law Enforcement

Patron-client traditions have existed since pre-colonial times and are the backbone of traditional social organization in Cambodian society (Thion 1993). Chandler (2008), in his history of Cambodia, says patron-client relations represent dyadic relationships and in the past moved downward from the King and the Buddhist monastic order through to the graded bureaucracy of capital and *kampong* (landing-place), on to the villages, with the notion being that power and authority extended down through officials to local people – and eventually those in the lowest positions such as the landless and debt slaves, plus minority groups living at the edges of the state. Like patronage relations in most of Southeast Asia, at the pinnacle of society, a king had his own followers called *okya* (higher-ranking person) who had considerable power and developed considerable force and strength. This form of patron-client exchange existed through the use of titles and gifts, with the notion being that the *okya* were expected to give presents to the king in exchange for titles, such as seals of office and rank insignia. Such exchanges served to create corruption, because jobs were made available through patrimonial links. At the local level, people in weaker positions who had been loyal to and were connected with their patrons would have access to power and be protected against others, as fueled by the exchange of protection services based on these "lopsided friendships". Patrons would accept their followers, as needed, and help them, plus sponsor festivals at local pagodas, share food and beliefs, and deal with issues among local people. In many cases, local people contracted their debts to their patrons and in turn, spent their lifetimes working these off. According to Chandler, moral behaviors and patron-client relations were drummed into people from birth and there were "shifting networks of subordination and control, chosen or imposed, benevolent or otherwise" in pre-colonial Cambodia (Chandler 2008: 128).

After the collapse of the 'old society' in 1975, Thion (1993) notes that the political power was held by the Communist Party of Kampuchea, (CPK, also known as the Khmer Rouge) and could be termed as 'manipulation', with the notion being that political activities were a means used to break away from the ruling class and orient the system towards the peasants - using them to change the balance of power. Since the beginning the economic and political reform process around 1989, and

based on the Cambodian tradition of patron-client relations, this system has persisted through the actions of the ruling political party, but has reinvented and manipulated cultural practices, with the political party machine penetrating society and imposing itself from above on to Cambodian village life and remote communities. In the post-political reform period in Cambodia, there are echoes of those patronage practices derived from Khmer traditions, based on the use of gifts by the current ruling party (Cambodian's People Party, or CPP) and based on a combination of two key strategies in Cambodian village life (Hughes 2006). The first of these is the *saboraschon* or 'meritorious benefactor', who is a prominent individual and plays a political role by making generous contributions to Cambodian community life through communal development projects, including the construction or sponsorship of pagodas and distributing equipment – all of which earn political merit. The provision of personal gifts means wealth is exerted as a source of power and merit on the basis of cultural provenance, but is intended to get things done and may involve a significant degree of menace. In this way, the recipients are invoked culturally to show feelings of gratitude. The second tradition involves *khsae* ('networks') or *khnong* 'backing' (strings or connections), which provide support and protection *vis-à-vis* the patron-client or kin relationships, and are operated to garner votes by the *Bong Thom* (big brothers), who sit on top of the state power pyramid, and protect and support their subordinates and clients, plus are ruthless against enemies - extending their power down to the local power-holders. Rewarding cultural legitimacy signals the incorporation of power into a disciplinary regime of coercion, surveillance and threats designed to place pressure on ordinary people, who decide to vote in order to avoid instability. Hughes (2006) concludes that the mobilization of these symbolic powers was reinvented from the mix of customary legitimacy through gifts given and the modern bureaucratic state's control over territory, resources and populations, creating a regimenting mechanism which poses limited resistant but is frightening and which goes well beyond the reciprocity of patron-client traditions.

