



Customary Land Tenure and Practices
of Khmer Communities in Lowland Rural Cambodia
A Case Study In Choam Thnanh Village, Kampong Thom Province



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Villagers patrol the community Forest (photo @ ADIC)

Executive Summary

Cambodia has a long history of traditional practice on land and natural resources management. But there has been change due to emerging demands for policies and human needs. A decade and a half ago, the Land Law and necessary regulations were adopted and enforced nationwide. However, land and natural resources management customary practice among non-indigenous groups still exist in Cambodia and still widely accepted among Cambodian people. To understand this in greater depth, the Analyzing Development Issues Centre (ADIC) and STAR Kampuchea (SK) undertook a study on non-IP (indigenous people) customary tenure in one community selected based on given criteria in extensive consultation with Mekong Land Region Governance (MRLG). Choam Thnanh village, Tipor commune, Santuk district, Kampong Thom province was selected based on the set of criteria agreed up on by both partners, ADIC, SK and MRLG and from a number of pre-visits to many places in Takeo, Battambang and Kampong Thom.

The study responded to the two specific objectives: to document the customary practices and how it has changed concerning land use and management, resource tenure and transfer, institutions, conflict resolutions mechanisms over time; and, to assess the community's capacity to sustain land and natural resources-dependent livelihoods, and the cultural practices that have an implication on customary land and resources governance. The framework from MRLG's Guidebook was applied; it placed the main themes for this study: resources tenure and transfer, local institutions, land use and community livelihoods, and conflict resolution mechanism. The period covered in the study was about a half century of period—starting of early step of the village up to nowadays (before Pol Pot or 1975, the periods from 1979 to 1998, the period from 1999 to 2008 when CF was in place in 2005, and from 2009 up to when ELCs were started in 2009 and Government's Directive 01 in 2013.

The study examined key events and cultural values as a theme that ran across the four themes with land use management integrated to community livelihoods. These themes were carried as questions in the interview guide—the formal (legal) structure alongside the customary system relating or affecting each other.

Resources Tenure and Transfer. Before the Khmer Rouge, local people could access the land mostly free and enjoyed land use as their own choices due to large lands available against the few village population. Local practices were fully applied as no formal local structures were established in the village. Elder people were widely accepted and recognized for their roles among local people not by mandate but as a common practice. Local people popularly used shifting cultivation practice and no private land ownership or formal access to land. The customary practices remained widely accepted from 1979 to early 1990s but with added

inclusion of the village chief. By the 1990s to early 2000s, formal authority was widely enforced and strengthened as government connected with village and people. Since then, the roles and influence of elderly people have started declining, but the informal way of verbal consents still applied on land transfers. After the presence of the Community Forestry, the government's role is more prevalent yet customary practices still persist among the local people with access to CF areas within the CF committee who has learned to work both with the Forestry Administration and the local nuances.

Local Institutions. There was no formal governance system at the village for the first period, except the elders group. The Khmer Rouge period has two co-installed village chiefs yet working with the elder group on managing land transactions and common property resources. After 1979, the village chief assumed a more prominent role, with elder's relegated to witnessing on land transactions, but the latter more active in CF management in mobilizing people and local decisions that concern the loss of land and natural resources. More recently decision is more with the village chief and commune council and technical authorities; however, the traditional ways of practice are maintained through traditional protection and patrolling system.

Land Use and Community livelihoods. The main livelihoods remained agriculture and access to NTFPs in surrounding and CF areas. The exchange of local products transitioned from barter to commercial transactions. Shifting cultivation in rice and vegetable farming was prevalent up to the end of 1990s. But logging followed, along with the ELC for agro-industrial products and cash crops of cashew and cassava. The recent periods saw land encroachment without compensation to affected people and restricted access to previous NTFP areas. Thus, many villagers found paid work in cash crop plantations or work-migrated. These emerging changes, especially ELC, erased the cultural practice of shifting cultivation completely, as the vast areas became claimed.

Conflict resolution mechanism. The elder group was prominent during the early periods but with very rare conflict cases in the context of large swath of land areas and resources available. The periods from 1999-2008 found a mediating role for the village chief but also rare cases of land disputes in the village. The elder group's role eroded but remained vital on witnessing land transactions and in managing common property resources or community rituals. The recent years brought conflict-resolution mainly within the village chief and commune councilor task as private ownership and land title documents are the norm and the CF areas having clear demarcation.

The findings on the community's current capacity to sustain land and natural resources-dependent livelihoods and cultural practices saw positive signs in the unity of the community on a common objective to protect their remaining resources in the CF area. This is well-

manifested by their regular patrolling, sustainable harvesting of NTFPs and timber resources only for domestic use not for commercial sales and two important swath of resources in Trapaing Sdac Soay pond and Prey Trapeang Boeng still maintained by tradition. Another manifestation of solidarity were the ceremonial functions that enable sharing of and exchange-labour on house construction and rice cultivation that showed a strong sense of mutual support. The study found that CF members are skilled in CF leadership and management that is backed by training and mentoring support from local forestry administration. There is still needed capacity on resource-generation to sustain protection work and there is need for support by development partners.

In overall, the village has still some practice of customary of land use among local people even some significant changes in long period ago even declining of elderly role in mediation for community issues in recent time where formal village administrative and political mechanism has been widely adopted. However, the two systems are still seen in its hybrid form when it comes to land and natural resources governance as formal village leader does not abandoned the role of elders in consultation, and in some case elders even becoming part of the composition of the leadership group such as in CF committee. Similarly, when elders take the ceremonial functions, they also consult with formal village leader to ensure the smooth running of the event. Despite the some major decisions may bypass the role of elders due to official administrative process, elders have been in an advantageous position to share their traditional knowledge and experiences, and influencing local rules or practice on the ground. Therefore, as a way forward, the mix of customary practices and legal approach in management were found to be re-assuring and should be encouraged as model for CF and other forms of management, especially in ensuring a certain percentage of elder representation due to their seniority of experience and to gain balanced views in future land and natural resources governance.

	Before Pol Pot (pre- 1975)	1979 to 1998	1999 to 2008 (CF 2005)	2009 up to Now
A. Land Use, Resources Tenure and Transfer	<ul style="list-style-type: none"> Elders solve land disputes Open access to land by villagers with informal sharing No registry but verbal agreement Limited population 	<ul style="list-style-type: none"> Informal elders councils still prevalent but with appointed village chief (VC) Land transactions were limited, mainly verbal but witnessed “new families’ and ‘old families’ co-existed 	<ul style="list-style-type: none"> CF set up in 2005 (149ha) VC assume lead role in land transactions and dispute resolutions. Written documents in transaction (receipt or letter of agreement) Available land only in northern part common resources in Prey Tapeang Boeng and Trapeang Sdach 	<ul style="list-style-type: none"> ELCs in 2009 and Directive 001 in 2013 By 2009 no more open access to land, no shifting cultivation, and forest Lands subject to privatization and individual holders CF areas is only the common resources area Land transfers with documented through village chief (not for within-family transfer)

			Soay <ul style="list-style-type: none"> Local authorities have lead role in law enforcement 	<ul style="list-style-type: none"> Social land concession set up (housing and own-cleared land) Families that moved to new village have conflicts
B. Local Institutions	<ul style="list-style-type: none"> Subsistence farming and traditional food crops No formal trading only barter, used of money mainly for outside goods 	<ul style="list-style-type: none"> Conflicting village chiefs(Khmer Rouge vs. SoC). Elders were the stronger and respected authority Farmer solidarity group set up by SoC Community plan initiated by the elders and village for forest management 	<ul style="list-style-type: none"> More roles of Village chief and commune chief CF established with elders mobilizing villagers and big role in decisions Youth active in patrols Minor influence from outside (e.g. FA officers) 	<ul style="list-style-type: none"> Formal actors: village chief, commune chief, FA officer and land officer. Directive 01 applied on land on the north of the village with land titles. Majority still practiced sharing the resource and helping each other. Access to CF through traditional practice. Traditional protection and patrolling system
C. Community livelihoods	<ul style="list-style-type: none"> Agriculture cultivation fishing, hunting, collection of forest products Manual labour and work animals Trade for goods and materials through exchange and money (outside goods). village considerably isolated 	<ul style="list-style-type: none"> Paddy and upland rice cultivation Seasonal NTFP collection, fishing and hunting Logging from 1980s to 1990s 	<ul style="list-style-type: none"> shifting cultivation for paddy remains in practice Conversion to cash crops (cashew, cassava) Small-scale Logging and NTFP collection Wage work in cash crop plantations 	<ul style="list-style-type: none"> BNA (Cam) Corp, in 2009 (7500ha. for cassava and rubber) Land encroachment; no compensation Restricted access to old NTFP Villagers sell labor or work in factories Reduced NTFP; charcoal and logging Subsistence farming prevail Debts with MFI
D. Conflict resolution mechanism	<ul style="list-style-type: none"> informal and elder group in the village no conflict on land due to wide, open space 	<ul style="list-style-type: none"> Armed conflict between Khmer Rouge and State of Cambodia 	<ul style="list-style-type: none"> Rare conflict in community but resolution facilitated by village chief with elders Declining role of elders 	<ul style="list-style-type: none"> Conflicts between families from the old village living in the new village internal land conflicts within the community members Elderly people less involved, inactive and non-functioning conflict-resolution. Village chief and commune councilor more prominent in conflict-resolutions. Private ownership with secure land title and clear demarcation important

List of Abbreviation

ADIC	Analyzing Development Issues Centre
CF	Community Forestry
CLT	Communal Land Title
CT	Customary Tenure
ELC	Economic Land Concession
FA	Forestry Administration
FGD	Focus Group Discussion
KII	Key Informant Interview
L&A	Learning and Advocacy
MRLG	Mekong Land Region Governance
NCDD	National Committee for Sub-National Democratic Development
NTFP	Non-Timber Forest Products
RECOFTC	The Center for People and Forests
SoC	State of Cambodia
SK	STAR Kampuchea
VC	Village Chief

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I. Introduction

The third MRLG national stakeholder workshop on L&A “Effective Recognition of Customary Tenure” was held in November 2016. Partner organizations came together in order to understand the customary tenure of Khmer farmers in the uplands and low lands. The workshop was documented by Analyzing Development Issues Centre (ADIC) in collaboration with SK. This put forward a need for a validation study. This was consequently carried out in Chhoam Thnanh village, Tipor commune, Santuk district, Kampong Thom province, the selected area was based on the criteria agreed upon by both partners. This report on the MRLG resulted from visits to the area.

