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## "The Best Laid Schemes . . . ": Land-Use Planning and Historic Preservation in Cambodia

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## “THE BEST LAID SCHEMES . . .”:<sup>1</sup> LAND-USE PLANNING AND HISTORIC PRESERVATION IN CAMBODIA

William Chapman<sup>†</sup>

*Abstract:* This Article examines existing land use laws and proposed historic preservation-related legislation in Cambodia and offers a critical appraisal of their applicability and hopes for success. Cambodia is a small country that faces (and has faced) numerous political and economic difficulties. It possesses a rich architectural and archaeological heritage that is threatened by proposed land-use changes and future development. Initiated primarily by outsiders, principally planners and archaeologists from Europe and the United States, Cambodia's newly formulated land-use laws attempt to take irreplaceable cultural resources into account. However, plans such as those proposed by UNESCO and consultants to the government appear to be inadequate for protection and do not realistically take into account the pressing needs of the country nor predict adequately the course of future development.

### I. INTRODUCTION

Western notions of rational planning, particularly when they lead to restrictive or protective legislation, often do not sit well with developing countries. An impatience with controls and governmental interference—the idea that poor countries do not have the luxury of imposing constraints and, at the same time, should not be forced to shoulder the burdens of cultural and environmental protection—tends to preoccupy countries struggling with the twin problems of poverty and basic economic development. This has certainly been the case with Cambodia, a country that has suffered numerous false-starts in its efforts to join the modern world.

Not surprisingly, land-use planning, and its corollary, historic preservation, are not considered high priorities by most Cambodians.<sup>2</sup> Outside of a few governmental officials who understand the more long-term implications of guided or directed development and the wise management of resources, Cambodian people and outside investors are more concerned with immediate economic needs. Future planning itself is an abstract concept, and protection beyond the desire to preserve the most recognized national symbols, such as the temple ruins

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<sup>1</sup> “The best laid schemes . . . o’ mice an’ men gang aft a-gley.” Robert Burns, *To a Mouse*, in *ENGLISH LITERATURE AND ITS BACKGROUNDS* 678 (Bernard Grebanier et al., eds., 1961).

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<sup>2</sup> For the “flavor” of the Cambodian attitudes toward development, see Murray Hiebert, *Rising from the Ashes*, *FAR E. ECON. REV.*, Jan. 12, 1989, at 16-17; Peter Janssen, *Cambodia Works to Heal Its Wounds*, *ASIAN BUS.*, Mar. 1996, at 70-72.

at Angkor (also seen widely as a source of economic development in this cash-starved country) is given only lip-service. Most Cambodians want results now and want to experience the economic prosperity shared (at least until very recently) by their Southeast Asian neighbors, especially Thailand, Malaysia and, increasingly, in the last few years, Vietnam.<sup>3</sup>

It is difficult to sell the idea that future prosperity as well as the preservation of the very quality of life of a people might depend on the adoption of advantageous policies now. International agencies have typically attached clauses and expectations to various development projects in order to insure some attention to environmental or other planning issues.<sup>4</sup> In some cases historic or cultural resources are taken into account, though in the international context this is less usual; rarely, for example, do Western countries apply the same high standards to developing countries that they impose on projects in their own nations.<sup>5</sup> Shortcuts are generally welcomed in order to speed progress along.

Cambodia is unusual, however, in its wealth of historic and cultural resources. At least some of these resources are seen as intricately connected to the country's future prosperity and national identity. The present country of Cambodia is heir to one of the great civilizations of the ancient world, the famous Khmer kingdom that flourished from the ninth to fifteenth centuries and resulted in the magnificent and world-renowned monuments at Angkor.<sup>6</sup> Most Cambodians still proudly consider themselves Khmers.<sup>7</sup> Studded with archaeological resources, both monumental and less imposing sites, Cambodia enjoys a heritage that sets it apart in many ways from its Southeast Asian neighbors and, at the same time, suggests for many Cambodians what they see as their own country's cultural and ethnic primacy in the region. For these reasons, Cambodia grants higher priority to the protection of heritage, at least a *particular* heritage, than might at first be assumed.

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<sup>3</sup> See Yvan Cohen, *Cambodia Finds a Bright Side*, WORLD BUS., Mar.-Apr. 1996, at 6, for an expression of Cambodian hopes in the mid-1990s. See also Sid Astbury, *Malaysia/Cambodia: The Beginnings of a Beautiful Friendship*, ASIAN BUS., Mar. 1995, at 10; Michael Hayes et al., *Joy Ride*, FAR E. ECON. REV., Feb. 16, 1995, at 40-42.

<sup>4</sup> See OFFICE OF THE ENVIRONMENT, ASIAN DEVELOPMENT BANK, ENVIRONMENTAL GUIDELINES FOR SELECTED INDUSTRIAL AND POWER DEVELOPMENT PROJECTS (1990); THE WORLD BANK, MAKING DEVELOPMENT SUSTAINABLE (1995); THE WORLD BANK, MAINSTREAMING THE ENVIRONMENT (1995); ASIAN DEVELOPMENT BANK, INTEGRATION OF ENVIRONMENTAL CONSIDERATIONS IN THE PROGRAM CYCLE ADB ENVIRONMENT PAPER No. 5 (1990).

<sup>5</sup> JORGE HARDOY, ET AL., ENVIRONMENTAL PROBLEMS IN THIRD WORLD CITIES (1993).

<sup>6</sup> See generally MICHAEL FREEMAN & ROGER WARNER, ANGKOR: THE HIDDEN GLORIES (1990); BRUNO DAGENS, ANGKOR: HEART OF AN ASIAN EMPIRE (1995).

<sup>7</sup> MALCOLM MACDONALD, ANGKOR AND THE KHMERS (1989). See also DAVID CHANDLER & IAN MABBETT, THE KHMERS (1995).

On the other hand, other kinds of heritage are undervalued. For example, the striking remnants of the French colonial presence, villas, institutional and commercial buildings, and, indeed, the entire streetscapes of Cambodian cities and towns, as well as the evidence of peoples other than ethnic Cambodians, are barely considered cultural legacies.<sup>8</sup> Vernacular resources, including traditional houses and often strikingly beautiful agricultural landscapes, have received remarkably little attention.<sup>9</sup> Archaeological resources, outside of monumental sites, are ignored almost entirely by most Cambodians and certainly by Cambodian planners.<sup>10</sup> When they are applied at all, neither land-use planning nor other means of protecting historic and archaeological resources are applied consistently. Furthermore, planning reports by outside agencies, such as the massive study on urban development completed in 1996 by the multi-national firm Planning and Development Cooperative ("PADCO") out of Washington, D.C. typically make no effort to integrate historic or cultural issues into their recommendations.<sup>11</sup>

This Article will examine efforts to protect historic resources in Cambodia and suggest some of the more severe short-comings of present policies and approaches. Section I provides an overview of Cambodia's geographical and cultural landscape. Section II covers the politically turbulent and highly influential history of Cambodia. After discussing the course of planning and development in Cambodian government in Section III, this Article closely examines some of the principal measures that have been or are in the process of being put in place in Phnom Penh, the country's largest city and its political capital (Section IV) and Siem Reap province, the site of the Angkor monuments (Section V). Section VI concludes the Article with final observations and some recommendations for what needs to be done to improve the direction of development in Cambodia.

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<sup>8</sup> An exception is MICHEL IGOUT, PHNOM PENH THEN AND NOW (1993). The issue of ethnic minorities in Cambodia and their own cultural contributions to the country has only recently been broached. The Interdisciplinary Research on Ethnic Groups in Cambodia ("IREGC") project is in the process of publishing the results of its field studies conducted in 1996, some of which focussed on cultural contributions. A National Symposium on National Minorities in Cambodia was held in Phnom Penh in July, 1996.

<sup>9</sup> A recent article by Phuoeng Sophean helps to correct this omission: Phuoeng Sophean, *La maison khmère*, in PHNOM PENH: DÉVELOPPEMENT URBAIN ET PATRIMOINE 84, 84-91 (Nathan Starkman & Jacques Stevenin eds., 1997).

