CUSTOMARY LAND-USE PRACTICES AND RESOURCE TENURE SYSTEMS AMONG KRUNG AND TAMPUEN COMMUNITIES IN NORTHEASTERN CAMBODIA

and

SOCIAL FORESTRY AS A VEHICLE FOR REDEFINING RESOURCE MANAGEMENT INSTITUTIONS IN CAMBODIA

Two Discussion Papers

by

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Little is known about the land-use practices and customary tenure systems of the ethnic highland groups that live in Ratanakiri Province in northeast Cambodia. Available evidence suggests that village swiddens (chamkar) and forests have been more-or-less in balance for several centuries but that this situation is likely to change rapidly due to current political and economic conditions. This paper describes land-use practices and tenure among several communities in Poey and Malick communes (khum). We found that individuals in these communities did not traditionally claim individual or family rights to land but rather recognized land as community property. We also found that while several of these communities have moved frequently over the last few decades, and while village boundaries have not been traditionally recognized, these communities have demonstrated a very deep relationship with their ancestral lands. There is an urgent need to develop legal mechanisms for recognizing traditional land-use practices and systems of customary tenure in order to protect the rights of highlanders. This is not only a matter of human rights but a practical matter as well. While highland people have little impact on natural resource policies, they can and do respond to these policies in a variety of ways which planners may or may not have anticipated. Some responses can lead to the destruction of the resource base and to the increasing marginalization of rural society.

Background

Geography of Ratanakiri

The province of Ratanakiri, “the mountain of precious stones,” lies about 600 km northeast of Phnom Penh and covers approximately 12,500 km\(^2\). The province is located to the west of Vietnam, to the south of Laos, and to the east and north of Stung Treng and Mondulkiri provinces, respectively. The Sesan and Srepok rivers cross the province flowing west from Vietnam to the Sekong River, a tributary of the Mekong. The northern portion of the province, between the Sesan River and the Laotian border, is covered with evergreen forest. Administratively this area falls under Vonsai and Taveng districts and approximately 12,600 people, 18% of the province’s population, live here. South of the Srepok river the province is covered with a tropical deciduous forest. This area includes portions of Kon Mum and Lumphat districts and approximately 7,000 people, 10% of the population, live here. The remaining area, between the two rivers, is composed of a high plateau (300 m elevation) of red basaltic soils. This area includes the rest of Kon Mum and Lumphat as well at O Chum, Bokeo, Yadao, and Andong Meas districts and the provincial capital, Ban Lung. Approximately 51,000 people, over 70% of the population of the province, live here.

Ethnic communities in Ratanakiri include the Brao, Jarai, Kachah, Kraveth, Krung, and Tampuen. Jarai communities are located in the eastern portion of the province along the Vietnam border. Lebar, Hickey, and Musgrave (1964) state that the Jarai territory includes the Darlac plateau of the south-central Vietnamese highlands around the town of Pleiku and extend into eastern Cambodia. The Jarai speak a Malayo-Polynesian language and have a matrilineal kinship system. They live in longhouses and their villages are usually located on high ground near a good water supply. A 1993-94 provincial census found approximately 14,000 Jarai (20% of the population) living in Bokeo, Yadao and Andong Meas districts (Bourdier 1995a).

Krung villages are located in the western portion of the province. Jonsson (1993); Matras-Troubetzkoy (1983); and Lebar, Hickey, and Musgrave (1964) argue that Brao, Krung, and Kraveth are basically the same tribe and that these groups are more or less the same as the various Loven of the Boloven plateau of southern Laos. The Krung live in an area extending from southern Laos to Ban Lung. They speak a Mon-Khmer language and have a bilateral kinship system. Krung villages are usually located on slopes between 400 to 800 m elevation. Historically the Krung lived in large fortified villages for protection but with the advent of the French administrative period these villages often broken into two to five or more smaller villages (Lebar, Hickey, and Musgrave 1964). Villages are occupied only during the dry season, as most of the population lives in shelters near...
their *chamkar* from the beginning of the rains to the completion of the harvest. The 1993-94 census found 20,000 people (29% of the population) of Brao/Kraveth/Krung ethnicity living in Taveng, Vonsai, Lumphat, Bun Lung, O Chum, and Kon Mum districts.

Between the Jarai and the Krung are found Tampuen villages. Bourdier (1995) reports that the Tampuen are matrilocal, monogamous and matrilineal. Bourdier also reports that they also speak a Mon-Khmer language. Jonsson (1993) reports that Tampuen live in small longhouses, with two or three matrilineal families in each structure, organized in a circle around a community house. Bourdier (1995b) classified Tampuen into two major sub-groups. One group lives in the highlands and practices swidden agriculture; the second group lives in the slopes and valleys near the Sesan river and practices irrigated rice cultivation, particularly since Pol Pot times. The 1993-94 census found 16,400 people (24% of the population) of Tampuen ethnicity living in Vonsai, Lumphat, Bun Lung, O Chum, Bokeo, Andong Meas, and Kon Mum districts.

The three major ethnic groups in Ratanakiri, the Jarai, Krung, and Tampuen, subsist more-or-less self sufficiently on swidden farming and collecting forest products. The variety and complexity of customary stewardship in Ratanakiri has been poorly documented and even more poorly understood by outsiders. The little evidence available, however, suggests that customary tenure systems may vary from a very individualistic approach among the Krung, perhaps with little concept of community lands or community boundaries, to a very community dominated approach among the Jarai, with a clear sense of community lands and boundaries.

Available evidence also suggests that village *chamkar* and forests have been more-or-less in balance for several centuries. But this situation is likely to change rapidly due to current political and economic conditions. The absence of warfare, and the ease of transportation and small scale trade, gives households greater autonomy, but this same context is also engulfing households and villages in larger economic and political structures and making new demands on household production and labor. The current changes in Ratanakiri are simultaneously cultural and political economic, the world as lived is no longer the same. State-culture now includes the forests within the domain, and the domain is now a modernizing nation, turning highlanders into national minorities. The task of documenting existing resource base and stewardship systems is therefore becoming increasingly urgent.