Hughes' accounts of the ruling political party's influence extending all the way to Cambodian village life fit perfectly with my research site, and perhaps it is this which gives impetus to the other outcomes in the area. What is interesting about some of the elements found there is the political support given from high-level officials

down to the local level involves less donations towards communal development activities, but instead contains elements of coercion and also threats against villagers, even though they believe these donations contribute to improvements in the villages. Based on my interview with the Vietnamese leaders, the building of a Vietnamese floating school has come with the support of the *saboraschon,* (she is the younger sister of Her Excellency *Men Sam An,* a key member of the current ruling political party). Once, she and her colleagues visited the community and asked a commune chief what kinds of assistance they needed. The commune chief said one urgent need was a Vietnamese school, since there was a volunteer teacher at the time teaching unofficially there using his own house. She thus asked money to help build the school, after which a donation was given by donors outside and inside through the Vietnamese Association of Cambodia. This case clearly shows that the *saboraschon* depend heavily on the *khsae* of the local authorities, who play a prominent role in mobilizing the villagers and resources at the village level based on their political viewpoint. It is the political overtones of the *saboraschon* which makes them distinct from those in other locations regarding development activities, as they are disinterested but represent the political party iconography. The *khsae* of the local authorities, such the commune chief, has an obligation to mobilize villagers and distribute gifts. Obviously, local state agencies play a dual political role in providing the public good service and representing their image. There is a rumor that gifts tend to be given more to local people who are part of the ruling party than others who was not. In another case, a water filter was donated and perhaps there are a great deal more equipment donations that take place. Though NGOs working in the area are independent and detached from the realm of the political parties, donations are used in a fair manner. However, the work of the NGOs depends on the actions of the local authorities, who play a significant role in the process of distributing aid and mobilizing villagers. For example, quite recently a water filter donation was made through an ADB project and these were meant to be distributed to the poor in the village (only Khmer families) who had been identified by the local authorities. Heavily influenced by the political party view, some poor people who do not support the CPP were not given water filters, even though they were on the list. In contrast, certain wealth families with close links to the local authorities received filters,

according to local people's reports. Therefore, one cannot downplay how much political party support has penetrated Cambodian village life and that of other remote communities, and this goes beyond my scope here regarding the culture and symbolic power exercised by the ruling party; I seek to examine the policy implications of law enforcement associated with the fisheries sector. When discussing how exclusionary power is implemented, it is related to a political view, so it is difficult to answer whether fishers in the study area are excluded based on their political views, since no local people report this, or whether it is based on the unequal distribution of donations from outside or those given by other project developments. Presumably, the influence of the political party is imposed based on political views - whether people tend to support a specific political party or not.

In the context of the fishing community, the contemporary form of patronage relations, as practiced by the local authorities (mainly competent FiA officials) is maintained through bribes –and the incentives to access resources are based mainly on state-based activities, often in collusion with others, using deregulation. The refusal to pay fees by sneaking into fishing grounds for fishing can result in arrest, heavy fines and the confiscation of fishing gear. The channel through which such relations exist and thrive draws upon bureaucratic forms of modern state power over territory, such as the designation of specific fishing areas, regulations placed on fishing activities, limits placed on the use of fishing gear and also the definition of different seasons (closed and open season) as already mentioned above. All the related regulation axes allow different state agencies to configure the landscape - in which every day practices such as rent-seeking or the invisible hand of the free market, play a significant role in distributing access, wealth and power. This situation does not reflect an harmonious image of access related to a "bundle of rights", but is more like a "bundle of power webs" (Ribot and Peluso, 2003), which, in the case of Tonle Sap Lake, is characterized and constrained by the application of informal access fees.