<sup>10</sup> Again, Bruguier is the exception: Bruno Bruguier, *L'avenir Archéologique de la Région de Phnom Penh*, in PHNOM PENH: DÉVELOPPEMENT URBAIN ET PATRIMOINE, *supra* note 9, at 74-77.

<sup>11</sup> PLANNING AND DEVELOPMENT COLLABORATIVE (PADCO, INC.), CAMBODIA: URBAN DEVELOPMENT STRATEGY STUDY (1996) [hereinafter PADCO].

## II. CAMBODIA AND ITS PEOPLE

Cambodia is a small and relatively sparsely populated country wedged in between the much larger nations of Thailand and Vietnam. Laos, a similarly under-developed country, lies to the north; while the Gulf of Thailand forms its southern perimeter. With a total land area of a little over 181,000 square kilometers (about 70,000 square miles), Cambodia is roughly the size of Great Britain. A census conducted in 1988 placed the population at 7,869,000; it is presently estimated to be as high as 10,000,000, though this figure has not been verified.<sup>12</sup>

Geographically, Cambodia consists of a flat central region, created by the alluvial plain of the Mekong River system, and mountainous areas to the north, along the Thai border and lining the southern coast. Densely forested highlands along the north and northeast separate it from Laos and Vietnam, sharing the Mekong basin with Vietnam along the southeast edge of the country.<sup>13</sup> Cambodia is a very beautiful country, with broad expanses of cultivated rice fields and open lands throughout the central and northern parts. The lowlands are punctuated, in turn, by occasional hills, known as *phnoms*, even in the alluvial plains near the mouth of the Mekong. These dramatic formations serve as a picturesque counterpoint to what otherwise might be a visually dull landscape. The northern and southern mountain ranges are dramatic and undeveloped and still largely forested.

Among the most striking features of Cambodia are its waterways. Water forms an important part in the traditional cosmology of the country.<sup>14</sup> The Mekong River bisects the country, travelling about 500 kilometers (310 miles) from the Laotian border to its mouth, situated in Vietnam to the southeast. A second river, Tonle Sap, also forms part of this system. Unusual among rivers, in the summer months when the Mekong swells from both the monsoon season and the overflow from melting snow at the river's origins in the Himalayas, the Tonle Sap reverses direction, vastly expanding an enormous fresh water body also known as Tonle Sap. Nearly twice as large by the early autumn, this shallow lake provides an important supply of fresh-water fish for the country.<sup>15</sup>

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<sup>12</sup> See *id.* at 10-18.

<sup>13</sup> DAVID CHANDLER, *THE LAND AND PEOPLE OF CAMBODIA* 12 (1972) [hereinafter CHANDLER, *LAND AND PEOPLE*].

<sup>14</sup> Bernard P. Groslier, *La Cite Hydraulique Angkorienne: Exploitation ou Surexploitation du Soe*, 66 *BULLETIN DE L'ECOLE FRANCAISE EXTREME ORIENT* 161-202 (1979).

<sup>15</sup> I. CSAVAS ET AL., *CAMBODIA, REHABILITATION AND DEVELOPMENT NEEDS OF THE FISHERY SECTOR* (1996).

Cambodia is relatively rich in natural resources.<sup>16</sup> Forests and jungle cover half the country, mostly the northern part.<sup>17</sup> These contain numerous specimens of tropical hardwoods, coveted throughout the region for furniture and other wood products. In the colonial period, coffee, tea and pepper were grown at higher elevations; rubber plantations once flourished in the eastern part of the country. Forest dwellers still grow and collect spices, medicinal herbs, fibers and resins for trade elsewhere. Sea salt is gathered near Kampot, on the Gulf of Thailand adjacent to Vietnam. Corn (maize), rice, vegetables, fruits and tropical nuts are all cultivated in the lowland areas.<sup>18</sup> Fish, both salt water and fresh-water varieties, are plentiful and form an important part of the diet of most people.<sup>19</sup> The country possesses a rich source of minerals and gem stones, particularly sapphires and onyx. Moreover, unexploited reserves of phosphates, bauxite, tin and copper also exist.<sup>20</sup>

Presently, Cambodia is substantially under-developed. Yields are generally poor for those small parts of cultivatable land actually in production.<sup>21</sup> Nearly all agricultural products are consumed locally, although there is potential, as in the colonial period, of developing agricultural exports. Recently, an increasing amount of manufacturing, of mostly textiles and electronics, has been introduced.<sup>22</sup> However, continuing political instability has slowed investment in the country. Because of its overall poverty, foreign aid constitutes a significant component of the GNP and is estimated at as much as ten to twenty percent (and fully fifty percent of the operating budget of the government).<sup>23</sup>

Another important factor is tourism, which accounts for about an equal part of the economy and constitutes a primary source of foreign currency.<sup>24</sup> Much of the country's tourism focuses on the famous monuments at Angkor with, of course, numerous secondary benefits for the entire economy—the so-called “multiplier effect” of tourism.<sup>25</sup> Unfortunately, tourism has proven uncertain, particularly following the most recent political events in the country.

<sup>16</sup> See CHANDLER, *supra* note 13, at 17-19.

<sup>17</sup> See *Logging On*, THE ECONOMIST, Feb. 22, 1997, at 36-38.

<sup>18</sup> CHANDLER, *supra* note 13.

<sup>19</sup> WALTER J. RAINBOTH, FISHES OF THE CAMBODIAN MEKONG (1996).

<sup>20</sup> See CHANDLER, *supra* note 13, at 19.

<sup>21</sup> See ROBERT E. HUKÉ, HUMAN GEOGRAPHY OF RICE IN SOUTHEAST ASIA (1990).

<sup>22</sup> There is also a rich, but barely sustained, cottage-based textile industry located mostly south of Phnom Penh in the Takeo region. UNESCO WEAVING PROJECT, PHNOM PENH, CAMBODIA.

<sup>23</sup> Cohen, *supra* note 3, at 6.

<sup>24</sup> Janssen, *supra* note 2, at 70-71.

<sup>25</sup> BRIAN ARCHER, TOURISM MULTIPLIERS: THE STATE OF THE ART (1977). See also Helen Briassoulis, *Methodological Issues: Tourism Input-Output Analysis*, 18 ANNALS OF TOURISM RESEARCH 485 (1991).

Cambodia is only a moderately urbanized society with about fifteen percent of the population living in cities.<sup>26</sup> The rest reside in small villages and family homesteads spread throughout the rural areas. Of the urban population the vast majority live in Phnom Penh. Latest estimates put the total population of the city at about 1,100,000, although the figure may now be slightly higher. Considered a "primate" city, Phnom Penh contains fully seventy-two percent of the country's overall urban population.<sup>27</sup> Other significant urban centers include Battambang in the northwest, with a population of approximately 70,000; Sihanoukville, the port city to the south, with about 50,000 people; Sisophon, with 45,000; and Siem Reap, near the archaeological park at Angkor, with around 42,000.<sup>28</sup> Cambodia's more urban population resides in smaller cities of no more than 30,000 people, such as Kopang Cham and Kompon Thom, northwest and north of Phnom Penh, and even smaller towns such as Kampot or Takeo to the south (with around 20,000 each).<sup>29</sup>

Ethnically, Cambodia includes native Cambodians, known as Khmers; Vietnamese, especially in the east and in large sections of Phnom Penh as well as in the north of the country; and Cham people, with historic links to Malaysia.<sup>30</sup> There is also a significant overseas Chinese population, historically centered in Phnom Penh. The Chinese, in fact, can be credited with much of the growth and development of Phnom Penh even in the French colonial period, when the overseas Chinese operated as the principal merchants and businessmen for Cambodia.<sup>31</sup> Even today, Cambodia benefits from a Chinese connection, with overseas Chinese in Phnom Penh encouraging investment by Chinese based in Malaysia, Singapore and Taiwan—many of whom have long-standing ties to Cambodia.<sup>32</sup>

The official language of the country is Khmer, one of the Austro-Asiatic Mon-Khmer group.<sup>33</sup> A non-tonal language with only indirect links to Vietnamese and Thai (the latter sharing only a script and some words), Cambodian people cling to Khmer, an ancient tongue, with much pride.