**Modern history**

The modern history of Ratanakiri began in 1957 when the area became a province. In the 1960s a rubber plantation was set up near Ban Lung to take advantage of its location on Highway 13 between Stung Treng and the Central Highlands (previous provincial centers, Vonsai and Lumphat, were located on the Srepok and Sesan rivers). When the rubber plantation was set up many uplanders were driven off their land and they responded with armed resistance. Authorities responded with military power, killing people and burning down villages (Matras-Troubetzkoy 1983). The highlanders' armed resistance was viewed as the "Brao revolt" (Chandler 1991) and this may explain the current predominance of "Krung" as opposed to the "Brao" who were dominant when Matras-Troubetzkoy conducted her research in 1966-67.

The Khmer image of Ratanakiri as the ultimate "forested wilderness" meant that this was where intellectuals and government officials sought refuge from and organized resistance to Prince Sihanouk's increasingly paranoid rule in the 1960's (Chandler 1991, 1992; Kiernan 1985). The Khmer Rouge (Democratic Kampuchea, DK) initially had good relations with uplanders, and many people, both highlanders and lowlanders, who are now in positions within the provincial government, say that the initial benevolence of the DK provided the only chance they ever had for education (Jonsson 1993). Later, the DK relocated many highlanders to Battambang and made many of those who stayed behind work in labor camps. Some highlanders went for military training in Vietnam, while other fled deeper into the forest or over the border to Laos. Jonsson (1993) argues that in general the Krung have worse memories from this time than the Tampuen. Among those who went for military training in Vietnam, some rose to high positions in the Vietnamese backed government that overthrew the DK regime in 1979, most notably Bou Thang, a Tampuen who became Minister of Defense.

Today the livelihood of highlanders in Ratanakiri is being threatened by lowlanders immigrating from other provinces and encroaching on the lands uplanders claim through customary tenure systems. This immigration is unofficially encouraged by the Government and land certificates can be applied for by these settlers.
In addition, commercial investments, from both Cambodian and foreign investors, are growing for industrial agriculture crops such as oil palm, rubber, cassava, and kapok.

Currently all the land between the Sesan and Srepok rivers (the area where 70% of the province’s population lives) has been granted as a forest concession to Macro-Panin, an Indonesian company. Land speculation and allocation of commercial agricultural concessions are also increasing. One of the largest concessions—a 20,000 ha oil palm plantation slated for O Yadao District—is a joint venture between Cambodian and Malaysian companies, has been approved by both Prime Ministers. Most of the area north of the Sesan river in Vonsai and Taveng Districts has been zoned for incorporation into Virachey National Park. And most of the area south of the Srepok River in Lumphat District has been zoned as a wildlife sanctuary. In addition, there are more than a dozen provincially-designated protected areas. By one calculation 130% of the province’s land mass has either been granted as concessions or placed protected areas. This does not take into consideration the 72,000 people who live in the province and earn their living by farming, hunting, and gathering (Butterfield 1997).

These developments are happening in an unplanned fashion and without reference to land zoning or customary land use. The process of approving contracts and concessions is not clear. Prior consultation with existing communities (or even with the Provincial Government in the case of concessions) is poor or non-existent. In the case of Meng Srun, 6 villages have already been resettled, apparently without proper compensation and at great disruption to their annual food security. There is an urgent need for a comprehensive study of traditional land-use practices and systems of customary tenure in order to recognize and protect the rights of the indigenous peoples. As argued above, while rural people have little impact on natural resource policies, they can and do respond to these policies in a variety of ways which planners may or may not have anticipated. Some responses can lead to the destruction of the resource base and to the increasing marginalization of rural society.

Methods

This project used an interdisciplinary approach to develop a database that blends information from fieldwork and interviews, topographic maps, aerial photographs, and satellite images. We used a geographic information system (GIS) to integrate information at the spatial scales necessary to link site-specific land use to settlement patterns at the regional level of the landscape. Contemporary resource management practices were documented including types of management activities employed by local people to produce, extract, protect, or manage their resources. Ethnographic techniques were utilized to study the social and economic causes and consequences of environmental change at village, district, and provincial levels. Over a three year period numerous semi-structured interviews were conducted with local key informants and farmers. We also reviewed secondary sources to generate information on changes in national and provincial policies and social economic changes at the village level. Household interviews focused on current land-use patterns, sectoral variations, and village social organization. Site survey techniques included on-ground inspection, and identification of sites through examination of aerial photographs and LANDSAT images.

Results

Khum Poey

Recent History

*Khum* Poey in O Chum district consists of 10 villages (*phum*). These include Kralaa, Svai (Kutang), Kameng, Satok, Kres, Mas, Koy, Klong, Tannich, and Ganchueng. During the Sihanouk and Lon Nol periods the commune was called *Khum* Poey (Poey was the name of one of the earliest headmen in the commune). Under the Khmer Rouge the name was changed to *Khum* Chan (Chan is the name of a mountain located in the center of the commune). The name was recently been changed back to *Khum* Poey.

*Khum* Poey is located on the road that runs north from Ban Lung to the Vietnamese border. The road, built in the late 1960's, was bombed by the Americans during the war. Today the road is a dirt surface, passable during the dry season by both motor bike and 4-wheel drive vehicles. The 10 villages of *Khum* Poey are populated by people of Krung ethnicity. This report is based on interviews with people from Kres, Kralaa, Tannich, and Ganchueng villages.
In interviews with older farmers we asked them about land-use practices when they were children. In a few instances this provided us with a glimpse of land-use practices in the 1950s and 1960s. In general these informants claimed to have been born on the ancestral lands of their current village and that their parents and grandparents were born here as well. These informants do not remember the French as ever having been active in or near the district. During the Khmer Rouge period most villagers reported being relocated to Taveng district and being forced to grow irrigated or swidden rice collectively, to store their rice in a common longhouse, and to eat in a village commons. Reportedly during this period and the following period under the Vietnamese, forests were not cut because there were no roads in the highlands and it was difficult to remove the fallen timber.

Through the use of aerial photographs and sketch mapping techniques we were able to trace the spatial history of Kres village (see map 1). This map demonstrates the dynamic nature of a Krung village. The oldest known location of Kres is reported to have been a village called Ban Poey located near the site of present day Ganchueng. The village headman or elder at that time was named Ta Van Poey. Ban Poey was inhabited in the late French and early Sihanouk period (early 1950s). The village then relocated to the southeast in what today is La Ak commune. This village was known as Ya Poey and the village elder was Ya Nanch. Ya Poey was also inhabited during the Sihanouk period (late 1950s). Both Ban Poey and Ya Poey were inhabited by the ancestors of present day residents of Kres, Ganchueng, and Satok. In the early 1960s the village moved close to the site of present day Koy. This village was called Pin Pin and the village elder was Ya Bot. A little latter, during the Lon Nol period (late 1960s), a period of disruption, the village moved deeper into the forest to the east near the O Touk river. This village was known as Kres and the village elders were Kan Thaw and Chanly.