Choam Thnanh village is one of the 14 village of Ti Pou commune¹. It borders north with BosChombok and Svay village, east with Chhouk Rumdoul village, south to Plong village, and west by Somrong village. This village existed before the Khmer Rule regime. Its population continues to increase—from 29 Khmer families 119 families in 2017. This area was thick forest before 1979 and experienced governance by both Khmer Rouge Cambodia State soldiers. The residence of the people did not move to the main road because natural resources supported their livelihoods. In the 1980s to the early 1990s, these resource were lost to illegal logging, hunting, and land grabbing for agricultural purposes. By 1992, the impact of the forest destruction was heavily felt and villagers thought of protecting their remaining forest. The Prey Cheung Phum Community Forest (CF) was established in 2001 with the demarcated land area of 143.86 hectares.²

Article 40 of the Forest Law states recognizes traditional land-user rights and ensures traditional customs, beliefs, religion and livelihoods.³ A sub-decree⁴ on the management of the CF was approved in 2003 and a Prakas⁵ in 2006 that set up directions on how to establish the CF with the official documents that would lead to the CF’s official recognition. The process of

¹ NCCD Database, <http://db.ncdd.gov.kh>, Cambodia Gazeteer

² Meas SothunVathanak and Im Maredi, Case study 4, The Market System of NTFP in a Community Forestry Organization, Participatory Monitoring and Evaluation System for Sustainable Community Forestry Management, CBNRM Learning Institute, January 2008

³ NS/RKM/0802/016 The Law on Forestry, Forest Administration 2003, Royal Government of Cambodia

⁴ No: 79 Or Nor Krar. Bor Kar, Sub-decree on Community Forestry Management, 2003, Royal Government of Cambodia

⁵ There are 8 steps in the sequenced process to form the CF; Introductory Meeting, Establish the management structure of the CF, Prepare the CF Management Committee By-Law, Demarcate and approve the CF boundary, Prepare and approve the CF Regulation, Prepare and Approve the CF Area Agreement, Prepare and Approve the CF Management Plan, Monitor and Evaluate the CF Development

forming CF includes having a CF management plan since the forest was already under threats of destruction.⁶ This is the main challenge for the Forestry Administration (FA) staff required to work with the CF committee and members so as to gain legitimacy.⁷

The study found in a visit in January, 2018⁸ that the CF size was maintained. The people were involved in forest conservation for three mandated-terms. They have their by-laws, regulations and management plan with a common purpose to maintain the forest for their next generation. The CF was sustained because the people applied traditional practices to access and yet protect their NTFP.

The Forestry Law and Protected Areas Law recognize the customary practices, but not in the Land Law. However, besides the CF, there are still other kinds of practices of the customary tenure that had aspects on culture, livelihoods, land transfer, land management, and leadership. The study attempted to capture a broad scope of views throughout the village on these aspects through its history of changes. This study elaborated strategies and will use the evidence for advocacy purposes, and will be presented to concerned stakeholders and the wider public.

II. Review of Existing Studies

2.1 Conceptual Framework

Land covers a wide variety of aspects, including land for cultivating rice, cash crops or orchards, forests, grazing land, rivers, streams and water sources. Land is a key asset for people engaged in agriculture, livestock breeding, forest products, inland fisheries and other natural resource. Besides being an asset, it has inherent value as an inheritance from ancestors. It represents culture and identity, such as in the burial grounds and spiritual forestlands. Customary practices on managing these types of land have passed on from one generation to another. The people exercise full care because they owned it.

Customary Tenure is a socially legitimate and accepted set of rules defining how rights to land and associated natural resources are to be allocated within a community.⁹ The GuideBook defined it as “a set of rules and regulations defined through time by a community to manage sustainably their lands and natural resources. These rules do not form part of official state laws but are based on historically conferred social and political legitimacy. Although not recognized in formal statutory law, customary rights and associated rules and institutions are legitimate in

⁶ Summary note from KII and FGD, ADIC for DPA-PADEK Baseline Survey in Preah Vihear and Odormeanchey, 2017

⁷ Srey & Dipart, Participatory Monitoring and Evaluation System for Sustainable Community Forestry Management, Srey Marona and Diepart Jean-Christophe, January 2008

⁸ The purpose of the pre-visit was to see the existing practice of customary tenure, the changes and the effect on the practice, how people response and plan for future coping

⁹ Mekong Region Customary Tenure Workshop, 7-9 March 2017

the eyes of communities: they are well known, accepted and enforced by communities and in most cases by neighboring communities, too. The group boundaries and right-holders of specific resources are well known and respected. However, as for statutory tenure, customary tenure is about a social relation between the users and those with the authority within the community to recognize the rights of the users.”¹⁰

A review on the existing bibliographies on customary tenure concludes that the natural resource is managed by the community or by the community and households and recognized by local authority, especially when it comes to access, use, transfers, and sale of the resources. Local rules can become intertwined or hybridized with the state laws and policies while there was much change on local institution and natural resources.¹¹ Srey & Diepart argued that it is not secure either from the land title or from the local authority, but rather they co-exist and form hybrid forms of land tenure security.¹²

There are different forms of land tenure management including private property, state/public property, common property, and open access property. Common property was the subject of this study. Common property is jointly held and managed with the some rules, decision making, allocate the access, monitoring and enforcement mechanism, and conflict solution mechanism. Key practices of the management of customary tenure were: (1) defined rules and operational rights that regulate the external resources/lands; (2) applied sanctions for those who do not follow; (3) inclusion of and exclusion of others from benefiting from the resources; and (4) defined process to transfer lands/resources.¹³

The GuideBook’s provision on tenure arrangements under customary tenure suggested that each land use type has different use and management. Customary tenure includes communal land (by a community/village, a clan or a larger ethnic group) and land plots or resources managed by individuals or households (forests and shifting cultivation areas are communal, but orchards and rice terraces by are by households). Several cases of customary system around the world contains cases of claims to land by households or individuals but need to abide by communal rule for the use, sharing and transfer as no right to sell to others (ex. which areas are allowed to do clearance). The internal rules were context specific and often there were some level of adjustment. Customary tenure systems possess three elements:¹⁴

¹⁰ The guidebook on documenting customary tenure in Myanmar, March 2017, page 26

¹¹ Sivhuoch Ou, The bibliographical review of existing research on the nature and extent of customary tenure (CT) in Cambodia within Khmer (non IP) communities, Mekong Region Land Governance (MRLG) Project, 2017

¹² Diepart & Sem, Fragmented Territories: Incomplete Enclosures and Agrarian Change on the Agricultural Frontier of Samlot District, North-West Cambodia, 2016

¹³ The guidebook on documenting customary tenure in Myanmar, March 2017, page 26

¹⁴ Mekong Region Customary Tenure Workshop, 7-9 March 2017

- A territory claimed and controlled by a community
- A customary political system that defined who are its leaders, who makes decision and who regulate potential conflicts and claims (customary conflict resolution system)
- The customary rules or law for allocating rights to use, control, and transfer on land and natural resources within the customary territory, as well as associated responsibilities and restraints.

2.2 Change of Customary Tenure in Cambodia

Despite rules and governance structure for customary practices in place, formal or statutory laws on private ownership and land registration and the social changes influenced the communities and gradually eroded the customary rules. For example, it was observed that Directive 01 has shifted the desire of community from obtaining communal title to that of private ownership.

Historically, customary practices in Cambodia changes from one regime to another. Before the French came, private property did not exist. The French introduced private land ownership aimed at controlling peasants, boosting rice production, and providing free land for large scale plantation for French investors through land titles with tax imposition. However, only 10 per cent of lands fell to such type of ownership. That was why the traditional appropriation of land “by the plough” remained the prevailing norm. The King Norodom Sihanouk’s administration did not alter the resource tenure arrangements created by the French but allowed the right to claim the land in three ways: ownership title; fixed asset registration; and simply by occupation (by the plough). This resulted in a conflict between the claim and clearing of land under customary arrangement and the modern system of private property rights.¹⁵ Private property was abolished during the Khmer Rouge period between 1975 and early 1979. After 1979 on, the People’s Republic of Kampuchea introduced Krom Samaki (Solidary Group) and private property remained unrecognized. When collectivization no longer worked in the end of 1980s, private property was then restored. By 1989 various legal provisions related to land were included into the Constitution. The 1992 Land Law stipulated that all the land belongs to the State and that Cambodians had private possession rights.¹⁶ Also, the Land Law 2001 recognized the customary tenure practice by the indigenous community through the Communal Land Titling (CLT).

It is difficult to see the pure customary practice in Cambodia when it has been affected by economic and political changes the last decades. There are cases documented about the conflict between the legal system against the local practice or their traditional way. A case of

¹⁵ Jean-Christophe Diepart, The Fragmentation of Land Tenure System in Cambodia, June 2015

¹⁶ Sivhuoch Ou, The bibliographical review of existing research on the nature and extent of customary tenure (CT) in Cambodia within Khmer (non IP) communities, Mekong Region Land Governance (MRLG) Project, 2017

conflict happened between the Bunong indigenous community with the Wuzhishan L.S. Group over the pine tree plantation in Sen Monorom and Dak Dam communes in Ou Reang District, Mondulkir province. The indigenous communities were marginalized within the formal legal system which was often used as a tool by powerful interests to further exclude the former. The formal and customary legal systems often addressed different kinds of conflict and that the latter cannot substitute the former.¹⁷

3.3 Key Components for Documenting Customary Tenure

- According to the GuideBook, there are several components that may help to increase better understanding of customary land tenure system. They include history, institution, conflict solution, livelihoods, land use and management, culture and values, and tenure and transfer.¹⁸ Each is discussed below:
- History: This is necessary to guide our understanding of changes over time on various components of the customary tenure. This allows a better understanding of key events that occur in a specific community.
- Land Use and Management: This focuses on the different types of land being occupied and used including farmland, residential areas, grazing land, forest land, lakes and rivers. It also covers resources related to land such as trees (for timber or firewood), non-timber forest products, wildlife, fish and aquatic products which are important for livelihoods of community. More importantly, it is about specific rules stipulated for the access and use of lands, and use of natural resources in that particular land domain. Normally, it has rules from different land use type such as where the livestock can graze, and where NTFPs can be collated and who can benefit from it, and so on.
- Resource Tenure and Transfer: This is about if a person or family or community has rights to land and access to resources. Resources tenures comprise many rights including rights to access, withdrawal, management, exclusion and alienation, but use in a way that does not have adverse effects on other people or community. It also includes right to transfer which can be *permanent* (inheritance, sale or donation) or *temporary* (renting/sharecropping or lending for free).
- Institutions: It covers 1) organizations and individuals as decision makers on land and natural resources and; 2) the norms, rules and regulations concerning the use and governance of land and resources (including rules about how decisions are made). This helps us to gain insight on the relationship between the formal/legal (government) and customary rules/institutions.