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<sup>26</sup> PADCO, *supra* note 11, at 10-18.

<sup>27</sup> *Id.* at 1.

<sup>28</sup> *Id.* at 11. The PADCO study's report is based on figures provided by the Ministry of Interior and Institute of Statistics. The PADCO authors emphasize that, "These figures must be treated with extreme caution, however." *Id.* at 10.

<sup>29</sup> *Id.*

<sup>30</sup> MABBETT & CHANDLER, *supra* note 7.

<sup>31</sup> WILLIAM E. WILLMOTT, *THE CHINESE IN CAMBODIA* 53 (1967).

<sup>32</sup> *Tourism Worried Over Future of YTL Project*, *CAMBODIAN DAILY*, July 30, 1996, at 7.

<sup>33</sup> JUDITH M. JACOB, *INTRODUCTION TO CAMBODIAN* (1968).

Besides Khmer, some of the population can still speak Chinese, while some older and educated people (few of whom survived the turmoil and hardships of the 1970s) are also fluent in French. More recently, English has become the second language of choice, especially among the younger generation.

### III. CAMBODIA'S HISTORY AND PATRIMONY

Cambodia and Cambodians have had a colorful and often tumultuous history, and one of significance for much of the rest of Southeast Asia.<sup>34</sup> Tracing their origins at least to the emergence of more localized kingdoms in the south and central parts of the present country during the first and second centuries A.D., Khmer people became a significant political and cultural force throughout the region by the ninth century, when the Khmer kingdom at Angkor came into prominence.<sup>35</sup> Influenced by Indian ideas,<sup>36</sup> the Khmers extended their rule to many parts of modern Thailand, Laos and Vietnam, before being pushed back beginning in the fifteenth century.<sup>37</sup>

The results of this prominence are the magnificent ruins of ancient temples at Angkor, the Khmer capital for nearly 600 years, as well as numerous temple mounds and other archaeological sites scattered elsewhere throughout Cambodia. Established in the early ninth century, the city of Angkor (a linguistic distortion of the Khmer word "*nakkorn*" or "city") was the center of a kingdom whose power stretched from Burma to Indochina and from China to Malaysia. The impact of the Khmer empire can still be seen in archaeological sites in the region, especially throughout Thailand and Laos.<sup>38</sup> Cambodian words and script, including the language of Thai royalty, have their roots in early Khmer language.<sup>39</sup> Cambodian architectural ideals were transferred beyond the capital and can still be identified in much of the architecture of Southeast Asia.<sup>40</sup>

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<sup>34</sup> For the best overview, see DAVID P. CHANDLER, *A HISTORY OF CAMBODIA* (2d ed. 1993) [hereinafter CHANDLER, HISTORY].

<sup>35</sup> CHARLES HIGHAM, *THE ARCHAEOLOGY OF MAINLAND SOUTHEAST ASIA: FROM 10,000 B.C. TO THE FALL OF ANGKOR* (1989).

<sup>36</sup> Early "Funan-period" ports, such as Oc-Eo in present-day Vietnam, were important trading centers. KENNETH R. HALL, *MARITIME TRADE AND STATE DEVELOPMENT IN EARLY SOUTHEAST ASIA* (1985).

<sup>37</sup> See CHANDLER, HISTORY, *supra* note 34, at 70-71; see also HIGHAM, *supra* note 35, at 354-55.

<sup>38</sup> MICHAEL FREEMAN, *A GUIDE TO KHMER TEMPLES IN THAILAND AND LAOS* (1996); SMITTHI SIRIBHADRA & ELIZABETH MOORE, *PALACES OF THE GODS: KHMER ART AND ARCHITECTURE IN THAILAND* (1992).

<sup>39</sup> See MARY R. HAAS, *THE THAI SYSTEM OF WRITING* (1956).

<sup>40</sup> PHILIP RAWSON, *THE ART OF SOUTHEAST ASIA* (1967).



One of the great achievements of the Khmer kingdom was the city of Angkor itself. What remains at Angkor today are the masonry superstructures of what were once extensive temple complexes.<sup>41</sup> These served as the equivalents of temples, mausoleums, universities and shrines, and typically involved enormous retinues of monks, scholars, servants, dancers, grounds-keepers and other types of attendants.<sup>42</sup> There were also the secular court and palace complexes of successive Khmer kings, most of which no longer stand. Most secular buildings, as well as many elements of sacred buildings, were built of wood and have not survived. Influenced initially by Indian ideas of art, symbolism and cosmology, and typically dedicated to Indian or Brahmanist gods, the temples gradually became Buddhist shrines after the advent first of Mahayana Buddhism and then Theravada Buddhism in the later Angkor period.<sup>43</sup>

The temple complexes at Angkor cover an area of over 160 square kilometers (62 square miles) and include at least forty-three major monuments and as many as 100 smaller complexes and structures.<sup>44</sup> Angkor Wat, the most famous of the monuments, is located about seven kilometers (4.3 miles) from the small city of Siem Reap, as are other large temples and temple mountains that are located near Angkor Wat.<sup>45</sup> A second major complex, known as the Rolous Group is located about thirty-five kilometers (twenty-two miles) to the south, and the famous and beautiful monument of Bantey Srei, for many years inaccessible due to the political situation in Cambodia, is located about forty kilometers (twenty-five miles) north of the principal complex.<sup>46</sup>

An intricate system of artificial lakes (*barays*), moats and canals, once a key ingredient of the ancient capital, surround the larger and more central monuments. Of great symbolic significance, these water features served as a means of transportation and also as actual and symbolic containers of water for irrigation.<sup>47</sup> Khmer kings measured leadership according to their efficacy in providing sufficient food for their subjects.<sup>48</sup> The *barays* allowed for

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<sup>41</sup> DAWN ROONEY, A GUIDE TO ANGKOR: AN INTRODUCTION TO THE TEMPLES (1994).

<sup>42</sup> See, e.g., WORLD MONUMENTS FUND, PREAH KHAN CONSERVATION PROJECT, SIEM REAP, CAMBODIA 11 (1992); STEPHEN O. MURRAY, ANGKOR LIFE (1996); CHANDLER, HISTORY, *supra* note 34.

<sup>43</sup> See ELEANOR MANNIKKA, ANGKOR WAT: TIME, SPACE, AND KINGSHIP (1996) for a detailed discussion of Khmer cosmology and beliefs.

<sup>44</sup> See ROONEY, *supra* note 41.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> The moats represented the ocean surrounding Mount Meroe, an important image in Indian and Buddhist mythology. See ROONEY, *supra* note 41, at 69-72.

<sup>48</sup> See CHANDLER, HISTORY, *supra* note 34.

multiple harvests of rice and also stored water in the event of droughts.<sup>49</sup> The king's power was mythically tied to water serpents, still important images within the temple complexes, which also played a role in the Khmer version of Buddhist symbolism.<sup>50</sup>

Some scholars have linked the decline in irrigation to the fall of the Khmer kingdom in the early fifteenth century.<sup>51</sup> Others have suggested that Khmer kings merely overextended themselves and overtaxed their subjects.<sup>52</sup> Foreign powers, particularly the Thais, who, in fact, shared in the civilization emanating from Angkor, began to threaten the central authority of the Khmer kings, for in 1431 Angkor was sacked by a Thai army; it never fully recovered from this reversal. Khmer kings gradually retreated to central Cambodia, eventually establishing a capital at Udong and later at what is now Phnom Penh.

The Angkor monuments were never entirely abandoned, and many retained their ranks of monks and servants.<sup>53</sup> However, by the eighteenth century they were clearly in decline, and by the nineteenth century nearly all were in ruins. Although Cambodians still inhabited the area and were well aware of the monuments, some of which still served as shrines, in 1860 the ancient city was "rediscovered" by the French explorer Henri Mouhot.<sup>54</sup> This began a period of study and eventual restoration under the guidance of French architects and archaeologists, which continued until the early 1970s, when political events stemming from the Vietnam War so violently interrupted Cambodian life.<sup>55</sup>

But before the French began the work of restoring the vestiges of ancient Khmer civilization, they would play an even bigger role in the colonization of Cambodia itself. In large part to provide a buffer between the British and the Thais to the west, and thereby protect their richer colonies in Indochina (later Vietnam), the French signed an agreement for "protection"

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<sup>49</sup> *Id.* at 53.