It was from this site that villagers were forcibly relocated by the Khmer Rouge to Taveng in the early 1970s. Villagers remained there until the fall of the Khmer Rouge in 1979. In 1979 villagers returned to the Kres village site at O Touk. They stayed there, along with current day residents of Koy until 1983. In 1984 they and the Koy residents moved to a site near present day Ganchueng. They stayed in at least 2 different sites around Ganchueng until approximately 1990. They then moved to a site near their current village for 2 years before moving to this site. Hence, we can trace at least 9 voluntary movements and 1 forced movement over the last 50 years. Villagers consider this entire tract of land to be their ancestral land. It is important to note that after having been forcibly removed from their land by the Khmer Rouge, that once set free, they returned to their original lands.

Resource Use: Chamkar and Forests

1. Chamkar

Our field work suggests that chamkar are cleared in January; burning commences in March and continues through April; the first corn is planted in May and rice seeds are sowed in June or July; corn is harvested in August and rice in October and November. The different components of the agricultural season (clearing, burning, planting, weeding/growing, and harvesting) are noted with small ceremonies or agricultural rituals. All livestock raised in the village, (i.e., buffalo, pigs, and chickens) are used for these ceremonies and for appeasing forest spirits when people fall sick or have bad dreams.

Most fields are used for approximately 3 years and then abandoned. If possible villagers prefer to use their old fields as long as possible because then life is easier for a few years. Most farmers initially choose their fields so as to be able to expand around the sides of the originally cultivated fields and then only after three to five years the family shifts to another place.

Villagers usually have 2 to 4 different sets of fields which they use for 3 to 5 years before fallowing. They seem to have approximately 1 to 3 ha at each swiddening site. Villagers prefer to have fields within 1 hour walk of the village as they usually go back and forth every day. They also prefer fields close to water. One villager told us that he has 3 pieces of land. One is located far from the village, another in the forest near the village, and the third right next to the village. If their land is fertile enough some people have only 2 pieces of land, moving back and forth between them.

Villagers burn their chamkar individually. If a farmer has sufficient wind for a good burn, then they burn first; each family decides when to burn and where. In general villagers do not discuss the burning with each other, but a farmer should try to inform his neighbors before burning. If your fire spreads to your neighbors field and you have not informed them first, then you must help them prepare their fields to burn again.
The main crop is rice but more than 20 to 30 varieties of vegetables, green leaves, and fruits are grown in the *chamkar*. Other crops include cassava, taro, sugarcane, maize, sweet potatoes, yams, gourds, beans, peppers, sesame, tobacco, pineapples, eggplants, tomatoes, pumpkins, and cucumbers. Fruit trees are grown in the villages and *chamkar*, bearing bananas, jack fruit, cashews, papaya, and mangos.

The role of individuals versus communities in the various agricultural activities and rituals seems to depend on ethnicity group. Jonsson (1993) argues that based on his observations, the Tampuen seem to stress village feasting success and individual agricultural success, while the Krung stress village agricultural success and individual feasting success. He feels that among the Jarai, blessing and repute, and feasting success, are seen in terms of large kinship groups.

### 2. Forests

In a swidden agricultural system the dichotomy between agriculture and forest is for the most part artificial. *Chamkar*, secondary regrowth, and forests are all part of the same agroecosystem. Farmers manage the vegetated landscape so as to optimize the production of useful products (edibles, medicinals, thatch, lumber, etc..) while minimizing labor requirements. In many swidden systems, however, a portion of the landscape will be managed as a forest reserve for the production of materials not generally available in secondary regrowth (i.e., hunting, rattans, certain medicinals, mushrooms, etc.).

In Poey commune portions of O Tabearr forest were traditionally protected for the production of 3 types of rattan (ray--finger size; habak--big toe size; and one other kind). This forest is too far from any village to be used for swidden and hence was used by villagers from Klung, Koy, Ganchueng, and Kres for collecting rattan and other products. Forests areas do not have clearly delineated boundaries with several villages sharing the same forest area in overlapping ranges. In addition, different villages may have different regulations and taboos for using the same shared forest area.

In other forests, resident spirits forbid cutting and other activities. Different forests are ruled by different spirits, each with their own taboos or spiritual regulations that effectively provide for forest and wildlife conservation (Colm 1997)

It is important to recognize that collection forests are integral to village economies. Secure access to these forests and the conservation of their resources are essential in land-use planning for each village. This requires a perspective on land security which goes beyond the boundaries of village and agricultural land, but focuses equally on the old-growth forest on which villagers depend for their livelihood.

In light of the necessity of forests to local livelihoods and in recognition of the role local peoples can play in protecting and managing forest resources the Governor of Ratanakiri province recently recognized an area of approximately 4,000 ha including Stieng, O Taberr, Nyao, and Phnom Tapieng forests as a community forest (Map 2). This area has been given the name Ya Poey community forest. Rules for the protection of this forest have been drawn up and recognized by the six communities surrounding the forests, and by the heads of the District Provincial Forestry, Agriculture, Environment and Titles Offices. According to the Governor, this process represents a *de facto* recognition and support at the provincial and local government for Ya Poey Community Forest (Paterson 1997).

### Land Cover

Map 3 shows land cover for three villages (Tannich, Kres, and Kralaa) in Poey commune based on 1996 aerial photographs (FinnMap, 1:25,000 scale). Approximately only 4.47% of the 9,371 ha in the study area was devoted to active swidden with another 0.47% in recent fallow. The various types of regrowth (secondary growth, shrubland [0-2m], bushland [2-6m], and woodland [6-10 m]) account for 42.54% of the landscape. Forest (broadleaf evergreen, broadleaf deciduous, and mixed deciduous evergreen) covers 49.77% of the landscape.