At my research site there are two PM offices, at the provincial and district levels, and three distinct fisheries offices. Although competent FiA officials have a mandate to regulate fisheries' management, the PM are powerful as they are equipped with guns. Despite the fact they have no authority to extort fees from fishers, in practice they do. If fees are paid, the names of the owners of the fishing gear are put

on a list, their activities recognized and the officials turn a blind eye, plus do not make an arrest nor confiscate their fishing gear or boats. Although fees have been paid, the fishers will only be recognized by a single unit, because all units are distinct from one another, even if they are from the same sector. This distinction is not based on defined responsibilities or the level, but reflects the fact that they have few or no connections with each other. For example, if the fishers pay fees to the *sangkat* at the FiA, it doesn't mean that the Fisheries Administration Unit will acknowledge this payment. Likewise, the PM at the provincial level is most likely to not be closely related to the PM at the district level, even between offices located on the same site. The power exerted is also not the same, since PMs at the provincial level are more powerful from the perspective of ordinary fishers. Thus, each distinct unit may impose its own fees, making it harder and confusing for people who are paying fees; to work out who is at each level within the same sector. Fees may be paid to one office, but another, even in the same sector, may complain and require the fishers to pay also. More importantly, there is no guarantee or protection given, even though fees have already been paid. In such cases, they often end up sneaking into the fishing grounds to avoid paying fees, and when state officials encounter them, they are arrested and threatened using rude and offensive words, plus their fishing gear and boats will be seized immediately; they will then have to pay double in fees and fines. Without any capital available, they are then left with nothing, having to find the money to get their gear back, since fishing gear represents their only means of production. One Vietnamese woman told me of her experiences, as follows:

> When the PM office came to the village, I was afraid of having my fishing gear seized, so decided to pay the fishing fees in advance, in order to secure fishing access. At first I assumed I would be alright paying only the PM, because it is a powerful unit with guns and stays very close to our community. However, my gear was still seized by the fisheries officials and so I had to pay both fines and fees up to 300,000 to 400,000 Riel (75-100 USD). As a result, I resorted to borrowing money from the fish traders. In general, I now pay several state agents. For the PM, I pay 20,000 Riel (5 USD), and also 30,000 Riel (7.5 USD) to each of the three fisheries officials, plus sometimes to others who are less involved but sometimes come to claim an involvement. I have nothing to

> complain about with them; instead I pay, but beg them to reduce the fees (Field interview, Feb. 2012).

In delineating the ways in which these related regulation axes have left a gap between law and practice, they are doing one thing. Patrons are the representative of the regime, particularly the FiA officials and others such as MoE officials and the PM, who are equipped with a gun and play a key role in fisheries management. The practices of the patrons are regulated by informal rules of exchange and social relationships, and these are used as the means to achieve personal gain through cash or money. Being an autonomous unit, they manipulate the law based on their own private practices, and their activities go beyond the exchange relations of production and reciprocity based on patron-client traditions, but contain coercive dimensions in the the form of extortion, including ruthless behavior, threats, the seizing of fishing gears and boat engines, and in some cases, boat owners face arrest. The control over state resources wrests in the hands of local authorities, who turning a blind-eye to the use of informal fees.

One Vietnamese fisherman expressed himself as follows:

> We don't want to speak-out anymore; because, we don't believe our problems will be resolved. At the top they give orders but on the ground they never act responsibly. The province is far away from the locality, and if local staff were to follow the orders passed-down, their families would not be able to make a profit. As a result, they are now rich and their wives come here wearing lots of gold jewelry. They have their own pockets, not like us. As you can see, after the recent banning of illegal fishing practices and the fishing lot revocation, these activities disappeared for a while, and then thousands of bamboo-fence traps reappeared and are now widespread in the fishing areas. We don't have any rights to claim. Also, we do not know much about the Fisheries Law as we are poorly educated (Field group discussion, March 2012).

From such accounts, it is obvious that the fishers have not only grown weary of on-the-ground power, but also are negative about the prospects of livelihood improvement under the recent fisheries reforms and government policies. They say their concerns have not been adequately addressed, particularly concerning the issue of livelihoods, and this has set the stage for future problems with the reforms. One

key issue that is the gap between the law and practice; from the central government down to the local government authorities, as the practice is open to negotiation and can take the covert form of bypassing laws and sneaking into fishing grounds, with such activities being routine practice and acceptable in the eyes of local people.