<sup>50</sup> GEORGE COEDES, *ANGKOR: AN INTRODUCTION* (Emily Floyd Gardener ed. & trans., 1963); BERNARD P. GROSlier & JACQUES ARTHAUD, *ANGKOR ART AND CIVILIZATION* (rev. ed. 1966).

<sup>51</sup> See CHANDLER, HISTORY, *supra* note 34, at 78. The failure of Angkor's sophisticated "hydraulic system" is discussed in Bernard P. Groslier, *Pour une Géographie Historique du Cambodge*, 26 LES CAHIERS D'OUTRE-MER 337-39 (1973), cited in HIGHAM, *supra* note 35, at 354.

<sup>52</sup> CHANDLER, HISTORY, *supra* note 34, at 77-79; MICHAEL VICKERY, *CAMBODIA AFTER ANGKOR: THE CHRONICULAR EVIDENCE FROM THE FOURTEENTH TO SIXTEENTH CENTURIES* (1977).

<sup>53</sup> See ROONEY, *supra* note 41, at 33-34.

<sup>54</sup> HENRI MOUHOT, *VOYAGE DANS LES ROYAUMES DU SIAM, DE CAMBODGE, DE LAOS 186-96* (Librairie Hachette et Cie 1868).

<sup>55</sup> Peter T. White, *The Temples of Angkor, Ancient Glory in Stone*, 161 NAT'L GEOGRAPHIC 552 (1982); Russell Ciochon & Jamie James, *The Glory That Was Angkor*, *ARCHAEOLOGY* Mar.-Apr. 1994, at 40.

with the Cambodian king in 1863.<sup>56</sup> This resulted in French intervention into many aspects of Cambodian life, especially the politics and economic development of the country. But this experience also laid the groundwork for what would become the modern nation of Cambodia.<sup>57</sup>

The successors to the ancient Khmer kings, the Norodom dynasty which had first established its primacy at Udong, allied itself with French interests. The French, in turn, helped to reinforce the power of Cambodian kings and create what would later be a modern state.<sup>58</sup> Both profited from development of the new urban center at Phnom Penh. The French encouraged the planting of rubber and cotton plantations and the exploitation of forest resources. Production of rice increased to the point of becoming a significant agricultural commodity.<sup>59</sup> Other immigrant groups such as the Chinese also became active in the Cambodian economy, particularly in the capital where many of the merchants and developers were Chinese.<sup>60</sup>

The Japanese seized Indochina in 1941 leaving the French and Cambodian monarchy in nominal control of Cambodia itself.<sup>61</sup> In 1945 the French were expelled and Cambodia became an ostensibly independent kingdom although still under Japanese control.<sup>62</sup> With the return of the French after the war, the monarchy retained only symbolic significance. King Norodom Sihanouk, crowned by the Japanese, remained the titular head of state.<sup>63</sup> With the gradual end of French colonial rule, Cambodia won independence in 1953.<sup>64</sup> Sihanouk abdicated his crown and emerged as an important secular leader until 1970, when the government was overthrown by army commander Lon Nol and his supporters.<sup>65</sup>

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<sup>56</sup> VIRGINIA THOMPSON, *FRENCH INDOCHINA* (1937).

<sup>57</sup> In 1907, for instance, the French also helped create the boundary of modern Cambodia by pressuring the Thai kingdom into relinquishing a significant part of Thai territory at the north of modern Cambodia, territory that in fact contained the Angkor ruins. BRUNO DAGENS, *ANGKOR: HEART OF AN ASIAN EMPIRE* 83 (1995).

<sup>58</sup> ALAIN FOREST, *LE CAMBODGE ET LA COLONISATION FRANCAISE: HISTOIRE D'UNE COLONISATION SANS HEURTS (1897-1920)*, 77-79 (Librairie-Éditions L'Harmattan 1980).

<sup>59</sup> See CHARLES ROBEQUAIN, *THE ECONOMIC DEVELOPMENT OF FRENCH INDOCHINA* (Isabel A. Ward trans., 1944).

<sup>60</sup> See WILLMOTT, *supra* note 31; William Chapman, *Designing Phnom Penh: Architecture in Cambodia During the French Protectorate: 1863-1953*, Conference Paper Presented at the University of Hawaii, Manoa, Hawaii (Mar. 23, 1995) (on file with author).

<sup>61</sup> See CHANDLER, *HISTORY*, *supra* note 34, at 18.

<sup>62</sup> *Id.* at 170.

<sup>63</sup> DAVID P. CHANDLER, *BROTHER NUMBER ONE: A POLITICAL BIOGRAPHY OF POL POT 17* (1992) [hereinafter, CHANDLER, *BROTHER NUMBER ONE*].

<sup>64</sup> *Id.* at 191.

<sup>65</sup> CHANDLER, *HISTORY*, *supra* note 34, at 204.

After being celebrated for many years as the model post-colonial country, Cambodia was gradually, but precipitously, dragged into the Indochina conflict, which had a destabilizing effect throughout the region. In 1975, the notorious Khmer Rouge replaced moderate forces and Cambodia entered a four-year period of deprivation and radical Marxist experimentation.<sup>66</sup> It is estimated now that as many as two million people died during the Pol Pot period, named after the leader of the Khmer Rouge.<sup>67</sup> Most of the victims starved as a result of massive dislocations and the forced removal of the urban populations,<sup>68</sup> while others were tortured and killed for political reasons or simply as a result of age-old animosities.<sup>69</sup> Phnom Penh itself was effectively abandoned for four years during the Khmer Rouge period of control.

In 1979, neighboring Vietnamese forces invaded Cambodia, putting an end to the atrocities.<sup>70</sup> Condemned by the international community and disliked by most Cambodians, the Vietnamese, nonetheless, introduced a period of relative political stability to the country.<sup>71</sup> Under pressure from the United Nations ("UN") and their Soviet supporters, the Vietnamese withdrew in 1989,<sup>72</sup> leaving behind a hand-selected caretaker government under President Heng Samrin and Prime Minister Hun Sen.<sup>73</sup> Throughout this period, Khmer Rouge forces refused to cooperate and recognize the Vietnamese-backed government, choosing, instead, to conduct a protracted guerrilla war in the north.<sup>74</sup>

An important peace agreement, signed in Paris in 1991, worked out a time-table for elections and the return of political control to Cambodians. Much heralded UN-supervised elections were held in 1993.<sup>75</sup> King Norodom Sihanouk returned as the symbolic head of a government that had become, essentially, a constitutional monarchy. Following the election returns, Sihanouk appointed his Prince Norodom Ranaridh as Prime Minister. Ranaridh's opponent, Hun Sen, leader of the Vietnamese-influenced

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<sup>66</sup> *Id.* at 206-08.

<sup>67</sup> Lee Kim Chew, *Cambodia's Future Looks Dismal*, STRAITS TIMES (Singapore), Sept. 19, 1997, available in LEXIS, Asiapc Library, Strait File.

<sup>68</sup> CHANDLER, HISTORY, *supra* note 34, at 225.

<sup>69</sup> *Id.* at 212. For a more personal account of the atrocities, see MARTIN STUART-FOX, THE MURDEROUS REVOLUTION (1986).

<sup>70</sup> CHANDLER, HISTORY, *supra* note 34, at 228.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.* at 235.

<sup>73</sup> *Id.* at 235-39.

<sup>74</sup> *Id.* at 235.

<sup>75</sup> JUDY L. LEDGERWOOD, UN PEACEKEEPING MISSIONS: THE LESSONS FROM CAMBODIA 3 (1994).

Cambodian Peoples Party ("CPP"), was invited to share power under an awkward coalition scheme.<sup>76</sup> After four years of bickering and maneuvering under this shared system of power, Hun Sen seized control of the government in July of 1997.<sup>77</sup> With UN backing, new elections were finally held a year later.<sup>78</sup> While Hun Sen and the CPP returned to office, the political situation remains somewhat uncertain.