### Customary Tenure

While villagers in *Khum* Poey have a clear sense of village lands, specific boundaries between villages were not traditionally required unless the cultivation areas from two villages meet one another. Villagers believe that if they farm on the other side of another village's *chamkar* fields, the spirits will be unhappy and they will
meet misfortune or death. When chamber from one village meets chamber from another village, village elders may meet to decide the boundaries. In most cases, however, the physical location of the chambers and the taboos against farming in each other’s cultivation area define the limits of cultivation.

In recent decades, however, village boundaries have become more set. In Khum Poey the commune leader has convened village headmen to discuss and delineate village boundaries. With these boundaries, villagers in Khum Poey have started prohibiting villagers from other villages using their lands for chamkar (even in areas where they do not have to cross their fields). In general cultivation land among different villages appears to be distributed relatively equitably. Among the villages we mapped the average number of people per square kilometer was roughly 30—regardless of village population size.

Village sites do not move as widely as generally perceived by the general public. When villages do move, it tends to be within the village’s ancestral cultivation area and often within a only a few kilometers. Moves are generally for specific reasons such as political upheaval, government relocation, bad omens, excessive illness, or other hardships at the current site. If part of a village decides to separate from the original group because of population increase or conflicts, the breakaway group looks for new, available land. Such occurrences usually only happen once in two or three generations. Kralah village in Poey commune has stayed in the same location from most of the last 100 years, while neighboring Kres village has moved more than 10 times in the last 40 years.

Local economy: Subsistence and markets

Villagers in Poey commune subsist more-or-less self sufficiently on swidden farming and collecting forest products. If the previous harvest is good they claim they can eat rice all year long. In 1995 food was short because of a drought and they were forced to eat a forest tuber that looks like cassava, and bamboo shoots. One farmer claimed that he needs 40 baskets of rice per person to have enough to last the year.

Non-timber forest products collected in the village include bamboo and bamboo shoots, rattan (available in Ya Poey Community Forest), forest resins, tubers (cassava), wild taro used as a pig food, wild pigs, dear, and forest chickens. In addition to using forest products as famine food, villagers sell forest products in the market. They reportedly earn approximately 20,000 to 30,000 R ($10 to $15) per year from forest products. Villagers claim that their cash income comes not from their agricultural fields but from the forest—resin, fruit, leaves, all can be sold in the market. The current government has reportedly done a better job than previous governments in terms of stimulating the cash economy.

One villager indicated that he sells baskets made from bamboo for cash income. He spends a whole day walking to and from the market in Ban Lung. He uses the money he earns for buying tobacco, salt, MSG, and clothing. Another villager indicated that he had lived in Ban Lung for 15 years working in the saw mill earning about 10,000 to 20,000 riel per month. The current ban on logging, however, has caused the mills to close and he has returned to his village. In another Krung village located closer to Ban Lung villagers have start to grow cashew trees in their chamkar (100-200 trees per household) in an attempt to earn cash income. Approximately 20 people from this village also work on the neighboring rubber plantation.

Khum Malick

Recent History

In December 1996, three logging companies were granted rights to transport 29,000 cubic meters of already felled timber from Ratanakiri to Vietnam in exchange for public infrastructure improvements in Ratanakiri (Cambodia Daily January 10-12, 1997). Two of the concessions, Kikimex Company (11,711 m³) and Reaksmey Angkor (12,500 m³) were special concessions approved from the two Prime Ministers. The third concession, an economic exchange agreement between Ratanakiri and Gia Lai Province in Vietnam, authorized transport of 4,740 m³ by a Vietnamese company, Lam San Mot (Colm 1997).

Transport occurred from December 2 to 31, ending with Phnom Penh’s December 31 log-export deadline. Villagers in logged areas said most of the exported timber consisted of recently-cut trees felled from August through December 1996. Phum Malick in Khum Malick was the scene of the strongest village protest against the logging of their customary forests.
Khnum Malick in Andong Meas district is composed of four villages—Malick, Kahorl, Katey, and Leun. Three of the villages are Tampuens (Malick, Kahorl, and Katey) and one is Jarai (Leun). Our interviews were conducted primarily in Malick village with additional information collected from one informant in Katey. Phum Malick is an old village. While the village has occupied its present lands for over a 100 years, the actual site of the village has shifted a few kilometers several times during this period. Today the village has a population of 409 people. Tampuens live in small longhouses with two or three matrilineal families in each structure. The village headman reported the village as consisting of 78 small families (husband, wife and children) or 46 extended families (related groups that cook and eat together).

When Vietnamese loggers began to cut and export logs from their forests in the fall of 1996, residents of Phum Malick complained to their district authorities. When these officials failed to take action, villagers took their complaints to the logging company and told the company they would not allow them to log their lands without recompensation. They suggested that the company repair their irrigation dam and build a school. It is not clear what role district and provincial authorities played in these discussions, but in the end the company did provide these services to the village. The governor argues that he agreed with the community and hence the company built the school and repaired the dam. In a recent interview, he also suggested that the company gave a lot of money to district officials, the police, and the military.

In recent interviews, villagers stated that the loggers arrived in November 1996 and stayed for 4 months. They stayed in the forest, felled trees, and piled their wood in 3 sites throughout the village. Villagers reported as many as 30 or 40 trucks of wood were removed. Dipterocarpus alatus was the main tree loggers were interested in acquiring. Other logged species included Lagestromea sp., Pterocarpus pedetus, and Hopea Adorata. Villagers traditionally collected resin from the D. Alatus trees for making candles. Today they state there are very few of these trees left in their forest. This was not the first time the loggers bad been there. In 1991 the Vietnamese came before the elections. At that time they brought a portable saw mills with 2 large saws to cut the wood for export. At that time most of the trees cut were from Ka Cheng village to the north.

Today villagers are adamant that this forest belongs to them. They argue that they will not allow the company to cut down their trees again. But they realize they have little power to stop them if they come with the support of the government. While they feel there are too few trees of economic value left to attract the Vietnamese, the local district saw mill in Andong Meas is still cutting many trees on an almost daily basis. Our informant claimed the district saw mill cuts more than 100 trees per year. Loggers from the district saw mill are less experienced than the Vietnamese and most of the wasted wood we saw appeared to be due to their mistakes. Our field visit suggests that the district saw mill is causing more damage to this forests than the Vietnamese.