The fact that the Fisheries Law, with respect the restriction on the use of fishing gear, work against fishing practices is intrinsic to the issue of the livelihoods of local people. However, the FiA is well-aware of and understands the problems related to fishing scales, but is reluctant to discuss and/or amend the Law. There are onerous conditions in place for an area where a large number of fishing households (1.7 million) seek to fish. If there were loose fishing gear rules, then every household would upgrade its gear, leading to destruction of the fishing grounds. On the other hand, today the FiA does not even have the capacity to control implementation on the ground.

The most crucial factor is not merely that the Law is designed so that the livelihoods of local people are seen as less important and at risk, but also that the creation of space for managing and manipulating state agents wrests in the hands of private entities. This context opens-up considerable room for the local authorities to impose their own laws and regulations, and in most cases they restrict local fishing practices, not to enforce the law, but in the pursuit of personal and institutional gain. It is very evident that illegal fishing practices will never be completely cleaned-up while the local state agencies are dependent on access fees and keep an eye on all the fishing households in the village, because many now tend to poach inside fishing areas to avoid paying fishing fees, a practice which would seem to be out of control. In addition, local people bribe in order to survive, since the Fisheries Law subsumes them into the category ‘illegal’. As one Vietnamese fisher pointed out to me regarding the real situation:

> As you can see, people feel insecure and so go to the office with their fishing gear. They go to ask for permission and negotiate access fees in advance. Otherwise the authorities will threaten to confiscate their fishing gear and double the fees and fines later (Field group discussion, Feb. 2012).

> Whenever we tow our floating houses based on the changing water level, they always follow us. It is difficult to avoid paying fishing fees, as we are under surveillance. On the other hand, sometimes someone in the village reports us to local state agents. The state agents have been working in this village for a long time and know who we are, even our names and family status. When they patrol, they know well which households have paid fees or not (Field group discussion, Feb 2012).

Figure 4.1 Fishers are Compelled to Pay Bribes in Advance

From my research, it would seem that these practices are not based on a clear reason such as taxes or the expropriation of surplus profits from fishing, but are based mainly on private practices, for fees are paid without documentation and, more importantly, there is no guarantee given. Each autonomous unit intends to earn a living for personal gain and to sustain the administrative activities of its office, rather than to crackdown on illegal fishing activities. It is also believed that the officers wish to supplement their low salaries, as they are normally underpaid and; thus, have little incentive to do their jobs properly, particularly in the fisheries sector which is constrained by budgetary shortages. For example, patrolling for illegal fishing activities is difficult and costly with a limited number of staff and a large working area, so instead, patrolling is carried out frequently in order to earn money rather than clean up illegal fishing activities. Five Vietnamese villagers and I attended a meeting

not far from the PM office, and a few of the Vietnamese fishermen pointed out PM members who had just come back from patrolling:

> They look happy even though they have come back from a long field trip, so we can assume they must have earned a good profit from the patrol; we can guess through their behavior and from their interactions with their colleagues. We have raised the question regarding their role and responsibilities as PM and what jurisdiction they have regarding fishing – they act as if they are fishery officials. They patrol a long way from here and sometimes stay overnight or nearly a whole week. When they come back, as you can see their boat contains many tanks of gasoline. There is no doubt that they patrol the fishing ground in order to earn money, by catching fishers in return for cash or gasoline (Field Group Discussion, Feb 2012).