#### IV. PLANNING AND DEVELOPMENT IN THE 1990S

The political instability of the period between 1972 and the present has, of course, had a profound effect on all aspects of Cambodian life. From education to legislation, Cambodia has been stymied in its efforts to achieve a level of social and political normalcy.

Private investment throughout this period has been shaky at best.<sup>79</sup> There have been considerable contributions by international organizations.<sup>80</sup> So great is the presence of international aid that Cambodia has from time to time been referred to as the non-governmental organization ("NGO") capital of the world.<sup>81</sup> Similarly, Cambodia has received substantial grants and loans from foreign countries: the United States offering to train Cambodia's military, the Japanese building bridges and contributing substantially to the massive restoration efforts at Angkor, and the French providing planning assistance and helping to develop medical capabilities, including the medical school at the University of Phnom Penh. The list goes on and on.

Private investment, particularly from outside, has been less dependable.<sup>82</sup> Many private investors from Thailand or other neighboring countries have been reluctant to place money in Cambodia due to reputedly

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<sup>76</sup> The Khmer Rouge refused to honor the election results and continued to hold out in the north, where, in fact, they still exert a sometimes noisy influence. Nate Thayer, *We Are the World*, FAR E. ECON. REV., Aug. 29, 1996, at 22-23; Nate Thayer, *After Pol Pot, Who?*, FAR E. ECON. REV., Aug. 29, 1996, at 24.

<sup>77</sup> Murray Hiebert, *Submerging Market*, FAR E. ECON. REV., July 31, 1997, at 54-55.

<sup>78</sup> See Barbara Crossette, *U.N. Agrees to Monitor Election in Cambodia*, N.Y. TIMES, Apr. 9, 1998; Nate Thayer, *Sticking to His Guns*, FAR E. ECON. REV., Jan. 29, 1998, at 5.

<sup>79</sup> Murray Hiebert & Matthew Lee, *Hidden Costs*, FAR E. ECON. REV., July 11, 1996, at 56-57; Bruce Gilley, *Dancing with the Dragon*, FAR E. ECON. REV., Dec. 11, 1997, at 26-28.

<sup>80</sup> These have included UNESCO, CARE, the World Health Organization, the Asian Development Bank and many others. Most are listed in ROLAND NEVEU, PHNOM PENH AND CAMBODIA 69 (1993).

<sup>81</sup> Interview with Declan O'Leary, Faculty of Architecture and Urbanism at the Royal University of Fine Arts in Phnom Penh, Cambodia (July 30, 1996).

<sup>82</sup> Murray Hiebert, *Rising from the Ashes*, FAR E. ECON. REV., Jan. 12, 1989; see also THE COUNCIL FOR THE DEVELOPMENT OF CAMBODIA, WHY WOULD ANYONE WANT TO INVEST IN CAMBODIA? (1966).

high levels of corruption and uncertainty about the country's economy.<sup>83</sup> The same applies to some degree for European and North American individuals and firms, although a list of foreign companies doing business in Cambodia includes the names of many well recognized firms: Coca-Cola, Levi's, Caterpillar and so on. The recent political events have scared off private investment so that presently the economic outlook looks extremely bleak.

Considerable planning has occurred at all governmental levels. While some is useful, much is unrealistic. Economic, development, and infrastructural plans all appear to stay in place, but with each shift in governmental policy all are changed (or simply ignored or reappraised). Outside consultants have been solicited for many of these projects, with both good and mediocre results.<sup>84</sup>

Most of these planning initiatives have focussed on the basic problems of providing services to the country's poor, and providing some degree of regulation for land use and development in the country. Much needed attention has been given to infrastructural improvements, especially highways and streets, water and sewage, and electricity, all of which are extremely important to the development of the country and the health and safety of its people.<sup>85</sup> For the most part, this has been planning at its no-frills best. Environmental issues have been seen as paramount, particularly concerning the preservation of basic resources, such as fish, agricultural lands and forest resources.<sup>86</sup>

Instituting land-use regulations in terms of identifying appropriate uses and providing an outline for future construction and development has caused more problems. Historically, Cambodians had no strictly capitalist sense of private property.<sup>87</sup> People had rights to land and resources through convention and tradition in way very similar to European feudalism.<sup>88</sup> The

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<sup>83</sup> See Nayan Chanda, *The Danger Within*, FAR E. ECON. REV., Mar. 30, 1995, at 17; Nate Thayer, *Plunder of the State*, FAR E. ECON. REV., Jan. 9, 1992, at 11.

<sup>84</sup> The list of planning firms and those with planning orientations, government ministries, with both Cambodian staff and outside consultants and others working in Cambodia, is myriad. The PADCO study alone lists over 70. See PADCO, *supra* note 11, at ii-iii. Not surprisingly, the results and benefits of these efforts have varied considerably.

<sup>85</sup> For examples see JAPAN DEVELOPMENT INSTITUTE ("JDI"), COMPREHENSIVE STUDY ON RECONSTRUCTION AND DEVELOPMENT OF CAMBODIA FOR MEDIUM AND LONG TERM DEVELOPMENT (1993); HARRIS CONSULTING, INFRASTRUCTURE, HEALTH AND DEVELOPMENT IN SQUATTER COMMUNITIES OF PHNOM PENH (1996).

<sup>86</sup> See JAPAN DEVELOPMENT INSTITUTE, *supra* note 85; THE WORLD BANK, *supra* note 4; PADCO, *supra* note 11.

<sup>87</sup> See PADCO, *supra* note 11, at 30.

<sup>88</sup> *Id.* at 30.

French introduced the modern idea of private ownership and notions of the transferability of land and other real estate.<sup>89</sup> A significant law protecting owners was passed only in 1882.<sup>90</sup> However, these concepts did not filter down to the bulk of the population, which tended to adhere to more traditional systems of land-use and tenure.<sup>91</sup>

During the 1970s, and especially during Cambodia's radical experiment in socialism, any notion of private ownership was eradicated.<sup>92</sup> Under Vietnamese rule, private ownership was forbidden, or certainly was not officially accepted.<sup>93</sup> In 1989, the government began to encourage individuals to obtain recognition for use or control of buildings and lands.<sup>94</sup> This process was further clarified in the 1992 Land Law, which set out the general principles for land tenure in the country.<sup>95</sup> Although initially few people took advantage of the request for registration, by 1994 the process was well underway and over 4.4 million permits had been applied for, resulting in a considerable back-log. In fact, as of 1995, less than 400,000 land registrations had actually been issued.<sup>96</sup>

While officially required by law, permitting and regulation are not consistently applied. Technically all new construction requires a permit. Instituted in 1989, the approval process *theoretically* begins at the lowest level of municipal or provincial government. Cambodia possesses an administrative structure based on French divisions and includes both provincial and municipal levels of government, the former divided as well into districts, and down the scale, into communes, villages and "groups."<sup>97</sup> As a result, a permit for new construction (and, in principle, a substantial rehabilitation of an existing property) begins with the Group Chief, filters up to the Village and Communal Chiefs, and then to the District Committee and Provincial Governor's office for approval.<sup>98</sup> Simple timber and thatch buildings can be approved by the Commune Chief; larger timber buildings

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<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> See CHANDLER, BROTHER NUMBER ONE, *supra* note 63, at 143; see also PADCO, *supra* note 11, at 30.

<sup>93</sup> In fact, under the Vietnamese, occupation of a premises was seen as tantamount to ownership, and returning families to Phnom Penh were allowed to stake out claims to any property they inhabited. See PADCO, *supra* note 11, at 30.

<sup>94</sup> *Id.*

<sup>95</sup> *Id.* at 52.

<sup>96</sup> *Id.* at 31-32.

<sup>97</sup> *Id.* at 51.