Agriculture and Chamkar

Unlike in Khnum Poey, the major form of agriculture in Phum Malick is lowland irrigated paddy. The northern end of Phum Malick is a natural low lying area with good water resources. During the Khmer Rouge period farmers from the surrounding villages were put to work damming the several streams that flow into the area and to building rice terraces. After the Khmer Rouge fell these dams into disuse because of poor maintenance. Today, with the recent improvement of the dams by the Vietnamese loggers as well as by CIDSE, most villagers in Phum Malick grow irrigated paddy rice. One farmer reported he can harvest 5 tons/ha in a good year and a minimum of 2 tons/ha in a poor year.

Older villagers also maintain their chamkar. These fields are similar to those described above for Khnum Poey. Farmers reported yields of approximately 2 tons/ha. Given both irrigated paddy and upland chamkar, villagers in Phum Malick appear to be better off then many highland communities.

Forests

The forest is approximately an hour’s walk northeast of the village. Our informant estimates approximately 10 ha of large trees still remain. We walked through a portion of this forest and observed many trees in the 1 to 2 m. diameter range with a semi-dense to dense canopy cover. Villagers reportedly do not cut wood here because it is too far from their houses but the village has no rules prohibiting villagers from cutting wood or other forest products. This area is not used for swiddening because “the trees are too big and the soil is
too poor for agriculture." This area is used for hunting, rattan, resin, medicine, and mushrooms. Villagers reported that the loggers scared the monkeys away and few large mammals remain.

Trees used for firewood include (local names) *complia* (burns for a long time), *salau*, and *langien*. Villagers divide edible mushrooms into two groups: those that grow on dead trees (many kinds—kokee, trak, poipul, chal, prudea), and those that grow on the ground (gunow, bonglotow, grumluch). Villagers report that while they know medicinal plants grow in the forests they do not know many of these plants or their uses. They claimed Lao villagers know more about medicinal plants. Villagers also collect roofing materials (bamboo and kanannah leaf) from the forest. They used to be able to collect rattan as well but today very little rattan is left near by and they must walk to Loy village in Khum Samaki to the west about 2 days. According to their reports, this is a large forest, open to everyone for collecting forest products (sounds like Ya Poey forest in O Chum district).

**Phum Malick** is fortunate to still have a relatively good forest stand, but most of their land is in some form of secondary regrowth. We walked through large areas of new fallow (0-2 m), intermediate fallow (2-6 m), and older fallow (6-10 m). We also saw large bamboo areas that are also secondary regrowth from *chamkar*. Khum Malick appears to be an excellent location for a community forestry project. The community is well aware that its forest resources are declining; they value these resources; and they are quite willing to help manage these forests.

*Customary Tenure*

As in Khum Poey, villagers in Khum Malick did not traditionally have boundaries between villages but believed that if they farmed on the other side of another village’s *chamkar*, the spirits would be unhappy and they would meet misfortune or death. Official boundaries in Phum Malick, however, predate those of Khum Poey by several decades as our informant reported their boundaries were established during the Khmer Rouge period (mid 1970’s). In Khum Malick, unlike Khum Poey, it is considered acceptable for villagers from one village to make *chamkar* on the another village’s land as long as they do not break the taboo of crossing the other village’s *chamkar* on a frequent basis.

One older informant stated his grandparents used to tell stories about when Siam (Thailand) occupied (before the French, i.e., before the 1870s) Ratanakiri. At that time if a farmer wanted to open a new swidden he had to pay a tax in human slaves to the Thai overlords. If someone else wanted to use the land later, then they paid the first clearer of the forest in chickens and pigs. When the French came this human slave tax was abolished and land became free for all. This history may actually explain why the Krung and Tampuen communities we interviewed did not recognize the rights of the first clearer of the forest to that land after it returned to fallow. In many other swidden societies, the first clearer of the forest maintains rights over that land after it returns to fallow. If someone else wants to use it again, they must get permission from the first clearer.

*Local Economy*

The major sources of cash income in Phum Malick are rice (grown in both the irrigated paddies and the upland *chamkar*), sesame (*grown in the chamkar*), and pigs and chickens raised around the village. Fruit, primarily bananas and pineapples, is also sold in the district center but there are only 2 or 3 shops and much of the fruit ripens at the same time making it a poor source of cash income. Farmers are now beginning to experiment with growing cashews. Cashew seeds were provided by both government and CIDSE sources.

*Conflict and Relations with the State*

Villagers in Poey and Malick communes report limited interactions with government officials. They report no agricultural extension or forest extension services. Officials from O Chum district did distribute free rice in Khum Poey during the 1995 drought but each household was limited to 1 kilogram.

Villagers are aware that the government prohibits them from cutting the forest for new *chamkar* without government permission. The provincial governor called all the village headmen to a meeting in Ban Lung and told them that the government prohibited them from cutting new *chamkar*. The forest belongs to government; villagers can use old fields but must not clear any new sites. The village headmen told villagers to protect the forest but most families still continue to practice swiddening—after asking permission from government officials first.
Villagers do not have legal papers for any of their lands, although they would like to have legal title. They claim that they have managed their lands for several generations and that in their opinion it is their land. They claim they share their forest resources with neighboring villages and that they have few land conflicts within or between villages.

The granting of the forest concession to Macro Panin as well as the palm oil estates have negated the customary land tenure rights of most highland communities and hence put these communities into a position of inevitable conflict with the state. The conflict between residents of Phum Malick and the Vietnamese logging company is a mild foretaste of what will follow if the government continues to negate customary land-use rights. There is an urgent need for to develop legal mechanisms for recognizing traditional land-use practices and systems of customary tenure in order to protect the rights of the indigenous peoples. Ya Poey Community Forest is an excellent example of the positive type of community/government interaction that can be promoted through policies that recognize the land-use practices and customary rights of the highlanders. As we have repeatedly argued, while rural people have little impact on natural resource policies, they can and do respond to these policies in a variety of ways which planners may or may not have anticipated. Some responses can lead to the destruction of the resource base and to the increasing marginalization of rural society.