It is important to note that although exclusion from access is universal in the study area, the Vietnamese are more vulnerable than the Khmer fishers in terms of fishing fees, despite the fact that they use the same gear as the Khmer. This argument is supported and legitimated by a shared set of expressions among the Vietnamese fishers, and is also proved by the indicative fishing fees paid. The Vietnamese say that the Khmer are able to make complaints to and negotiate with the local authorities about the ethnic Vietnamese, though this is not to say that all the lower level state authorities operate exclusively based on ethnic bias, simply that this reflects that many are predominantly of Khmer heritage and ethnicity, and so intentionally choose the Vietnamese as a target group by accepting that they should be excluded more than the Khmer fishers. Exclusion may be explained simply as that the Vietnamese remain outsiders. One Vietnamese fisher told me that the reason for this is that Tonle Sap belongs to the Khmer, and so the Vietnamese have to pay more. Another reason can be traced back to historical conflicts between the Vietnamese and Khmer. The Vietnamese are subject to the most ethnic hatred, with historical reasons used to explain why Vietnamese fishers are more vulnerable to having fees collected by the local authorities than their Khmer counterparts. Nonetheless, the dominant view around Tonle Sap Lake is market-driven, not ethnically based. The economic reason is an integral part of the legitimacy and relates to the level of access granted, regardless of whether the people in question are Khmer or Vietnamese.

The local authorities never stick rigidly to the law, and local people, for their part, rarely say they are fishing illegally, as they do it for livelihood. There are many cases in which the imposition of the regulations upon local people is brought into play, but sometimes the state allocates access selectively along class and ethnicity lines; whoever is involved, and particularly in cases where they are poor and so are likely to tolerate the imposition of access fees. As a Khmer woman married to a Vietnamese fisherman pointed out to me:

> The PM at the local level here know well about my family status; that I have a leaky thatched roof and wall in my floating house – that I am the poorest in the village and fish for my everyday needs. So, when I go fishing and he encounters me, he does not catch me and turns a blind eye, allowing me to fish without making a payment (Field group discussion, Feb. 2012)

This account is consistent with one from the village headman:

> I very often turn a blind eye when a see local people fishing (illegally) during the closed fishing season, because I realize that local people are very poor. In some cases I even facilitate negotiations between them and other officials when they get caught. (Field group discussion, March. 2012)

From such accounts, one can see that it is not always easy to enforce the Fisheries Law and suppress illegal fishing activities, when state agents themselves seek out such activities in order to impose fees, and yet at the same time depend on these fees, while local people tend to bribe for survival, as they have a few opportunities to diversify their livelihoods outside fishing.

In addition, the manipulation of relationships with state agencies is practiced by ordinary people, who seek rewards. One Vietnamese man serves as a spy; he doesn't actually work for the local officials but keeps an eye on the Vietnamese households in the community regarding their illegal fishing practices, and then shares information with a number of state agents. By doing so, he receives payments from the state officials of 5,000 to 20,000 Riel (or 1USD to 5USD). However, because community members share a common problem, his family has been discredited, and as a result, he has been banned from representing the Vietnamese village or savings

group. However, when looking at his family status, he is still rather poor, as he is unable to make a good living in such a context.

Thus, the offering and acceptance of bribes has become a common practice around Tonle Sap Lake, and there is little secrecy over such behavior, in fact, informal practices have become quite normal around the lake. Access to fishing grounds is granted predominately through the payment of informal fishing fees, despite the fact that most of the fishing grounds are supposedly set-aside for small-scale family or subsistence fishing. As Le Billon (2000) states, the failure of the Cambodian state to provide public services is the result of "shadow state politics", those which have legalized illegal activities based on the self-interests of actors who manoeuver and compromise within the state's apparatus.

Although various institutions are the same and others are different regarding their working scope, they are not united entities and consist of competing claim and interests, often working at cross-purposes and going beyond their defined roles and responsibilities. Hence, the law remains firmly personalized, rather than institutionalized, and this has an enduring significance for patron-client relationships and the complex forms of exchange they depend on; those not based on the law.