¹⁷ Land and Cultural Survival, Chapter 4: Access to Natural Resources: Case Studies of Cambodian, Hill Tribes, John P. McAndrew & Oeur Il

¹⁸ The guidebook on documenting customary tenure in Myanmar, March 2017, page 26

- Livelihoods: This includes the capabilities and assets (resources, claims and access) and the activities that people involved to for sustaining their living until the next generation as well as ways in which they copes with exigencies. This helps us to understand things that people sell for earning income and things that they consume in their households per the resources/assets mentioned above.
- Conflict Resolution: competition and conflict is part of land and Natural resource management concerning access, control and use of it. The kinds of conflict and way to address may differ from one place to another. It is important to understand the cause of conflicts and how they have been responded through customary or state institutions, or both.
- Cultural Values: Apart from economic value or assets, land and its resources has a cultural dimension that need to be examined. This can be land area for burial ground, and spirit forest which they maintain and care for generations.

III. Research Objectives

The purpose of this study was to examine and document the existing practices on the customary tenure by Khmer community in this village. There were two main distinctions: 1) the period before the establishment of the community forestry (CF) and 2) the period since the establishment of the community forestry (CF). For the first, the research looked at land use, forest and other resources use done in the traditional way, and mechanism of protection or resolution they have had; the secondly, was a review of changes of the previous practice with special reference to CF. Both periods shows the changes of norms, rules, and practices over time in the entire village.

The general objective of this study was to gain a deep understanding of the history and changes of customary practices of the selected villagers over time. This would be based on recall by community people and their leaders against changes that occurred since 1990s and these impeded the local practices across generations. The two specific objectives below encompassed the 7 components per the GuideBook framework cited earlier. This was the basis for the interview guides:

- To document the customary practices and how it has changed concerning Land use and management, Resource tenure and transfer, Institutions, conflict resolutions mechanisms over time.
- To assess the community's capacity to sustain land and natural resources-dependent livelihoods, and the cultural practices that have an implication on customary land and resources governance.

The study aimed to answer the following key research questions:

- How have customary practices been maintained or adjusted concerning land and resource governance within Thnanh village since the formal (legal) government structure/system was in place and became operational?
 - o We formulated the following sub-questions:
 - What are the decisions making over time by people without influence from outsiders?
 - What has been changed in the community and why? E.g. role of elderly, internal and external rules and regulations etc.
 - What has been kept in the community and why? E.g. rules and regulations etc.
 - Anything that has been abandoned but then came-back? Why has that happened?
- How have the changes in land and natural resources governance affected their livelihoods and cultural values that have been maintained for generations?
 - o We formulated the following sub-questions:
 - Are community able to keep their customary tenure over time?
 - What are the factors that made it possible for customary practices to survive in this village (in a "hybrid form"), whereas in most other cases it was destroyed by the privatization or other forces?
 - What are the advantages / benefits of the present / hybrid CT system from the perspective of the community, but also maybe from the perspective of government (the forest Office), and as well the main constraints/ disadvantages?

IV. Research Methodology

The study employed a qualitative approach to gather evidence that responded to the research questions and the key problem. The qualitative approach enabled an in-depth understanding about the history of the customary practice, the people's responses to the effect of issues, and their strategy to cope with the current situation and future threats. The GuideBook suggested that the evidence-gathering tools were not to be used as a box to fill in information. The main

thing was to ensure the participatory process of engagement where the research team participated in daily life activities of community. The researchers stayed in the village and engaged in the activities of villagers or their daily routines, such as patrolling the community forest with them and listening to people's stories in an informal way which helped to gain the trust of the community.

The following table combined the seven components of the study's objectives into five components. The first one (history) examined the key events, and the last one (cultural values) was as a theme that ran across the other components. Also, land use management was integrated with community livelihoods. In each component, the researchers looked at the formal (legal) structure alongside the customary system to see how they relate or affect each other.

Table 1: Key Components of the Study

No	Objectives	Pre-Pol Pot Regime	1979-1998 (internal strife)	1999-2008 (CF in 2005 & Before ELC)	From 2009 up to Now (ELCs in 2009 and Directive 01 in 2013)
1	History				
2	Land Use Management				
3	Resource tenure and transfer				
4	Local institutions				
5	Community livelihoods				
6	Conflict solution mechanism				
7	Culture				

The key informant interview (KII) was conducted with three traditional elders, the head of CF committee, the village chief, and the FA officer of Sangkat Taing Krasang. The KIIs provides more basic information of the village such as location, demography, history of the CT and CF practice, along with people's involvement, perceptions on future trends and their plan to cope with those changes or effects and the other issues.

The Focus Group Discussion (FGD) was done with committee members, some women groups, and youth groups. The results from these were interacted with the community groups to get better understanding, validate findings and interpretation. This was guided by a semi-

structured interview with tools such as village resources mapping, timeline, and stakeholder analysis.

Figure 1: Sketch Map of Choam Thnanh Village

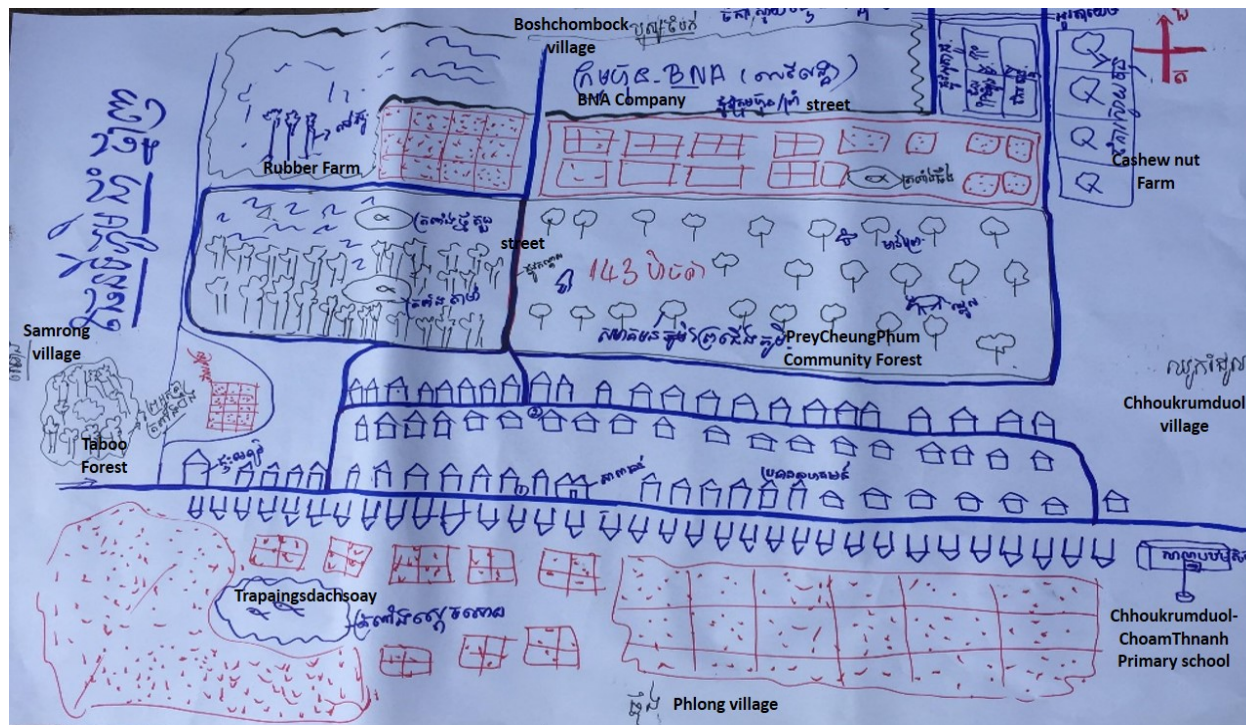
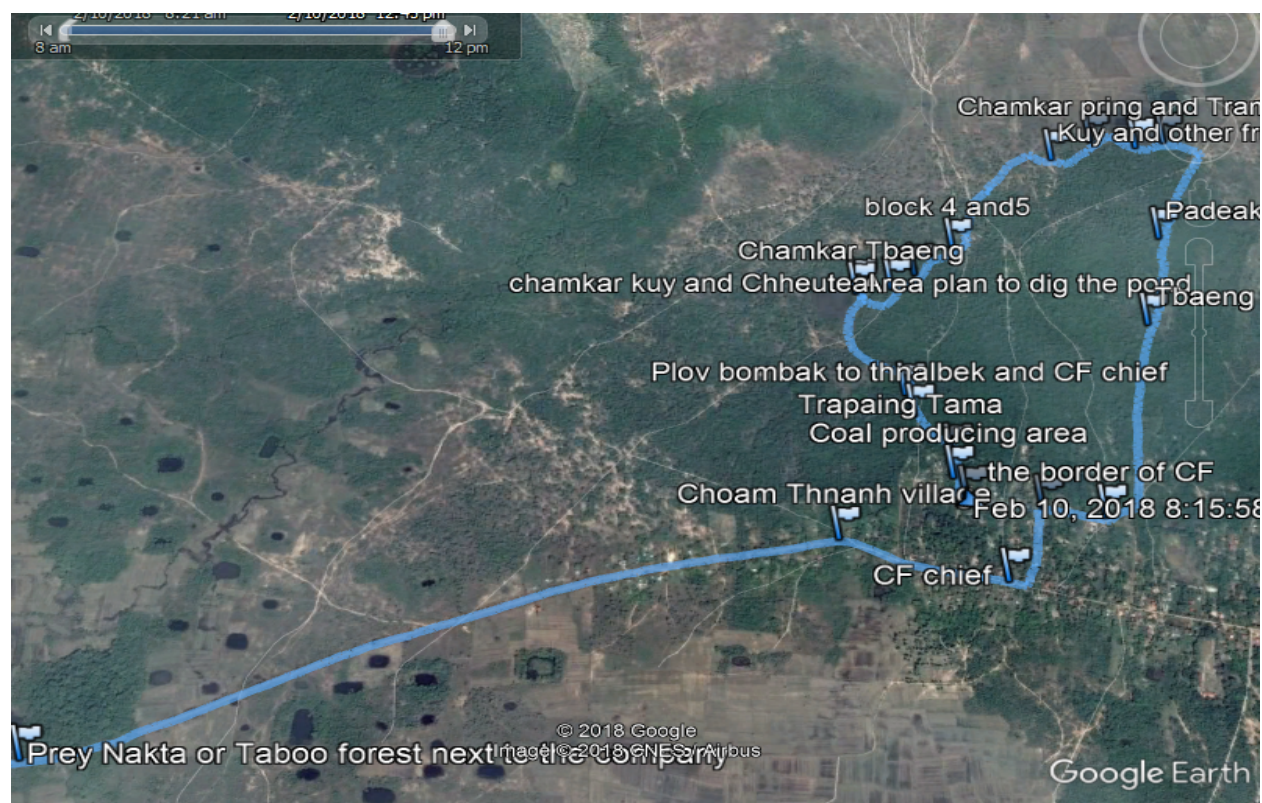