<sup>98</sup> *Id.*

(with tile or metal roofs) require the approval of the District Committee.<sup>99</sup> The Provincial Governor must approve all concrete construction.<sup>100</sup> Finally, buildings taller than five stories must be reviewed by the *Comite national de l'amenagement du territoire, d'urbanisme, et de la construction* ("CNATUC") in Phnom Penh.<sup>101</sup> However, there are presently no mechanisms for enforcement, review, dealing with non-compliance or, alternately, recourse for owners in the event of challenges to requests. It is, in reality, a system on paper only.<sup>102</sup>

Only chaos can describe the present state of land utilization and regulation. Whereas in 1990 nearly all lands and buildings were in government ownership or control, now nearly all property is privately held or owned. The government still occupies key buildings in most municipalities, usually administrative buildings built during the French colonial period or just after colonial rule ended. Other buildings satisfy a wide range of purposes, for example, old rows of shop-houses are squatted in by multiple families, a coffin maker is adjacent to a motorcycle repair shop, which is next to a guest house, which is next to a private home, followed by a disco and so on.

Several laws presently pending, and some recently in place, could help improve the regulatory framework for urban development and land-use planning more generally. These regulations include a national urban development, regional development and construction law, known collectively as the CNATUC Law, passed in 1994 but held up in the Council of Ministers awaiting an implementation sub-decree.<sup>103</sup> A second piece of legislation is the 1992 Land Law, which still provides the basic structure for tenure and registration of ownership.<sup>104</sup> Finally, there is the revision of statutes regarding permitting, the process for which still generates much debate.<sup>105</sup>

The CNATUC Law calls for the formation of provincial and, in some cases, municipal planning agencies to oversee construction and land-use regulations.<sup>106</sup> The law intends to promote a balance between urban and rural development, protect private property rights, enforce legislation and promote the growth of tourism.<sup>107</sup> Each province must set up a CNATUC, and each

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<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> *Id.* at 52.

<sup>104</sup> *Id.* at 51.

<sup>105</sup> *Id.* at 53.

<sup>106</sup> *Id.* at 52-53.

<sup>107</sup> *Id.* at 52.



city larger than 20,000 people must establish a *Bureau des Affaires Urbaines* ("BAU"), following the example in Phnom Penh.<sup>108</sup> The BAUs are responsible to the governor of each province and include, as with Phnom Penh, both Cambodian professionals and foreign advisors. At the present time, this law has been implemented in only a tentative way in most provinces and municipalities.<sup>109</sup>

The Land Law, discussed briefly above, is a rudimentary vehicle at best. Passed in 1992, it includes provisions for proprietorship, temporary possession, authorization to cultivate land, right of use, and rights to carry mortgages and loans. The Land Law describes procedures for registering lands, sets out the format for recording and provides for statistics on owners.<sup>110</sup> Since all property records predating 1974 were destroyed, the Land Law procedures provide the only stable record of land ownership and use. There are also provisions for the use of the right of eminent domain by the government, terms set out for determining proper compensation and also limits on government powers. The rule that foreigners were not allowed to own property was modified slightly in 1996 to allow those who invest more than \$400,000 the right to purchase land and buildings.<sup>111</sup>

Finally, the Sub-Decree on Construction Permits, intended to set up the regulatory framework for land-use and development, sits in committee at the ministry level, although the national assembly has passed it.<sup>112</sup> This law, *inter alia*, outlines the procedures for permitting, particularly for new construction, sets up guidance for fines and other provisions for monitoring, and establishes avenues of recourse for owners.<sup>113</sup> Strongly oriented toward practical issues, the plan addresses water, sewage and other immediate needs.<sup>114</sup> It specifically does not deal with existing buildings and does not address the subtler issue of whether a substantial rehabilitation or restoration of an older building qualifies as new construction. Suggestions for enforcement and administration are sketchy. Still in the process of revision and discussion, this law will not be implemented in any consistent way for several years.

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<sup>108</sup> *Id.* at 53.

<sup>109</sup> *Id.* at 31, 52.

<sup>110</sup> *Id.*

<sup>111</sup> Ken Munthit, *Citizenships up for sale: \$400,000*, PHNOM PENH POST, July 26, 1996, at 5, 15. Law on Nationality arts. 10, 11, 12 (1996).

<sup>112</sup> PADCO, *supra* note 11, at 53.

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

As it stands today, Cambodia, like many other smaller, developing countries, has the best of intentions but has taken precious few steps toward governing issues of land-use and development. National, regional, and municipal planning measures fail to provide concrete guidance. Actual regulation of construction is practically non-existent. Owners do as they please, governed at most by the rules of courtesy. This remains true for work on historic buildings, including decisions on demolition, and new construction. What, if anything, will remain of traditional architecture in cities such as Phnom Penh, or of the French colonial heritage, depends in part on the planning agencies and governmental officials. In the meantime, developers and others, including private individuals, have relatively free reign.<sup>115</sup>

#### V. PRESERVATION PROVISIONS FOR PHNOM PENH

Since 1981, the city of Phnom Penh has received the advisory assistance of planners from the municipality of Paris, including private individuals.<sup>116</sup> This assistance increased considerably beginning in 1990, with a number of new staff members, and has resulted in an outline of a comprehensive planning document, which also deals, to some extent, with historic preservation issues. The proposed plan sets out provisions for development and land-use for the city. The general outline for this proposal has been published by the *Atelier Parisien d'Urbanisme*; it also served as the catalogue of an exhibit mounted in Paris in the Spring 1997.<sup>117</sup>

In nearly every way the BAU's proposals, as outlined in the publication, follow the conventions of Western rational planning practice, with an understandably European flavor. Based on an extensive three-year study of existing conditions, the plan provides for maximum heights of buildings by streets and quarters, proposes major infrastructural improvements, and includes a number of features for future development,

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<sup>115</sup> *Id.* at 54.

<sup>116</sup> STARKMAN & STEVNIN, *supra* note 9, at 10.

<sup>117</sup> *Id.* The published proposals were principally the product of French planners attached to the BAU. These included Christine Blancot, Myriam Berthier and Aline Hetréau-Pottier, representing the French contribution, and H.E. Mann Chhoeurn, Chief of the Governor's Cabinet for Urban Affairs, and Yy Yao and Chhuon Sothy, both of whom worked closely with the BAU. H.E. Vann Molyvann, Minister of State for the Kingdom of Cambodia and H.E. Nouth Narang, Minister of Culture and Fine Arts, oversaw and reviewed the final product. *Id.*

from parks and boulevards to proposed street plantings and street furniture, more in the nature of urban design suggestions.<sup>118</sup>

Interestingly, the BAU scheme emphasizes typological analysis. Streets and quarters are documented, *inter alia*, in terms of existing conditions, including population density, heights and bulk of buildings, and street width.<sup>119</sup> This body of information then gets analyzed and condensed into proposals for regulatory controls.<sup>120</sup> Based on long-standing European practice, the existing conditions and typology provide the basis for developmental controls.<sup>121</sup> Areas with buildings tending in the three to four story range are subjected to new height limitations set at the more-or-less maximum heights found in the area. The same applies to areas of lesser density. The result is, or should be, relatively uniform districts, with a higher degree of visual cohesion than found today.

While the BAU study makes considerable provision for the recognition of historic structures, the *patrimoine architectural*, there has been little effort to fully integrate measures for protection into the broader urban scheme. In all, approximately 600 buildings have been considered.<sup>122</sup> Of these, thirty-nine are identified as buildings of "exceptional value," seventy-two of "very remarkable value" (*valeur tres remarquable*), and a remaining ninety-one of "remarkable value," for a total of 202 buildings.<sup>123</sup>

Generally, the selected buildings are properties of singular and/or monumental character; some shop-house rows are listed as are a number of traditional wood houses, but these are the exceptions. Most of the designated properties include larger municipal or governmental buildings, *wats* (Buddhist temples), and larger European houses, usually neoclassical in style and of substantial masonry construction.<sup>124</sup> The issue of modified shop-house rows, smaller buildings, and those with alterations that might still be saved is not addressed adequately.<sup>125</sup> Nor, at this point, have sufficient measures been suggested for review and compliance. In essence, the designations are only a wish-list. Moreover, it has been estimated that as many as ten to twenty

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<sup>118</sup> *Id.* especially at 134-37.

<sup>119</sup> *Id.* at 61-70, 97, 100.

<sup>120</sup> *Id.* at 120-34.

<sup>121</sup> *Id.*

<sup>122</sup> *Id.* at 121.