References


Endnotes

1 I would like to acknowledge financial support for my field work in Ratanakiri from the Rockefeller Brothers Fund; the International Development Research Center, Canada; and Associates in Rural Development, World Bank funded Forest Policy Reform Process Project. I am indebted to numerous people with whom I have worked with in the field. In particular I am indebted to Gordon Paterson the NTFP project Coordinator for Novib and
Oxfam UKI in Ratanakiri who organized many of the field trips and provided valuable insights into resource management in Ratanakiri. Field work in Khum Poey was conducted with among others Vann Piseth, Sovanna, and Dom Taylor Hunt, of IDRC. In Khum Malick, Ly Chou Beang of the Central Forest Department and Dam Chanti were excellent counterparts. Mr. Hor Hong of the Provincial Environment Department made his time and car readily available. Finally, I would like to thank the residents and commune and village chiefs in Khum Poey and Khum Malick for their hospitality and guidance.
MAP 1: SPATIAL HISTORY OF KRES VILLAGE

1) early 1950's
2) late 1950's
3) early 1960's
4) late 1960's
5) 1970-1979
6) 1979-1983
7) 1984-1987
8) 1987-1990
9) 1990-1992
10) 1992-present
MAP 2: YA POEY COMMUNITY FOREST
LAND USE/LAND COVER, PHNOM TAPEAN, O CHUM DISTRICT, RATANAKIRI

LEGEND

Urban/Built-up Areas
- Villages

Agriculture
- Lowland (Irrigated) Rice
- Orchard
- Plantation (Rubber, Palm Oil)

Swidden Lands
- Active
- Recently Fallow
- Secondary Growth

Subclasses
- Shrubland (0–2m)
- Bushland (2–6m)
- Forest Cover (6–10m)

Forest Cover
- Broadleaf Evergreen
- Broadleaf Deciduous
- Mixed Deciduous/Evergreen
- Bamboo Forest
- Mixed Bamboo/Deciduous/Evergreen
- Other

- Roads
- Stream
- Forest Boundary
- Watershed

Source: 250,000-scale panchromatic aerial photography, 1994-95
Produced for
ECONOMIC AND ENVIRONMENT PROGRAM FOR SOUTHEAST ASIA
By Integrated Resource Information Center (IRIC)
And
Environmental Technical Advisory Programme (ETAP)

Scale 1:50,000

Average positional error ±1/30 meter.
MAP 3: Land Use / Land Cover in Poey Commune, O Chum District, Ratanakiri
Social forestry may be defined as a socially oriented approach, in both goals and implementation, to management of forest lands that generally involves the local community either on a community or individual basis. Social forestry carries with it the connotation of both a philosophy of development and a pragmatic strategy (i.e., the centrality of people [Cernea 1990]). A culturally charged concept, "social forestry" has been interpreted in numerous ways in many countries with a variety of people debating the fine distinctions between the different interpretations of the phrase. Variations of the term "social forestry" include community forestry, joint forest management, village forestry, forestry for local community development (FLCD), participatory forestry, and rural forestry, among others (Fisher 1995; Skutsch 1994). In this paper, these terms will be used interchangeably.

Because of the wide variety of conditions, both natural and social, across South and Southeast Asia, social forestry programs exist in a myriad of forms with no one form, strictly defined, dominating the field. Indeed, the strength of social forestry as a development paradigm lies in its flexible definition and adaptability to different conditions. Properly implemented, social forestry is a pragmatic instrument that adapts and molds itself after local conditions and requirements.

An examination of the basic premises on which social forestry is constructed suggests that support for "social forestry" as a development paradigm stems from belief in the following five concepts, namely: devolution of natural resource management to local authorities; social self-discipline; self-determination; rights with responsibility; user participation in management decision making; and validity of indigenous knowledge and institutions.

These concepts have in effect become the guidelines for the development of new management institutions for forest resources in which both the local community and the responsible state authority cooperate in protection and management of forest resources. It is noteworthy that as a result of the rapid development of communications and publishing technology, the international support given to "networking" over the past decade, especially in social forestry, the increased sharing of expertise between and among international development assistance agencies (as, for instance, in the Joint Forest Management Program sponsored by Ford Foundation), the characteristics common to social forestry projects in various countries in Asia appear to be on the increase.

One recent reviews (Pardo 1995) of social and community forestry programs in Nepal, Thailand, and the Philippines identified twelve key ingredients of a successful social or community forestry project, namely:

1) a clearly defined and identifiable community or user group;
2) an identifiable area to be managed with no conflicting use claims;
3) security of tenure vis-à-vis the resources and the land;
4) an institution to manage the resource, with financial, management, and technical skills sufficient to the task;
5) agreement on and system for allocation of benefits and costs;
6) effective local authority with the ability to make and enforce collective decisions, rules, and regulations;
7) a universally accepted set of management objectives;
8) an economically feasible management unit, or some means to subsidize an uneconomic unit (sustainability requires benefits equal to or greater than costs);
9) significant interest in managing the resource;
10) a management plan that meets basic standards of good resource management (i.e., environmentally sound and sustainable);
11) a means of monitoring and correcting serious breaches in the management plan; and
12) a strong commitment from central government and unconditional support from local technical and administrative staff.

Of all these points, it should be noted that many feel that security of tenure or usufruct is one of the most critical factors in obtaining the initial participation and enduring support of local people in forest protection and restoration activities.

Examples of Community Management of Forest in South and Southeast Asia

Community forestry efforts in South and Southeast Asia are generally found on two types of forest lands. The first, and perhaps most successful efforts, are those found on degraded forest lands. These programs, among which the most successful are found in India and Nepal, are in areas where forest resources have been so degraded by continuous cutting for charcoal, firewood collection, and over grazing that few outside economic or political interests are attracted to these lands. Under these circumstances national forest departments have fewer reservations about giving local communities rights to manage and protect their forest resources. Likewise local communities find it easier to design and implement management rules for protecting and improving forest cover on degraded sites. The other type of community forestry efforts are found on relatively well forested (generally secondary forest) lands. These programs are found in the outer islands of Indonesia (Kalimantan, Irian, Sulawesi) and in the Philippines. These efforts are more problematic because there is a valuable resource that national forest departments are loath to return to local management and many local, as well as regional and international stakeholders, are interested in exploiting these lands for economic profit. Because Cambodia has both types of forest cover, I examine community forestry policies for both situations. Within the context of badly degraded and relatively good forest cover, community-based forest management programs can be divided further into three types: usufruct certificates issued to individual households, certificates issued to communities, and forest protection contracts.

It is important to note before we proceed that the distinction between individual and community agreements can be somewhat misleading. The bundle of relations a community enjoys with the forest can be divided in many different ways, and tenure regimes that look collective to an outsider often consist of a complex layering of individual, family, and community claims. What is shared under the agreements on community management is not necessarily the forest land itself, but the responsibility for adjudicating resource rights to discrete holdings within the forest area. The rights themselves may be held by individuals, families, or clans, or in some cases by wider groups. What is significant is not the particular configuration of rights; it is the delegation of authority to the local community from the state.