Figure 2: GPS-marked points on Community Forestry Area



Direct observations were done through walking around the village to see the types of crops, different land use types of the landscape and villagers' daily activities. The Community Forestry area was visited to see the natural environment, other livelihood system, and other important areas. These walks were done with informal talk, geo-tracking and taking photos. This was made to record the existing data in the village that were later cross-checked with information collected by the other research methods.

Consultation and feedback meetings were done among the team of MRLG since the initial stage of the project design to the drafting of the report. Consultations were made in the design process, after pre-visit to get the comments, feedback, and to make the next field work plan. Debriefing of the key findings was done later and presented for more comments and feedbacks on the proposed report outline. Consultation was important part of the study process, where more inputs and comments from participants can be integrated into the final research report.

V. Evolution of Customary Practices

5.1 Before Pol Pot (before 1975)

A. Resources Tenure and Transfer

In this period, land was more available than what the local population needs. Access to land as open space was not an issue. Few households resided in the village this time so land management was not complicated, as there was open access to all. When villages exchange land from one to another, it was done in an informal process but with decisions accepted and recognized among the local people in the village. The residential and farming land, in some cases, were shared at will by landholders without written papers or agreements but with verbal consent. As land areas were large as opposed to the demand, villagers enjoyed having access to it freely, and hence the practices became informal or traditional. Villagers respected each other and were more compromising. Therefore, no written papers or contracts/agreements made. So, farming and residential land occupations were done through verbal agreement with consent and witnessing by elders.¹⁹

B. Local Institutions

People took residential and existing farming land directly from their ancestors since the village existed during the Sihanouk period and even the French colonial time. Open access and rich natural resources made lands available more adequate than what the people needs. There was no formal village chief in the village. Elders were the decision-making facilitators. No formal trading activities were done yet except bartering. People gave things as gift (land or other forms) to another person through verbal consent and by involving elders and family members. Not many people were interested to buy because there was open land for their taking.

Before the Khmer Rouge, elders have the key role of solving land disputes, as no formal authority or village chief was in place. Elders acted as mediator for the people within the village and their ideas or suggestions were always accepted. Since the village was in a battle area, the leadership and management depended on respected persons--the elders. The elders had the role to keep and maintain peace in the village. They played a key role in other kinds of conflict, as land conflict was rarely heard. People shared the resources of timber and non-timber forest products. The elders led the ritual ceremony and wedding. They provided advice to the people to live together in harmony, reconciled conflict within and between the families, and

¹⁹ Elders refer to persons or group of older persons in the village, who actively advise and participate in the process of resolving all issues in the village. There was no formal form of elders' group or any regular membership; but they are ones who were approached due to their seniority, experience of working with French, and the respect they gained from villagers and they are often requested for advice or support, especially in mediation. There was no mention about women elders playing any role in village leadership.

prepared plans to avoid any harm to the village. They facilitated people to live with both warring factions of the Khmer Rouge versus the Lon Nol forces.

Remembrance of history was the only record of the private lands occupation. The people who know the history of the property or had the relationship with it were the ones who occupied it. The group of elders existed with shared responsibilities, for example, some are fortune tellers, traditional healers, water resources orienteers, and land for crop or soil surveyors. Tathuon was part of the elder group. In one example, one elder Tathuon who knew the history about Trapeang Sdach Soay pond²⁰ occupied it as legacy from his ancestor. He has died and his children own this pond now. If there is no any grandchild, his close relatives would continue to own the pond.

C. Land Use and Community livelihoods

The community people relied mainly on agriculture as a major livelihood source, cultivating rice and vegetables. The villagers helped each through an exchange of labour (Pravas Dai). For example, if a family asked for help in harvesting rice, a family member has to exchange the same help in to those who come to help in the latter's own harvest. Apart from that, villagers engaged in fishing, hunting, collection of non-timber forest products nearby or surrounding village's forests. Paddy rice field and shifting cultivation for upland rice was practiced for a long time using traditional tools, including plough and cows/buffalo. The villagers cultivated and shifted the land after every two years.

Trade for goods and materials was also commonly applied through the exchange of raw materials (woods, honey, animal skins or horns, etc.) and goods (clothes, salt, etc.) and money (paying tax to French colony and Sihanouk regime). During shortage, those without borrowed rice from better-off households without any interest, especially from their siblings, relatives and close friends. The village was considerably isolated in the big jungle and far from the main road. It was where people can easily extract the non-timber and timber-resources from the surrounding areas to supplement their farming livelihood.

²⁰ Trapeang Sdach Soay is a natural pond located in the farm area which now a private land holding by Ta Thuon family. However, this pond was accessed by anyone in the village as a common area for fishing, collecting aquatic plants, and use of water for the rice farming nearby the pond, and also for buffalos and cows. Per their rule, in the dry season, no-one can farm inside the pond, except Ta Thuon family. This heritage "Pond" was occupied since Ta Thuon's ancestor. Trapeang Sdach Soay is the combination between the Khmer words of "Trapeang for Pond" and "Sdach Soay Ti Vongkot or in short Sdach Soay for the King died", so it is a place where the King died. This area was narrated as a story about a king and his soldiers escaped from the war when losing the battle, and ended up at this place for a while before moved on to the other place. But he died here. So, Trapeang Sdach Soay was named after the king died in that area. Ta Thuon was the one who knew very well about this story from his ancestor. Ta Thuon already died and now his children own this pond. It is believed by most people that in case that no other children of Ta Thuon to own this, his close relatives would continue to occupy.

D. Conflict resolution mechanism

The informal and elder group in the village was the mechanism to solve conflict. They handled the issue based on the high level of respect accorded them by the villagers. Outsider intervention was out of the question, since this was the period of civil war; with poor road conditions too. However, there was no reported serious conflict among people related to land occupation or resources-use because resources were greater than demand.

5.2 The periods from 1979 to 1998

A. Resources Tenure and Transfer

There was still open access to land and forest resources during this period. More people started to occupy lands through the traditional way of relying on verbal consent in any exchange. But there was a shift in land management and administration as government enforcement had slowly penetrated. For land transfers within family from parents to their children, there was no need for documents, merely recognition by the village chief and witnessing by neighbors and the elders is enough. However, for selling land from person to another, a contract between each party was made, duly recognized and signed by the village chief. At the early phase, verbal consent in land transaction was adequate, as reported, but toward the end of this period, the village chief's role emerged important along with witnessing by the elders.

A more stable and formal system of government was enforced and expanded after the general election in 1993. During this time there were as yet no decentralized local authorities. The ministry authorities engaged closely with the village level structure. But the village chief's role was being strengthened along with the commune level. The central state was legally enforcing the pattern and which affected the level of influence of elders. With lands in the central areas of Cambodia becoming concentrated on few rich families, people started entering and expanding land claims in the more remote areas around 1997 to 1998. Even the local people started expanding land areas as their families expanded and married children started their own families. People work on the farms and cleared the additional land for the farming through the practice of shifting cultivation.²¹ This period saw local people focused on individual land ownership as private land holders with documents recognized by the village chief or higher authorities. However, there were still open leftover land areas for common access by local people and broadly recognized by local villagers and village leaders.

Interesting in this village under study was the issue of 'new families' and 'old families.' Those who came to live after Khmer Rouge were considered new comers, although they live here for almost 30 years already; the old families were those originally from this village. Only a few families migrated to this village, and until now were still considered new comers. Old families

²¹ The other villagers could access and use the leftover land. They just decide whether or not to inform because previous owners already abandoned and moved the other new land areas.

can access land for shift-cultivation. But new comers were able to access and occupy land only in open spaces nearby forest areas. They were unable to own or access rice lands and residential lands owned by the 'old' villagers as this was not recognized informally. If 'new' comers needed land, they needed to purchase from the old families. Rice lands in the plain or lowlands became scarce, but there were still vast areas of forest land in the high lands or rocky lands. Culturally, people liked to live in the village not in near forest or rice farms. There was insecurity due to in-fighting between warring factions. So, recognition through informal ways and verbal consent by the elders and village chief was important.

B. Local Institutions

After the collapse of the Khmer Rouge, the traditional informal way was still widely practiced. The role of elders was still strong with regards land occupation and recognition of transfer. There was already a village chief (VC) appointed by the commune chief. However, there was a weak connection to the outside due to the distance and the poor roads, including the communication with commune and upper level authorities. The VC role was not as prominent as that of the elders. Slowly towards the end of the period, the elders' role in conflict mediation becomes less prominent as the formal leadership system was better installed in the village.