4.3 Access Risks and an Insecure Life Fishing Illegally

In general, fishing as an occupation is risky and recently has become less fruitful than non-fishing occupations in several ways. The most important thing is that fishing is strictly controlled by taxes and/or fees and has high costs in terms of gasoline and fishing gear, but gives a poor and unpredictable return. Added to this, fish catches have recently been in decline, while the fishing effort required per unit has also increased. Fishers are not able to predict the level of informal fishing fees required by state officials, who appear sporadically and claim their involvement/extort money in a variety of ways. Therefore, they are impelled to pay fees to those directly involved or the most powerful units, such as the FiA or PM in advance, as a way to secure access to the fishing grounds. Although these fees are paid in advance, the level of protection afforded by local state agents still varies, because informal consent is involved. This means that if others come to claim their authority over the area, the fishers have pay more. In the most serious case, if the fisheries authorities at the

central-level from Phnom Penh come to carry out a sporadic crackdown on illegal fishing activities in a quick and secretive way, the fishers' fishing gear will be destroyed immediately, without negotiation, because the central level authorities are more concerned about law enforcement, which is in stark contrast to the practices of the local-level state authorities. However, as revealed by the fishermen, they have some connections and protection. For example, the local authorities frequently find out in advance about such visits and are able to share this information among the wealthy and larger-scale fishing households who are their clients. This gives the fishing gear owners time to remove any offending fishing gear from specific fishing areas, meaning that when the central state authorities patrol, they end up destroying only fishing gear which belongs to the poor and small-scale fishers. Second, fishing fees are paid before the fishing operations take place, and, more often than not, the fish catches give a low return when compared to the greatly increased costs of informal fees. In addition, buying intensive fishing gear requires a large amount of capital, so traditional fishing gear is most commonly used. Market forces also operate in terms of the way in which fishing gear is bought to the area, as some fishing gear and boats are imported from Vietnam. Thus, there has been a steep rise in operating costs recently, but little compensation in terms of returns. The returns also depend on the fishing season and whether a day is good or bad. As a result, far from being a level playing field, the fishers are lucky if they benefit at all. There are a few cases in which the fishers have faced a crisis of indebtedness from the fish traders and as a result, have become impoverished.

Overall, the more fishers wish to upgrade and scale-up their fishing gear, the more they have pay in fishing fees. This discussion also shows that both the costs and risks among fishers are relatively high. Fishing requires a high investment and the profit is small. In addition, there is a growing cash demand in terms of living costs in the floating community, based on house repairs, gasoline costs and food consumptions. "Fishing on a rather large-scale is an occupation that just feeds stakeholders" was the near-universal response I got to my question, and the large amount of capital needed is one of the reasons why the Vietnamese and Khmer fishers have fallen into a spiral of debt. This means that fishing households tend to experience downward rather than upward mobility, meaning that a large number of

small-scale fishers are faced with the grim prospect of becoming impoverished. So, fishers continue to carry the risks involved in the fishing sector.

4.4 Summary

This chapter has focused on the policy framework; examining how implementation of fisheries management is conducted on the ground in an effort to manage and control fish resources. It can be understood from the above discussion that the fisheries regime is sensitive to outside forces and that the legitimacy of the state is very fragile. The most significant feature of Cambodian state practices is not simply the staking of claims over valuable resources and fishing activities, but the opportunities created for economic gain in the form of patronage relations – something seen as normal in the floating community. The management of fisheries resources lies at the heart of the Fisheries Law 2006, and the law splits the fishing areas into entities based on fishing rights, the gear used and the seasons. However, these rules do not always function and stand in opposition to everyday local practices. Indeed, state actors play quite a small role in terms of imposing social sanctions as a whole, and instead have allocated fishing access rights based on market logic. State regulations in relation to fisheries management provide the motivation for state actors to enforce the payment of fees on local people, in return for them gaining access rights to fishing areas at the expense of the poorest, a situation underpinned by the regulations themselves .These practices have had a direct impact in terms of shaping the informal economy among various concerned stakeholders, who have redefined the regime for economic gain. This re-shaping includes developing informal production exchange relations, activities which put the livelihoods of local people at risk.