Tables 5.1 and 5.2 summarize pertinent characteristics of the community-based forest management systems found in South and Southeast Asia.

Usufruct Certificates Issued to Individual Households

The first type of community-based forest management is based on usufruct certificates issued to individual households recognizing their rights to manage (and farm) state-claimed forest lands. In the Philippines these are known as Certificate of Stewardship Contracts (CSC) and in Thailand as Sit Thi Thamkin (STK, or “Right to Harvest”). These certificates convey the right to use and occupy the land for a given number of years (usually 25 years, renewable for a second 25-year period) to individuals present before given cutoff dates. Strictly speaking these certificates, which allow farmers to plant agricultural crops on forest lands, are not a form of community-based resource management and are more closely related to private property than common property. While this type of legal arrangement is appropriate for forest lands that are suitable for conversion to other purposes but where such a conversion is not politically possible, most recipients of these agreements would prefer a private ownership arrangement (Fox 1993).

Usufruct Certificates Issued to Communities

The second type of community management of state forest lands is based on usufruct certificates issued to communities that have some form of claim to the land (often through indigenous law or length of occupancy, and not through land title). These lands tend to be in remote areas where the occupants do not
have access to power to legitimize their claim, and where the land has been subject to less timber
development. Many of these lands are still covered by valuable forests, which make them attractive to
forest departments and investors alike. Successful management of these lands depends on developing
mechanisms for recognizing that long-term inhabitants have rights, defining these rights (e.g., absolute
title, percent of profit, joint concession), and demarcating boundaries based on history and land use (Fox
1993).

Forest Protection Contracts

The third type of community-based forest management programs is based on forest protection
contracts where cooperation between the state forest departments and forest-farmer groups is defined in
contracts, spelling out the specific rights and responsibilities of both partners as well as the length of the
agreement (Fox 1993). These contracts are generally found in densely populated areas where villagers are
willing to protect tree plantations or regenerating natural forests in exchange for the right to intercrop
agricultural corps among the trees until the shade becomes too dense or for cash payments. Bargaining
sessions between forest-farmer groups and foresters often determine the trees to be planted on the state-
claimed lands and form the basis of a contract between the parties spelling out the rights and obligations
of each group. These contracts are often for short periods of one to five years and are renewable as long as
both sides are happy with the results.

The various Indian states (see Table 5.2), for example, recognize communities as management
partners for specified tracts of government forest lands. Most of the states allocate all non-timber forest
products to the community to use, while timber-sharing arrangements vary. In West Bengal, the Indian
state with the most experience with forest protection committees, efforts began in the early 1970s and
today over 1,800 forest protection committees protect more than 240,000 ha of natural sal (Shorea
robusta) forest.

Land Law and Policy in Cambodia

Russell (1996) summarizes the legislation and policies governing land use in Cambodia. She
lists three legal instruments—the Land Law passed by the State of Cambodia on August 11, 1992, the
"Enforcing Instruction No. 3 of the Principles for Possession and Use of Lands," passed by the Council of
Ministers on 3 June 1989, and the 1989 Sub-decree No. 25 which provides for ownership rights over
residential housing. The Land Law takes legal precedence over Instruction No. 3 and Sub-decree No. 25
both because it was written and passed more recently and because it is a formal law and not simply a sub-
decree or guiding instruction.

Instruction No. 3 directs policies for ownership of housing and occupational rights for
agricultural land. It defines land under three general classifications: housing, cultivation, and concession
land. Housing land is limited to 2,000 square meters per family. Cultivation land is limited to 5 hectares
per family. Concession land is defined as land greater than five hectares allocated for the production of
crops to “support the national economy.”

According to the Land Law, land must be registered in the Cadastral office in order for an
individual to acquire possession or ownership rights, to transfer ownership, or to convert temporary
possession into ownership (gammaset). Colm (1997:23) summarizes how the 1992 Land Law affects the
claiming of land (forest or not) for agricultural purposes as follows:

Artile 10 provides for land that is privately owned by a single individual, or several
individuals. It also provides for communal property belonging to a group of people.

Articles 3 and 20 provide some protections for the rights of private property owners,
stating that private property cannot be violated except 1) when necessary for the public
interest in cases provided by law and 2) the owner gets advance, just and proper
compensation.
| Table 5.1 Community-Based Forest Management Policies in Some Southeast Asian Nations |
|---------------------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|
| **Product and Transfer Rights**             | **Responsibilities**             | **Participants**                 | **Restrictions**                 | **Tenure Rights**                |
| Unfrocked Certificates                      | Exclusive use rights             | Responsible land stewardship     | Landless occupant who lived on the land before January 1982. | 25 years renewable. |
| Given to Individuals                        | (including agricultural land use); Inheritance rights only. | | | |
| Philippines (Philippines)                   | 2.8 ha of agricultural land use; 0.8 ha for home lots; Inheritance rights. | Responsible land stewardship. | Thai citizens; landless or small landholders. | Cannot cut or use forest trees; no grazing. |
| Integrated Social Forestry (CSC)            | 2.8 ha of agricultural land use; Inheritance rights. | Responsible land stewardship. | Thai citizens; landless or small landholding; forest occupancy before 1982. | 25-year contract. |
| Thailand Forest Village Program              | Forest Products. Exchange transfer lease, mortgage, and inheritance rights. | Manage land according to approved use. | Households and individuals; also includes economic organization, units of armed forces, state offices, political and social organization. | Use according to assigned practices or can be rescinded. |
| Stewardship Certificate Program (STK)       | | | | |
| Vietnam State-forest Lands (Decree 02/CP)   | | | | |
| Laos Customary Rights                       | Agricultural crops; 80% of commercial timber after 15 to 30 years. Inheritance rights on previously cleared land. | Responsible land stewardship; form a legal association; follow forest management plan. | Villagers from 12 villages in Forestry Association. | Restriction agreed upon jointly by users' group and FD. |
| Decree No. 54/MAF                           | NTFPs for commercial purposes; bamboo, rattan, vines, timber for domestic use; traditional hunting and fishing. No transfer rights. | | | |
| Ya Poey Forest, Ratanakiri Province         | Commercial timber harvesting and NTFPs, subsistence products, permanent agriculture in delineated areas. | Responsible land stewardship; form a legal association; follow forest management plan. | Villagers from 6 villages in Forestry Association. | | |
| Indonesia Sangau Social Forestry Development Project, West Kalimantan | Customary rights within bounds set by custom and law for collecting forest products, hunting and fishing. Inheritance and customary transfer rights. | Develop and implement 25 and 5 year plans; pay taxes and royalties, market timber products; maintain accurate accounts, safeguard and maintain forests. | Participatory Forest Management (PFM) body composed of representatives from 8 villages. | Follow rules and regulations of PFM body. |
| Malaysia Native Customary Rights in native customary rights land (section 47 Forest Ordinance 1956) | Subsistence and small holder commercial farming, collecting NTFPs timber for domestic use, fishing and hunting. Inheritance and customary transfer rights. | Enforcing customary forest management laws. | Individuals, groups or households which have their root in custom. Generally not written. | Not specified. |
| Nepal Community Forestry                    | Exclusive use right must be used for forestry. | | | |
| Community Stewardship Agreement (CSA)       | Sharing of income from sale of timber, NTFP. Inheritance rights. | Responsible land stewardship; form a legal nonprofit organization. | Committee members. | Illegal felling; encroachment. |
| Ancestral Domain                            | | | | |
| Philippines Community                       | | | | |
| Community Stewardship Agreement (CSA)       | | | | |
| Ancestral Domain                            | | | | |
### Table 5.1 (continued) Community-Based Forest Management Policies in Some Southeast Asian Nations