The conflict period after 1979 brought two village chiefs—one selected by the Khmer Rouge and the other nominated by the State of Cambodia (SoC). These two worked together in balance to avoid conflict or attack by both factions. The informal village chief was an elder who was greatly respect and trusted by villagers, including the Khmer Rouge faction. Therefore, the elder's role as witness on land distribution of rice land and conflict resolution was sustained. Farm and housing land were allocated through family's inheritance in an informal way with no proper documentation.

The SoC introduced the solidarity group for farming and it was adopted with local rules. The 29 families, that time, were divided into 4 groups and did farming on lands they inherited from their ancestors; the groups organized by the proximity of each family to each other's land to ease working together and with fairness in output distribution. After the end of the solidarity group farming, those families automatically occupied their same farming plots. The reciprocity or exchange labour were still common practices.

The formal village chief appeared to have played a role in the land distribution and transfer. New families received land from village chief when the land is still available. Plantation (chamkar) land was freely accessible and expandable but no ownership was introduced in the village. However, when it comes to selling and buying of residential and farming land, the agreement between the two parties was made but needs to be recognized by the village chief.

When logging activities in the surrounding areas increased, a Community Plan was initiated by the elders and the village chief with a common purpose of preserving the big trees and forest for the next generation. They planned forms of protection after consultation with commune chief and put the proposal to the other relevant agencies for support. The Forestry Administration (FA) introduced the Community Forest, which was later supported by the RECOFTC with its process of community forestry establishment. The formal authority's role in land and natural resource management became more prominent while the role of elders eroded.

C. Land Use and Community livelihoods

After the collapse of the Khmer Rouge Regime, the villagers returned to their old village to cultivate paddy and upland rice. The villagers could grow upland rice and vegetables such as chilly, egg plants, pumpkins, herbs, etc. The collection of non-timber forest products (NTFPs) supplemented their farming livelihood. Seasonal fishing and hunting for household consumption were still practiced and also a major source of income for the community. The village experienced shortage of rice supply between 1980s and late 1990s, especially during the late rainy season (September – October). That time, the land areas for shifting and paddy rice field were considerably small compared to the current cultivated lands.

The high demand for logs during the 1980s to 1990s created a new opportunity for villagers who logged precious woods and sold them in Taing Krasang district town. The ease of access to the remaining dense forest resulted to a speedy loss of forest cover. This alarmed the elders and the village chief. This led to plans for establishing a permanent protection for their own forest behind their community.

D. Conflict resolution mechanism

Choam Thnanh village was a battle ground between the two warring factions of Khmer Rouge and State of Cambodia. An attack happened once when the two factions accidentally met each other. However, with the two village chiefs working in collaboration, further confrontation was avoided. Despite on-going tensions between the two factions, the villagers returned to their ancestral land allocated earlier. Conflict among villagers on resources rarely happened because of a common access to these. The villagers were more kind and willing to solve problems locally with their elders and the village chief. When large land areas were still available, it did not demand high price, therefore, the solidarity of the villagers was maintained.

5.3 The period from 1999 to 2008 (CF in 2005 and Before ELCs)

A. Resources Tenure and Transfer

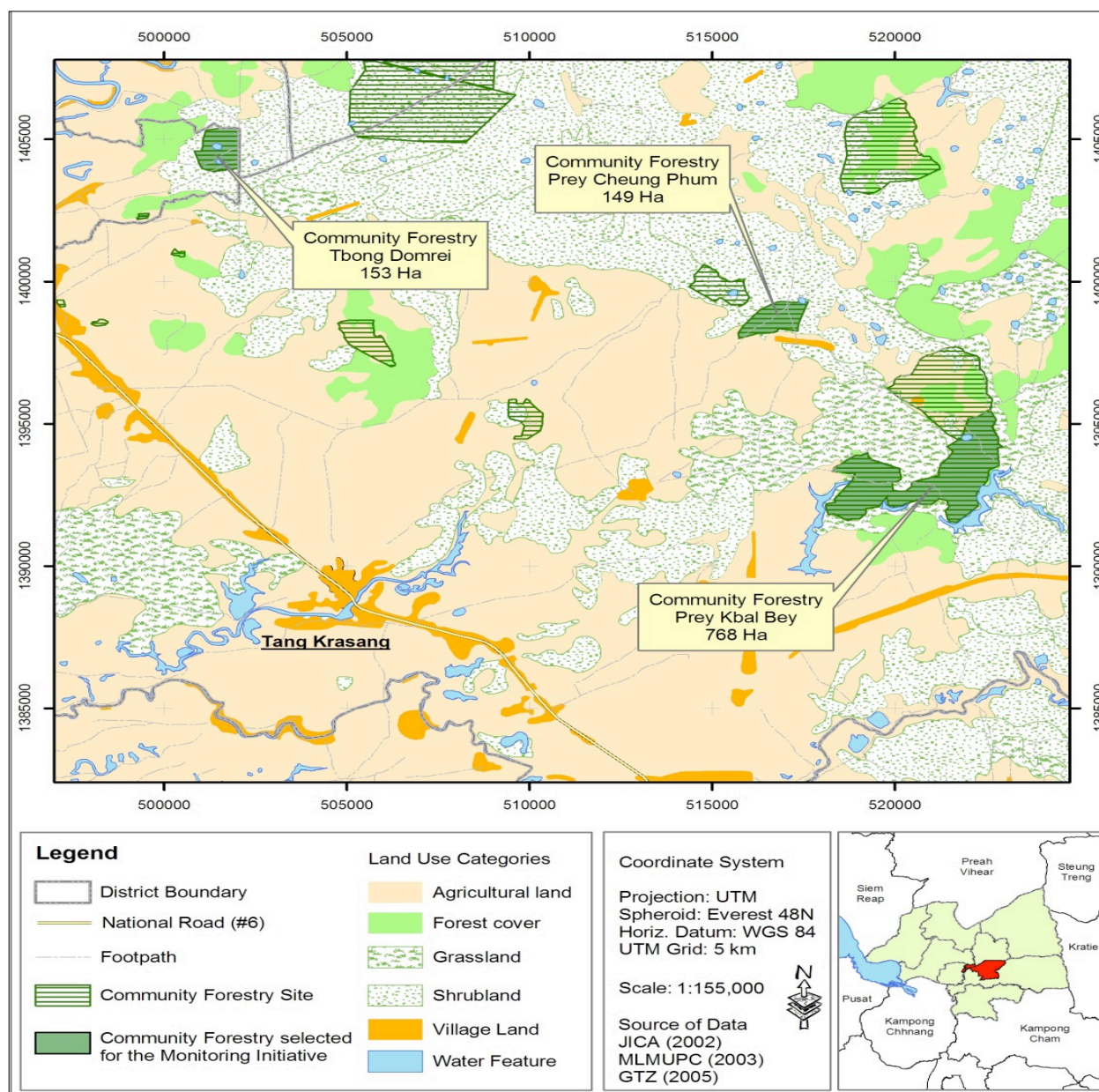
Land was open access for local people and villagers were still able to collect NTFPs before 2005 (Community Forestry). After that, access was limited to the Prey Cheung Phum CF land area of

149 hectares and with specific rules and regulations. The elders' role has since declined and villagers started to look up to village chief for land management, and local dispute resolutions. Villagers started using documents for transaction (receipt or letter of agreement) with village chief signing off on transfer of land and resources from parents to children and close relatives.

Shifting cultivation was still practiced even with the CF, particularly in the northern part of the village and extending across the neighbouring village. People cultivated the land for 1 or 2 years, abandoned it for the same period, then came back to re-use it when the land became more fertile. Other families could also use land left unused if the previous cultivator consented. However, key informants told that original cultivator rarely abandoned those land areas since other people also have the same practice and there were few outsiders yet that demand use of such lands. Besides the CF, villagers still continued access to common resources in Prey Tapeang Boeng²² and Trapeang Sdach Soay which are areas also protected by villagers as spirit forest inherited within one family for generation.

²² Prey Tapeang Boeng or the spirit forest located near the main road of the village, about 3km away from the CF. It was not registered as the CF but it is the state land with the size about 8 hectares that has been commonly accessed and protected by people in this and neighbouring villages. There are many big trees and a large pond in it. The water resources in the forest are available for almost the whole year. The villagers have access to NTFPs such as Korkoh, Kuy, Romdeng, Sbaey, Mkak and also villagers hunt the wild animals such as frog, Cheav, chicken, squirrels and monkeys. However, no-one braves to cut any big trees, or clear the land for farming inside this forest because they are afraid of Nakta or Bong Bot (spirit) destroying them or making them sick. The villagers believed in a myth of a submerged temple situated in the middle of the pond as a sacred place. The people from the three villages (Phlong, Samrong, Choam Thnanh) always organize traditional ceremony and offer food to the monks. Villagers often saw the snakes of Nakta. There was the case that someone killed the snake and ate it and finally died because of Nakta was really magical. Also, if someone wanted to see the tiger or big snake in this forest, they would appear at will and let people see it. Later, no-one braves to kill them or eat them. In the past, there was a big mango tree and people often saw the ball of fire flying in the area, but not anymore since the tree cut. The family members who cut the mango tree died. There was also the other case that the people cut other types of trees but they were not able to remove logs from the forest.

Figure 3: Map indicating CF areas



Source: Map 1: Community Forest selected for the M&E initiative, Participatory Monitoring and Evaluation System for Sustainable Community Forest Management, An Experience from Kampong Thom Province, CBNRM Learning Institute, 2008

Government's structures and personnel have strengthened their inroad into the area. Law enforcement by agencies from national and sub-national levels were more active with the village chief. Outside agencies have intervened in specific cases directly. Therefore, there is now a mix of formal law enforcement and informal practices applied on the access to the CF areas. The local people agreed to government jurisdiction but also maintained their local practices in order to ensure their local benefits and interests. For instance, the CF requires Forestry

Administration approval for cutting logs in CF area, but the CF committee allowed local people to cut trees for non-commercial purpose.

B. Local institutions

More roles of the Village Chief and Commune officers were seen by the villagers on land transfer and the land management, lesser role for the elders. However, the elders had conspicuous role in the CF in setting it up, mobilizing villagers and young people to work together to conserve the forest and its resources for the next generation. The elders provided advice to the village chief, CF committees, and the villagers, and in some case they are part of the committee. The advice of the elders was often respected among the young group, for example, the prohibition on the wild animals and birds hunting and maintaining the forest for the people in the next generation.