<sup>123</sup> The others are dropped for reasons of relative insignificance or because of substantial changes. *Id.* at 120-21.

<sup>124</sup> *Id.* at 136-37.

<sup>125</sup> *See id.* at 68-70.

percent of the structures have been lost or modified beyond recognition even before the list was published.<sup>126</sup>

The BAU approach lacks a broader commitment to preservation and also a means by which historic structures might be safeguarded under the watchful eye of some extra-governmental body, or of a specially-appointed committee. In fact, the proposals omit a public component, so critical to the success of historic preservation efforts in many North American cities.<sup>127</sup> Similarly, suggestions for incentives of various sorts, including grant programs and tax breaks, so successful in other countries, have not been considered. This approach leads to "top-down" planning with little provision for innovation and modification. Preservation is not well integrated into this urban development and land-use plan.

The BAU proposals cover only some aspects of zoning and land-use needs in Cambodia. A report completed by the U.S.-based Planning and Development Collaborative ("PADCO"), in association with SAWA Consultants Cambodia and the Integrated Resources Information Center, paints a more comprehensive picture.<sup>128</sup> The March 1996 report details infrastructural needs, housing issues, and existing urban conditions throughout Cambodia. It makes a number of recommendations for land-use planning and regulation. It also discusses establishing an urban tax base; steps toward local, provincial and national legislation; market values of land and buildings and much more. Unfortunately, it does not address historic preservation. As with the BAU study, the recommended regulatory structure tends to follow the precedent of Western, in this case North American, land-use laws and zoning requirements. Primarily prescriptive in character, it does not provide a set of procedures that might accommodate the varied needs and requirements of pre-existing (especially historic) properties.

## VI. THE ZONING AND ENVIRONMENTAL MANAGEMENT PLAN FOR ANGKOR

Concurrent with the effort to provide a planning framework for Phnom Penh has been a long-term, multi-national effort to create a regulatory plan for the historic sites at Angkor. The Zoning and Environmental Management

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<sup>126</sup> Interview with Declan O'Leary, Faculty of Architecture and Urbanism at the Royal University of Fine Arts in Phnom Penh, Cambodia (May 16, 1997). See also Nick Lenaghan, *Battle to Save Old Properties with New Regulation*, PHNOM PENH POST, Jan. 10-23, 1997, at 20.

<sup>127</sup> See generally MICHAEL MANTELL ET AL., *CREATING SUCCESSFUL COMMUNITIES* (1990); ARTHUR P. ZIEGLER, JR. & WALTER C. KIDNEY, *HISTORIC PRESERVATION IN SMALL TOWNS* (1980); PEGGY ROBIN, *SAVING THE NEIGHBORHOOD* (1990).

<sup>128</sup> PADCO, *supra* note 11.

Plan ("ZEMP") was a product of three years of research and collaboration among planners, environmentalists, archaeologists, historians and others to establish a governing context for Cambodia's priceless architectural and archaeological heritage.<sup>129</sup> The ZEMP plan came about as an immediate response to the listing of the Site of Angkor on the World Heritage List.<sup>130</sup> Listing requires that the host country certify that the site can and will be preserved and that provisions are in place to assure this.<sup>131</sup> UNESCO gave Cambodia a three-year probationary listing, insisting on the completion of and adherence to a development plan.<sup>132</sup> Because of the great area included in the Angkor Historical Park, over sixty-two square miles (160 square kilometers), and the dispersed character of the site, the plan required numerous levels of planning intervention. As a practical measure, the plan included the whole of Siem Reap Province, a factor that resulted in even more complexity.<sup>133</sup>

Attention had to be given to environmental factors, future infrastructural needs, accommodations for commercial development outside the park, the protection of agricultural lands and the traditional lifeways of people living in and outside the general park area. In every way, this plan exudes both a holistic and ambitious approach.

In all, five zones or types of zones were established for the park and the province as a whole.<sup>134</sup> These are summarized as follows:

- Zone 1: Monumental Site (monuments and sites within the reserve);
- Zone 2: Protected Archaeological Reserve (essentially buffers around monumental sites);

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<sup>129</sup> Instigated in 1991 by H.E. Vann Molyvann, formerly the chief figure in the Council of Ministers, the project was carried out under the auspices of UNESCO, with funding from the Swedish International Development Agency and advice from the *Ecole Francaise d'Extreme-Orient* ("EFEO"), the Royal Angkor Foundation (with funding and personnel from Hungary and Germany), the U.S. National Park Service, and the Fine Arts Department of the Bureau of Archaeology and National Museums of the Kingdom of Thailand. Coordinated by Richard Engelhardt of the UNESCO Regional Office in Bangkok, the report was compiled and written by Jonathan Wagner, Azedine Beschouch and Veronique Dauge, the latter two being staff members of UNESCO; with Ros Borath and Or Kim Song representing the Cambodian government. It was published early in 1994. UNESCO, ZONING AND ENVIRONMENTAL MANAGEMENT PLAN FOR ANGKOR (1993) [hereinafter ZEMP].

<sup>130</sup> *Id.* at 1.

<sup>131</sup> *Id.*

<sup>132</sup> *Id.* at 6-7.

<sup>133</sup> Interview with Richard Engelhardt, Regional Advisor for Culture in Asia and Pacific (Jan. 6, 1998).

<sup>134</sup> ZEMP, *supra* note 129, at 9.

- Zone 3: Protected Cultural Landscapes (these extend throughout Siem Reap Province);
- Zone 4: Other Sites of Interest (this refers primarily to as yet unidentified sites);
- Zone 5: Socio-Economic and Cultural Perimeter of the Siem Reap/Angkor region (areas outside the park itself).

“Sustainability” is one of the key principles of the plan. An increasingly popular concept in planning circles,<sup>135</sup> sustainability in the ZEMP translates into a careful balancing of environmental, social, and economic considerations. Identification and analysis of the ecosystem of Siem Reap Province, including the social ecology of the region, requirements for water, the protection of agricultural lands, continuing aquaculture, a significant aspect of the local economy, and the careful regulation of tourism were all seen as critical factors.<sup>136</sup>

As with many culturally oriented development plans, the ZEMP is straightforwardly optimistic and betrays a certain level of naiveté. The existing environmental and cultural context is in many ways seen as a constant. Great attention is given to traditional lifeways and the accommodation of local people into the development picture; presently, for example, local families tap trees within the park for resins, and rice production is still an important aspect of countryside life. However, much of this will doubtless change over the next ten years as more local people enter into the more commercial economy of tourism, a fact hardly considered by the plan.

Overall policies set out in the ZEMP are as follows:<sup>137</sup>

- Archaeological Areas: Calls for a complete survey and mapping of existing archaeological sites. The plan specifies a moratorium on excavation, a recommendation already set aside for at least one Japanese university, which has been conducting below-ground testing.

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<sup>135</sup> See, e.g., FEDERATION OF NATIVE AND NATIONAL PARKS OF EUROPE (FNNPE), *LOVING THEM TO DEATH? SUSTAINABLE TOURISM IN EUROPE'S NATIVE AND NATIONAL PARKS* (1993); TOURISM CONCERN OF WWF(UK), *BEYOND THE GREEN HORIZON: PRINCIPLES FOR SUSTAINABLE TOURISM* (Shirley Eber ed., 1992).

<sup>136</sup> ZEMP, *supra* note 129, at 21-22.

<sup>137</sup> *Id.* at 21-34.

- **Water Resources:** Calls for the restoration of some of the ancient water features, regulation of water-use throughout the region, and more rigorous licensing of wells and irrigation channels.
- **Ecologically Sensitive Areas:** Outlines concerns for fauna and flora in the area, the traditional use of forest resources, and the need for a better understanding of native habitats prior to further development.
- **Rural Development Policies:** Calls for the conscientious application of comprehensive rural development plans. Items covered include access to irrigation, improvements in health and education, and programs for retraining agricultural workers to participate in tourism development. The plan assumes that local people will continue to work in the usual ways and sustain existing craft traditions.
- **Tourism:** Calls for emphasis on “quality” tourism, that is, tourism with an emphasis on higher-paying visitors from the U.S., Europe, and Japan, especially, who will make the least demands upon the sites themselves. “High-end” or “high quality” tourism has proved popular for a number of years as a key to sustainable development.
- **Urban Development:** Calls for urban development in Siem Reap town, emphasizing its touristic value. The plan further calls for the creation of a buffer zone north of the town as an additional means of protection.
- **Transport and Communication:** Calls for restrictions on vehicles and the diversion of some existing roads. Also recommends a new, less obtrusive airport.