However, there seems to be a gap between the elders and the young people in decision-making; elders did the talking while young people were more listeners and followers. Younger patrol group members said, *“We do not know when the CF was created and what rules and regulation we have, but we listen to the elders on what they prohibit and what they want us to do”*.

The community forestry was initiated by villagers in 2001. They set their own by-laws, regulation and management plan. However, traditional practices were applied on their access to NTFP and they extracted the timbers with verbal consent by the CF committee (often without letter to Forestry Administration officer). All villagers were treated as members, despite not formally registered as members, and still took part in the traditional patrolling system.²³

Outside influence is ineffective. For example, the Forestry Administration (FA) officers often come to promote awareness to the villagers²⁴ by inviting one person per family to join, but not all the families participated. FA officer rarely came to the village during the rainy season because of poor road conditions.

²³ The location of the Community Forest is like an island next to the people house and surrounded by the rice farm and Chamkar. The people go to their Chamkar and rice field every time across the CF as well as collect the NTFP in the forest. It is like the natural way of patrolling the CF.

²⁴ The process to form the CF took too long until the top level approved. The FA officer provide the capacity building with series of training such as maintain the trees, grow the trees, inventorize the trees, and other program for sustainable forest use.

C. Land Use and Community livelihoods

Shifting cultivation was practiced when the land still available on the northern part of village. They cultivated the land for 1 to 2 years after that abandoned the land. This practice ended by the time the CF was established in 2005. Some villagers converted such lands for permanent cashew crops.

The practice of exchange of labour, common before 1993, has already been pushed aside by cash-oriented practices. Some families started choosing wage work in exchange for money at cash crop plantation and other farming activities of new rich immigrant farmers. Cash for labour became common. All products produced in the villages now have cash value, e.g., charcoal costs 200 riel/kg, palm sugar was 1,000 riels/kg, and rice was 1,500 riel/kg.

There are now many villagers who cut logs and collected NTFP to sell at Taing Krasang market. This activity was ushered before 2000s when large trees were still available in the forest. The larger logging concession was done at the big forest areas of Kampong Thom province. But logging activities in this study area were mainly small scale. Nonetheless, it has impacted adversely on deforestation and loss of common property lands.

D. Conflict resolution mechanism

Like the previous period, the conflict among the community rarely happened but the elders and village chief plays the roles in the conflict resolution. The village chief role as reconciliation and the elders are the witnesses as they the one who remember the history of those resources and the family linages of the people in the village. It is noted that the elders' role has since declined while the formal structure become more seen. For example, the community forest management committee was established by the FA through the formal process. At the same time, the villagers started using paper for land transactions.

In 2001, the cash crop such as the cashew and cassava come to the village and started to grow. However the case of land conflict among the people to clear the new land for cash crop and shift cultivation has not been heard because the population still in little amount compare to the huge open access area but the people did not have the ability to clear for the large land. At that time, the location of their cultivate lands were far from each other that did not cause to have conflict between the tails of their land. In contrast, the location of cultivated land resulted negative which seen the gaps to help each other. There was changed in the future by the ECLs encroached their land that was hard for them to mobilize from the further place to help.

5.4. From 2009 up to Now (ELCs in 2009 and Directive 01 in 2013)

A. Resources Tenure and Transfer

The CF had strengthened its roles on forest areas. The local people have been barred access to the Economic Land Concession (ELC) land areas. The VC had its role strengthened, while the role of elders had weakened to that of merely witnessing in disputes-resolutions on land use. By 2009, there was no more open access to land, no shifting cultivation, and a shrunken forest due to privatization by individual land holders. The CF area is the last common access area but within conditions enforced by CF committees.

Land transfers are now document-based under the village chief's participation and involvement. Although, land transfers within families, parents-to-children, may still be done traditionally through verbal consent with elders as witnesses. Some plantation lands were also offered and granted official land certificates issued by government's Directive 01 to ensure and promote local entitlement against land grabbing by investors and through economic land concessions by the government.

The social land concession that was set up has residential land with a dimension of 30 by 100 meters that was allocated to those who opted to live there. The scheme also allocated farm lands for both 'new' comers and 'old' people who do not have land, particularly the poor households. Each family got two hectares, one hectare they have to clear themselves. The United Nations World Food Program (WFP) helped clear the land for cultivation for these families to grow cashew. Many cleared their land but did not grow the cashew but rather sold their lands to other rich people.

Furthermore, the people who went to the new village just built their houses over there and came back to the original homes. They only go back to the new village once a month to get WFP food grants: each family got eight bags of rice, canned fish, fish sauce and food. One family can get as much as one hand-tractor-full. These they sold: 30,000 riels (US\$ 7.50) for one bag of rice, very cheap because they got it free. Plank woods were given to them to build their houses, but some also sold these.

At present, villagers understood they cannot find another place to live because there is no more free land has been scarce. In the last 5-6 years, people in the new village sold off these land and came back to live in the old village. But lands were also sold in their old village, so these un-landed people can only migrate. The poor 1 and 2 households were assisted to a large extent but went to naught. For example, the land which WFP helped to clear was sold to the rich at the price of clearing the land. The pond WFP helped dug and intended for growing fish went unused. The poor received cows, chickens and fish for raising but not one was grown. The

elder informants said have the people in the new lands did not engage in productive activity that can benefit their households. The families in the new village have their name in the Commune list but no letter of recognition from local authorities. They cannot sell the land they have there, only transfer it to their siblings or close relatives. Until they live there for 5 years, they will get the letter of recognition.

The access to CF areas abides by the enforcement by CF committee. The local practices and traditional ways prevail rather than formal means like legal bidding and instructed regulations. It is a hybrid of customary and the legal process as applied in the communities: customary practices apply to accessing to CF areas in a sustainable way among old families in the village, but the legal applies on CF operations within the legal framework, such as documentation for management plan, the support from FA and local authorities and involving elders and the community. An alarming trend was that while people access NTFP mostly seasonal products, many people now make charcoal which can put heavy demand on forest resources.

B. Local institution

For land administration, some villagers have experienced getting an ad hoc official land certificates under the Directive 01 implementation while the majority still do not have official papers and continue to transfer or manage inheritance through informal processes. In 2013, some villagers whose land pieces located to the North of the village next to ELC Company were measured by the district land officers and a group of students who came in to the village. As a result, those families received the official land titles, but the rest of villagers do not have. So, this leaves rooms for villagers to maintain traditional practices of land transfer. For example, parents who inherit a piece of land to their children have the transaction through verbal consent, but for allocation to the relatives they normally require the acknowledgement of the elders and village chief.

With regards to forest resources management, it is clear that while legally the officials of the Forestry Administration has a role to play, in reality it is also the traditional practice being done or encouraged by the local representative, in this case the CF committee. It is understandable that villagers can freely access to NTFPs in CF areas but when they ask for some piece of wood for their house construction, should get permission in writing from FA official²⁵ at the local level, but instead the CF committee allowed them to do so. Therefore, there are ways in which

²⁵ Even the trees which had been planted by the family but when cutting the tree they have to request to the FA office because those are the products from the forest, not the domestic trees. It is the same when they transport the timber or non-timber from one place to another place need to have the letter. At district level or Sangkat of the forest, the officer cannot approve the people to take the timber or non-timber but they refer the proposal to the senior level for decision. In the community forest, they have to ask from the community leader. The community leader know how to extract the timber and non-timber because they were trained and have the management plan for the forest.

local practice that can be accommodated to suit local needs. CF committee even played more active role in managing the organized patrols and appreciating the informal patrolling system where they can detect unusual activities when they go to their farms as the CF area is in between the residential areas and their farming land.

The CF was established with the common purpose to keep the forest for their next generation by consents of all villagers for the concern of the further loss of forest and even land. Besides access the NTFP, now they can ask for a few trees to make the boat or trailer of hand tractor, build the small room or a cottage. The villagers used to benefit from the logging in 1990s and saw that the acceleration of the forest lost encouraged them to establish the Community Forestry. Although most houses have the charcoal kilns but the forest in CF area is still intact. There have been a movement of people to go to collect the leftover wood in the company area, and others. The risk of having no wood left at least in some years to come reminded them to identify alternative such as cash crops.



For traditional belief and ceremonial practices, elders have played important role in managing the events effectively. They mobilized people and resources including security measure to avoid any potential harms. It was reported that villagers are happy to share the resources and help each other in any events. During the field visit, there was the funeral ceremony at Chouk Rumduol village, and the people from this village came to collect the coconut from Choam Thnanh village in order to serve to monks and elders who were present at the ceremony. At the same time, the nuns who always spend their time chanting Dharma at Sala Bon (Charity Hall) did not go there, but chose instead to join the funeral at Chhouk Rumduol village. Furthermore, the people of the three villages (Phlong, Samrong, Choam Thnanh), especially elders, often organize a regular ceremony together at the spirit forest area known as Prey Trapeang Boeng,

where there is no pagoda but having the Sanlum.²⁶ So, elders and villagers are guardians of spirit forest given its sacred place which are well protected.

C. Land Use and Community livelihoods

The villages experienced livelihood changes when the BNA (Cam) Corp, the Korean economic land concessions, came in 2009²⁷ for cassava and rubber plantation for the land size 7,500ha. Over 200 hectares of the villagers' land were encroached and their crops were damaged without any form of compensation. They fought for their land, however, most of their land areas were taken over by the company because of untitled land. There are about 50 families in the village who still have food shortage, partly due to lack of land for farming. Limited of access to NTFPs since ELC has also granted to investors. People can somewhat access to other areas outside of ELC's area and still access to CF area but they need to abide by CF's rules and regulations.

The new generation would eventually leave the village for selling their labor or working in the garment factories, around 3-4 young women sought to work at factory in Phnom Penh, Thailand, Malaysia (mainly garment workers and housemaid). Most of those children those who gave up school at grade 9-10. They then work at garment factory in Phnom Penh. Beside their own work, some families chose the casual work for cashew nut plantation within or nearby their communities. The trend was increased the last recent years and trends to increase in incoming years as well.

There are major sources of livelihood categorized as percentage contributing to their household income for the old villagers, the new villagers who came to settle in the villages have not considered in this categories because the way of their generation incomes is quite different from the old villagers:

- Beside of gathering some woods, non-timber forest product collected such as mushrooms, wild fruit (Kuy), firewood, and herbals from CF. The villagers also go fishing to the southern part of village beyond the national main road. Paddy rice field still the major source of food in the community.

²⁶ Sanlum is a small house for the monk or priest, or nun to do the prayer.

²⁷ https://opendevelopmentcambodia.net/profiles/economic-land-concessions/?feature_id=elc_gdc_116



- As reported by key informants, 50% of income is from charcoal production: There are approximately 80% of villagers who produced charcoal for generating income. Each family can produce 500 kg – 600 kg of charcoal per month (600 riels/kg of coal) which they can earn around 300,000 – 360,000 riels/month. This charcoal production was started in 2011 which most of woods brought out from far distance forests or from economic land concessions or private farm crops lands.



- According to key informants, 40% of income is from paddy rice field and agriculture activities: As an average, each family has 1 ha of land for paddy rice field. They can produce 50 – 100 sacks of paddy rice field per year. Those who have small land and less labor to work in the field in result suffers from shortage of food the reasons is that Land in village can no longer plant the rice anymore due to its sandy land. A number of better of families also cultivate the land for cashew nuts.
- Small portion of income is from selling labor and non-timber forest product: Local labor selling: the villagers can earn 15,000 – 20,000 riels/day for cashew nut plantation and rice field work. They can also benefit from collecting seasonal forest products such as different kinds of mushroom which can be sold at 8,000 – 10,000 riels/kg, a numbers of wild fruits which can be sold at least 500 riels/kg to 8,000 riels/kg and eatable insects (spiders and crickets) at least 5,000 riels/day. Most often, they collect the forest products and herbals for their foods and medicine. The villagers also selling cube firewood from 10 – 15 meter squares/month with the price of 30,000 riels/meter squares of fresh woods to 35,000 riels/meter squares of dry woods.

The new villagers/new comers, normally found producing palm sugar and casual work. One of sugar producer shared her story like this. *There are only four families produce palm sugar in this village. All of us are new comers, just settled in 2008. They can produce 7-10 kg/days with the cost of 4000Riels/kg. Those family perceive that production of palm sugar is a safe and easier job even though they may little income daily. Whereas, the old villagers' jobs are riskier in term of finance and security. Those who produce palm sugar can easily change their occupation to casual workers when the season of palm unproductive.*

The villagers have raised their concerns once they experienced one of shortage of logs which then they stopped the loggings at some points in the past due to shortage of woods and law restriction. Now, when asked about how to cope for burning charcoal when the wood is gone. They simply responded that they will change their occupation from charcoal producer to garment workers or house construction workers and their Community Forestry is only for their next generations. The life of villagers has now experienced harder and harder because they are in debts with microfinance where they need to generate income to pay the loan.

D. Conflict resolution mechanism

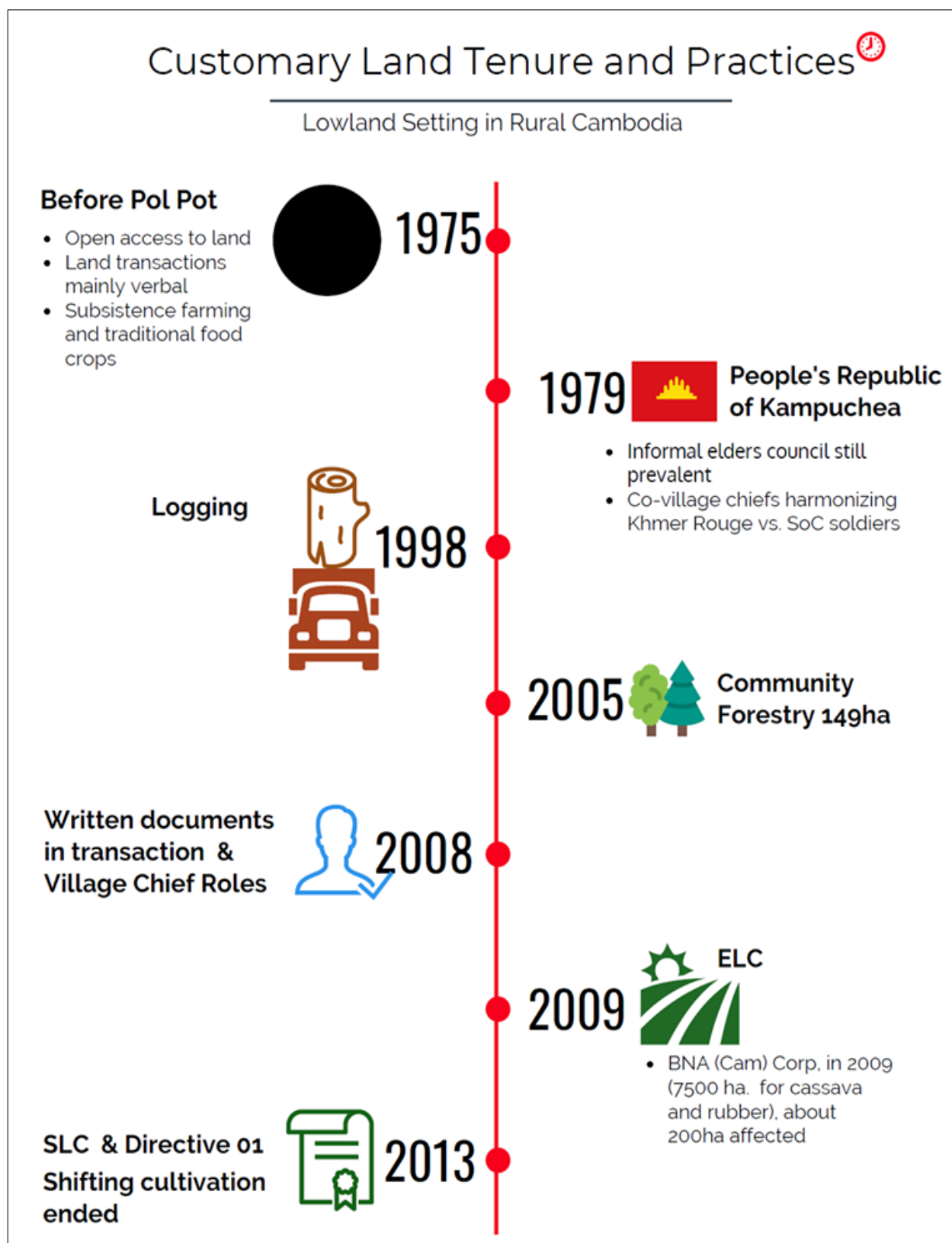
In the old village the original villagers were friendly with a strong sense of solidarity, except the few newcomers who resided here about 10 years ago who still do not actively join in village ceremonies. Most newcomers were not part of the community forestry. A gap also showed between people in the old village and people in the new village, with minor conflicts seen in their treatment of each other.

Elders are now less involved and inactive in conflict-resolution. There were also internal land conflicts among community members. Some parties asked elders and the village head to mediate, but such cases were not properly addressed. Some of the victims planned to abandon the land to the encroacher.

The Village Chief and commune councilors are prominent actors with functions for conflict-resolutions. But these conflicts are addressed along the concept of private ownership and legal documents take precedence over any traditional solving. Authorities suggest to villagers to secure land title and clear demarcation to avoid future land conflict. The roles of authorities were strengthened and eased by better road access and communication technology that connects them to higher-level authorities. The collaboration between local authority and FA expert seems good on community forest protection. The FA intervenes when the community calls them to arrest illegal loggers. The CF system is proving effective to deter breaching on the CF and other protected areas.

The Korean company continued to grow the rubber trees after having cleared land and forest without any compensation. The families who defended their land had these measured by district land officers and the Directive 01, but not in the Tradevech area, where villagers did not get the land back nor compensation, even after their call for intercession by province and Phnom Penh authorities. Their lands were cleared even when their rice and cashew crops were ready for harvest. Despite this, the villagers felt fortunate that their CF was established before the arrival of the Company. The ELC could not approach and encroach on the CF areas and regular patrol deters encroachment by other individual outsiders.

Figure 4: Historical Snapshot of Choam Thanh village



VI. Community Capacities to Sustain Customary Practices

There are four areas of focus to analyze the community capacities in sustaining their practice to land and natural resources as well as other practices. These include unity within the community, the skill of community leadership, resources mobilization and the ability to link up with others.

On unity within the community, villagers have been able to work together to divert from following the rules and regularly entirely to some traditional practices that suit them, particularly accessing to CF areas in the face of existing CF laws and regulations. They have been able to manage the differences with local authority and FA officials. For instance, villagers can log the forest for their household use without getting approval from local forestry administration, even regulations required them to do so but they still enjoy their traditional ways. Also, despite Community Forestry was formally registered but any initiative tend to get done collectively amongst villagers, elders and the village chief. For example, the CF committee made the schedule for all members to patrol everyday but it is indeed they patrol naturally through a process which villager come to their farms around the forest areas every day. It is strategically located in an area for it is in between villager's residential area and the rice field. In addition, as there are many families who have many coal kilns but none of them cut trees in CF area, instead they collected the wood from the ELC Company's area. They estimate the wood in the Company will be gone in the next 3 years but they already prepared for alternative through cashew crops. Another case is that solidarity is also seen in the form of customary practice sharing their limited resources, for example, Trapaing Sdac Soay (pond) is the supposedly private land ownership for its being managed by a family for generations but all the villagers can access it with fishing, growing vegetable, cattle washing, water for rice growing except growing the rice in the pond at the dry season.

Another manifestation of solidarity lies in the ceremonial functions where they continue to share resources to make the event happen in and even across the villages. Traditionally, they helped each other when having the ceremony. There was the funeral in Chhouk Rumdoul adjacent village, people from that village came to collect coconuts from Choam Thnagn village to serve monks and elders. At the same time, the nuns from Choam Thnahn villages also went to support running of the funeral ceremony. Another major practice that has sustained so far is the belief that it would bring peace, and prosperity to the village that binds people in this and other neighboring communities to come to help together. Every year, the neighboring villages (Phlong, Bos Chombock, Samrong, Chhouk Rumduol) organized jointly the ceremony together at the spirit forest, a sacred place, in Choam Thanh village. It was not registered formally as part of the Community Forestry area but it was well protected by the villagers and led by the village chief and elders. These are practices, while its deeply rooted their belief, it is implied the long

term protection of land despite small area. This would likely continue for they have had experience in leading the processions from time immemorial, and the resources are mobilized locally annually which appear to be at ease.