Having set out major goals and policies, the plan returns to the idea of zones as a key to planning implementation. Overall, the plan recognizes a tiered system of zones based on an area’s relationship to sites of archaeological significance. A monument needs to be surrounded by an adequate buffer area to allow for the full enjoyment and appreciation of the monument, as well as to protect the site from visual encroachments. For this reason, agricultural activities actually benefit the park, since they preserve open space.

In addition, the plan recognizes that some of these activities and the landscapes associated with them have value in their own right. Identified as Protected Cultural Landscapes, these areas boast distinctive landscape characteristics, including traditional field systems, vernacular houses, and the very lifeways of the inhabitants. The plan recognizes the special significance of urban development in the region, identifying the French colonial provincial capital of Siem Reap as a resource worth preserving and exploiting for tourism purposes.<sup>138</sup>

## VII. CONCLUSION

Both the BAU plan for Phnom Penh<sup>139</sup> and the UNESCO-sponsored ZEM Plan for the Angkor Historical Park and Siem Reap Province fall short in the area of implementation. The ZEMP has the force of law, though regulations and procedural rules have yet to be adopted. No similar land use and regulatory laws have been passed for Phnom Penh or other urban areas. The BAU proposals and, in much greater detail, the PADCO study discuss what mechanisms would be required to regulate development and growth in urban sectors of Cambodia. Basically, all of these plans and studies presuppose some level of goodwill and rational self-interest, when in fact Cambodia is fraught with bickering factions, ever underpaid officials, often subject to influence peddling, and a business and development community unsympathetic to regulatory controls. Undoubtedly, over time some measures will hold a certain degree of governmental sway over the direction of development. In Cambodia, however, perhaps more than in more developed countries, the particular wishes of individual investors will always gain the upper hand in land-use matters.

The BAU proposals for Phnom Penh, including suggested height limits and urban design and beatification schemes, will clearly be inadequate to preserve what remains of the historic city. Suggested zoning

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<sup>138</sup> By a February 10, 1993 decision of the former Supreme National Council of Cambodia, a National Heritage Protection Authority for Cambodia ("NHPAC") was created to provide a national framework for the protection of cultural heritage. A Superior Council for National Culture was set up on a transitional basis in August, 1993. It is an inter-ministerial committee and assumes responsibility for the protection of cultural heritage throughout the country and for Angkor. Consequently, this council has also assumed the function of the Steering Committee for the ZEMP project. Proposals for a "national protected areas system" are under consideration in the Ministry of Environment. This follows a Royal Decree (November 1, 1993) designating a number of areas as national parks and/or protected areas.

<sup>139</sup> Available at this point in outline form only.



controls, based as they are on pre-existing conditions, which themselves reflect recent entrepreneurial excess rather than earlier planned development, stand in the face of any efforts to preserve existing historic buildings. Exceptions are almost always made, such as by allowing an additional story or two. These allowances will effectively favor new construction over preservation, or at least radical alterations of existing buildings.

The BAU proposals also disappoint because they refuse to commit to the idea of protecting historic structures through regulatory controls. Recommendations for preservation are tepid at best, and no clear mechanisms have been suggested for reviewing proposed changes or applications for demolition. At the same time, the BAU study treats most historic buildings as isolated monuments. Cambodia has not adopted the European concept of a preserved central city or core and the North American desire for more citizen-responsive historic districts. At best, the BAU scheme is an urban design proposal where preservation definitely takes a back seat.

In particular, the BAU plan reveals a lack of concern for public involvement in the design or regulatory process. This result probably reflects the European biases of many of the planners attached to the city agency. French city planning, for instance, favors technical activity, allowing for little public involvement.<sup>140</sup> No proposals have been made to establish historic preservation commissions or other avenues for comment from future non-profit organizations. The ideals of urban master-planning and expert regulation guide the BAU plan. The notion of an independent popular body, as found in most American cities, or the idea that preservation experts should participate in decision-making is foreign to Cambodia.<sup>141</sup> Development in Phnom Penh is the product of individually generated efforts at modernization. Both Cambodian and outside developers tend to add new fronts to existing buildings, often of glass and steel. New buildings reflect a variety of styles, with classical post-modernism and a kind of "neo-Khmer style" architecture predominating. For modern shop-houses, relatively unembellished concrete tends to be favored. But the rehabilitation of historic properties is a non-starter. Some

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<sup>140</sup> While somewhat dated, the character of French planning practice is captured in JACK A. UNDERHILL ET AL., *FRENCH NATIONAL URBAN POLICY AND THE PARIS REGION NEW TOWNS: THE SEARCH FOR COMMUNITY* (1979). For an historical analysis of French planning policy in the colonial context, see GWENDOLYN WRIGHT, *THE POLICIES OF DESIGN IN FRENCH COLONIAL URBANISM* (1991).

<sup>141</sup> See MANTELL ET AL., *supra* note 127, at 60-67, for an outline of the American model.

villas and other French colonial structures have been repaired and otherwise "restored" for modern use, occasionally with good results. More often, developers renovate old buildings by simply reworking and encasing them in new materials and finishes. Preservation education has a long way to go before better results can be expected.

The Zoning and Environmental Management Plan for Angkor has quite different problems from those of the Phnom Penh scheme. For one thing, all the planners agree that the overall aim should be to preserve the primarily historical context of the ancient monuments. As a result, in addition to measures intended to preserve the settings of the park monuments, planners treat vernacular buildings and landscapes wisely, and even recognize the historic qualities of the town of Siem Reap. Nonetheless, the ZEMP falls short in its recommendations for implementation. It also fails to perceive the kinds of pressures that will bear down upon the site as tourism becomes more of an economic force.

The ZEMP, while well-intentioned and competent in every way, is profoundly incomplete. Angkor will, without a doubt, develop into a mass tourism site, despite hopes for more limited "quality tourism" as called for in the plan. As with Chiang Mai in Thailand or many of the national parks in the United States, Angkor may find itself inundated with tourists. Governmental administrators may then be tempted to bend the rules, allow more and bigger hotels, permit new, often obtrusive uses, at their whim. Already, new hotel development challenges the recommendations in the ZEMP. Malaysian businessmen with close ties to the recently ousted Prince have had their plans both for non-conforming hotels, and a potentially garish sound-and-light show for Angkor Wat, approved by the government.<sup>142</sup>

In its goals for the local population, the ZEMP betrays an unintentionally elitist bias. Preservation of existing lifeways, encouragement of local crafts, retention of historic vernacular dwellings comprise the plan. While laudable aims, they are probably unrealistic. If, as predicted, tourism comes to Angkor, local people will no doubt participate even more fully.<sup>143</sup> Rather than preserving traditional ways of life, they will probably get jobs in hotels, at miniature golf courses, ice-skating rinks, and go-cart tracks. The

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<sup>142</sup> See Marc Kaufman, *Barbarians at the Gate*, CONDE NAST TRAVELER, Jan. 1997, at 88-95. Presumably the scheme is now on hold.

<sup>143</sup> See Heather A. Peters & Gordon Fairclough, *Culture Vultures*, FAR E. ECON. REV., Jan. 19, 1995, at 34-37.

ZEMP needs to provide an outline for the realistic preservation of traditional culture, not just a statement of will.

Cambodia has taken its first steps toward the implementation of land-use controls and regulatory measures. Prior to recent political events, the country was moving slowly toward rudimentary land-use regulations and mechanisms for governmental control, or at least oversight, of development. For the immediate future, these plans are probably on hold. With probable acceptance of election results of July 1998, however, one can expect a greater level of political stability and, potentially, a renewal of investment interest. Let us hope that the intervening period will give those interested in planning and historic preservation an opportunity to rethink some of the more fundamental issues still facing the country in its gradual move toward development.