Another form of reciprocity still exists beyond funerals and other ceremonial functions may be seen in house construction and rice cultivation. Villagers have strong sense of supporting each other because of the realization that it would be eventually their turn to ask for help from others. This is seen in the case which a family builds the house (Leuk Phteah) and many families come to help and the house owner provide a reception to them with food and drinks. This is create or nurtured further mutual and cooperative spirit within the community. Another case is the exchange of labor (prvas dai) in rice farming. While there is still some practice it has gradually changed into the cash transaction when one works on another person's farm. However, this is seen as responding the on-going demand for household consumption in this contemporary period. It seems that the pattern of cash exchange would eventually replace the traditional practice of labor sharing completely, even house construction where contractor may be hired.

With regard to skills of community leadership, the CF structure was set up according to the laws and regulations which go through election among its members. With this structure in place, they coordinate and make plans with members to manage the area. For instance, local people have always sought approval from the CF leadership in order to access to CF areas or cutting timber for their household needs—this is widely applied among community. An on-going capacity gap in managing the CF is still there and that's why CF leaders normally got some training and mentoring support from local forestry administration. While, CF chief has the power to make the decision on matters related to CF, the village chief is always consulted. CF committee was just elected for the new mandate and new members. They need to have more capacity building support to improve their practice.

The parallel structures that are now functioning in close tie include formal and social or traditional structures, whose role is to manage the land and forest resources as well as ceremonial functions. The formal structure include the village chief, commune chief, and the CF committee while the social structure is existing informal elder council or group who are seen as respectful people. While these days they have a rather distinctive division of role where formal one is for political and administrative affairs and the social one for ceremonial role, they work together hand in hand with one taking lead while another advisory, and vice versa. They support each other to the point that they can protect the land of villagers in the face of having no titles as well as the informal practice of land transfer although such as practice is still limited. However, because of on-going land policy and regulation enforcement and to avoid potential

conflict in the future, such as practice may no longer be relevant or important to them even from these days.

As for resources mobilization, it is seen that two main resources have been mobilized, firstly, through its membership contribution annually to cover some expenses of patrolling and another one is resource mobilization through external partnership, however, this is still limited to cover the needs for maintaining the CF area. For 2017-2020, the CF has got annual budget support from local forestry administration through development partnership to cover their basic expenses, particularly on patrol activities. While some traditional patrols are done coupled with organized one, the resources constrained may later be seen more of the traditional practice which is rather suitable to their context. However, there are administrative expenses, especially for CF committee, and CF area development such as rehabilitate the natural pond in CF areas to store sufficient water for wild animals and birds. Such as resource support may be seen through allocation from commune investment fund with which CF scheme should be part of, and another source is to have planned extraction of timbers to generate additional revenue to fulfill such needs, and without which the sustainability in managing CF would be in question.

Lastly, for networking and linkage, the regular channel of communication and networking that appear to function well is with local forestry administration, and commune council for technical as well as resources support but the ability to link to others appear to be unclear. With local forestry administration, the CF can get more opportunities such as technical support and trainings from them; while the most recently, the CF can manage to get some resources allocated from them in period of three years through support from development partners. With good network, the CF leadership has able to update their technical skills and with some resources mobilization and the CF can be good functional; particularly on patrolling activities to protect CF areas and maintain resources and NTFPs for local needs. However, they do have linked with broader network at the district and provincial level, for example, the Prey Lang network. At the beginning, they received the technical and funding support from RECOFTC and Forest Administration; but now remained only the FA with financial support to make the fire paths and provided equipment for forest patrols. While the structure for managing CF is more of a hybrid form where elders is included along with village chief and others, the protection of CF land and forest would eventually rely on traditional practices of farming in surrounding areas rather than organized patrols if the outsider support is over, and if the CF areas provided them with economic benefits such as timbers for housing construction and NTFPs.

VII. Conclusions

There have been major changes in the governance structure of this village over time considering the four major periods: 1) before the Khmer Rouge, 2) after the collapse of the Khmer Rouge or internal strife, 3) the period 1998 till 2008 and 4) from 2009 till now.

Given the geographic and historical contexts, the village governance during the first period saw a prominent role of elders group. This was due to the high respect accorded them for reason of their seniority, knowledge of the land and forest ownership, and the absence of village chief that represented the state in the most basic structure. The elders' role were frequently referenced to allocation of land to villagers, newly-wed couples and those in need of land based on verbal agreement and of inheritance in any transacted transfers. Villagers appeared to have been living happy and peaceful lives when resources were still abundant and less demographic pressure.

The second period towards the collapse of the Khmer Rouge Regime brought political circumstances of tug-of-war between them and the SoC. The role of elders remained intact. Two co-village chiefs were able to work collaboratively to mediate the differences and avoided confrontation between the two factions to the benefit of their villagers. With collaborative leadership, the informality to land management was still practiced with villagers occupying their own land, and enjoyed the expansion. However, the transition of power became more visible during this second period too, with villagers looking up to the formal authority of the village chief. New comers came to live in the village, thus, requiring them to buy from families originally from this village with transactions passing through the village chief.

The role of formal village chief became even more visible when government-designed program or policies were to be followed. Such was the case in setting up the community forestry program where consultation with higher authority and VC signature was required. This set up the CF in 2001. From that point forward, the elders played an assisting role by sharing concerns on the loss of forest and suggesting ideas about mobilizing villagers and young people to work on patrolling to protect the forest resources.

As government programs keep mounting, the formal role of the VC was more manifest, while informal customary practices diminished. This was the case with Directive 01 in 2013 where the village chief took on dispute resolution on the conflict between villagers and Korean ELC Company that took away land without any compensation to villagers that used to cultivate it, despite some families having gotten land titles from the Directive 01 scheme.

The second period persisted with unresolved differences between 'old' people and some 'new' people who came to the village about 10 years ago. They do not get along with each other in

attending the village ceremonies. The newcomers are not even taking part of the community forestry program. In fact, all the families were expected to be members of CF but the latter do not fill the application form. There was also tension between people in 'old' village and those that moved into the 'new' village. The latter often came back to rely on those in 'old' village. Those in the new village used to live in old village but were granted social land concession (SLC) where they received plots of land. Instead of living and working the land there, they sold off and returned to the 'old' village. This issue has not been addressed by both types of leadership, perhaps the issue is rather intangible or complex for them to be able to see through any options.

The transition in the village leadership occurred within a bigger context of changes in the community's social and economic life. The key elements were the growing population against lesser availability of land and the economic changes of cash crops, plantation economy through the Korean ELC Company, and the CF program in 2001 to restrict lands encroachment in the remaining forest. It brought about villagers who now engaged in cash crops, became paid-workers, and made to live in a new village with no secure resources.

The start of the CF program involved NGOs such as RECOFTC that provided financial support, FA officers that provide the technical support and national and sub-national administrative/political structure that provide legitimacy to the CF setup. This came about with the loss of forest resources. The process was led by the VC but elders were included in CF committees. The CF was appreciated by villagers as it still gave them common property resources to fall back on—for NTFP resources that supplements their farming livelihoods. This change had little effect on their traditional rules for areas of CF, spirit forest, and Trapeang Boeng.

The intrusion of the ELC Company in 2008 took away land and shrunk areas which people can cultivate to sustain their lives. The villagers and village chief went to the provincial authority and officials in Phnom Penh to intervene; they did this for one year until their personal resources dried up, but it was not successful. With formal document granted by government the company went ahead even it meant to destroy villagers' crops. The company started growing rubber trees since then. The strong economic forces supported by government policies overwhelmingly crushed community advocacy and installed the local government representative as the prominent authority to back not the community' interest

The historical changes place customary practices on three levels: first, for most areas the customary practices were completely lost; in two narrow and remote small areas of Prey Trapeang Boeng spirit forest and Trapeang Sdach Soay, the customary practices are still strong; and, in the CF areas, there is a hybrid type of customary practice and government-backed management.

For the first type which is the majority of the village areas, the arrival of the Korean company swept large areas of shifting cultivation land wiped traditional practice completely. There was effort to fight against this by both villagers and their village chief, but government-backing to the ELC policies and private business interests won over the community's united effort. The simple lesson here was that community unity, even backed by strong customary practices, are now within a system that is too commercial and dominated by big business colluding with the state which does not care a bit about customs and needs of poor communities.

The people in Prey Trapeang Boeng have a strong ancestral belief system. They organize annual rituals to worship their ancestor's spirit and believed that one is curse if he/she abuses the resources within the spirit forest. This system enabled them to keep the area intact for generations. This healthy traditional practice enabled them to stay vigilant against destruction of the area and foster their solidarity beyond Choam Thnanh village boundary.

The area of Trapeang Sdach Soay pond has remained intact regardless of changes in governance through the years. The occupation and management of the area remained in the hands of one family. The family allowed villagers access to the area for water consumption and collecting of aquatic resources during wet season but not in dry season because the family benefit from it through dry season rice farming. This inherited practice was never influenced by village leadership yet accepted by all villagers. The area is adequate to the present and future use of the heir family and will sustainably be passed on to heirs of the same family. These two documented areas were examples of the prestige in retaining cultural heritage against the pitfall of resources competition and greed for land.

The co-existence or a hybrid form of governance can be seen in the management of the community forestry (CF). There is a fear of further land loss by community members due to the rapid encroachment of external forces. The areas for collecting NTFPs and timbers for domestic use have shrunk. Therefore, the villagers worked very hard to engage forestry officials to establish the CF, within a common sentiment of accepting something smaller than nothing at all. The CF was set up through a bureaucratic process, involving and dictated by different levels of authority and officials of Forestry. The processes may have bypassed the role of elders, but eventually involved as members of the CF committee. Despite abiding by the forestry law and related policies, the elders relied on their traditional knowledge and experiences to influence the local rules and put it into practice. Thereby, there is a balance between official processes and a more customary way of doing things. Moving forward, it would be good to structure CF management is to elder representation. This will enable elders to balance sustaining the community forestry development integrated to sustaining customary values.