<table>
<thead>
<tr>
<th>Forest Protection Contracts</th>
<th>Product and Transfer Rights</th>
<th>Responsibilities</th>
<th>Participants</th>
<th>Restrictions</th>
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<th>Product and Transfer Rights</th>
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<td>Production Forest</td>
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Note: NTFP = Non-Timber Forest Products, FD = Forest Department

### Table 5.2 Community-Based Forest Management Policies in India

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<th>Product Rights</th>
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<th>Participants</th>
<th>Restrictions</th>
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Note: NTFP = Non-Timber Forest Products, GFD = Government Forest Department, HRMS = Haryana Resource Management Societies, FPC = Forest Protection Committee
**Articles 74-75** provide for a person who is the temporary possessor of a piece of property becoming titled owner, if certain conditions are met, such as possessing the land in an undisputed manner for five consecutive years. Under temporary possession, ownership is not vested in any one person and a third party can claim or contest a landholder's rights. Titled ownership provides better protection for the owner's interest. Deputy Cadastral Chief Seak Vanna clarified that since 1989 there has been no time limit except for a one-month period for posting notice.

**Article 76** states that any land that a temporary possessor has abandoned for three consecutive years should become the private domain of the state. Cadastral officials say that the three-year abandonment rule does not apply to land to which a person had legal title/ownership (gammaset).

**Article 70** states that if land has been left fallow in order to regenerate its fertility, this does not constitute abandonment. Cadastral Deputy Chief Seak Vanna confirmed that the law does not specify any limit as to the number of years that land may be left fallow. Central and Ratanakiri provincial Cadastral officials have said that planting of perennial trees on fallow land helps to establish prior possession of fallow land.

**Articles 36-39** provide for co-ownership (sahagammaset or gammaset ruom knea). This is a "joint tenancy that is indivisible, "meaning the property cannot be divided up for each of the co-owners. Each owner is responsible for repair, maintenance and planting on the property. In addition, all co-owners must unanimously agree if the property is to be sold or its function changed. An exception to this consensus approach can be made if all of the co-owners have unanimously agreed to create a different procedure for making decisions.

The Land Titles Department can grant individual ownership rights for both settled and shifting agricultural plots. For shifting agriculture Colm (1997:24) states an "individual family could obtain title to 4 or 5 plots of land (totaling no more than 5 ha) within which they could rotate their agricultural plots." In theory the Land Titles Department can also grant communal land title. "Members of a village could join to obtain co-ownership or communal title to village lands, within their customary boundaries, continuing to practice shifting cultivation within those boundaries" (Colm 1997:24).

**Law and Policies affecting State-Claimed Forest Lands in Cambodia**

In terms of state-claimed forests for which the intention is to manage the land either for the protection and use of existing forests or for the regeneration of degraded forests, the law and national policy are less clear. The Ministries of Agriculture and Environment are currently preparing a draft Community Forestry Sub-decree that would authorize individuals or associations to access and use forest lands by entering into contractual arrangements with the government. Short of a national community forestry policy, social forestry has already been introduced in several pilot programs in Cambodia, with the goal of insuring the long-term security and stability of the livelihood of rural and forest dwellers while protecting, conserving, and rehabilitating the environment by increasing the area of forest cover.

The two pilot project we will consider are the Prey Ler community forest in Tramkak District, Takeo Province, and the Ya Poey community forest in O Chum District, Ratanakiri Province. In Takeo there is no forest and the community forest agreement was designed to encourage the regeneration of degraded forest lands. In Ratanakiri the forest is in relatively good condition and the community forest agreement was designed to protect the forest from both exploitation by both local and by outside stakeholders.

**Prey Ler Community Forest, Tramkak District, Takeo Province**

At the end of 1994 the Department of Forestry signed an agreement granting the twelve villages around Prey Ler community forest the right to manage the forest for 60 years. The agreement was
endorsed by the Ministry of Agriculture. To sign the agreement it was necessary for the twelve villages to form an association, the Tramkak District Inter-Village Community Forestry Association, an amalgamation of the twelve village development committees, governed by regulations and by-laws approved at the provincial level by the governor (Paterson and Ung Sam Ath 1994).

The agreement acknowledges 2 types of land within the 500 ha plot: 300 ha of land already cleared and utilized for upland cropping; and 200 ha still under natural but degraded vegetation. On the 300 ha of cleared land, individual ownership is informally recognized by the users' group and inheritance transfer rights are recognized. On this land, farmers are required to intercrop among their upland food crops, fast-growing, soil-improving tree species, and long-term high value native timber trees. The Forestry Department recognizes 15 year tenure on this land provided that a sufficiently high tree density is maintained. In addition, if farmers plant long-term high value native timber species, a contract period of 60 years is recognized.

The degraded forests are to be managed communally by the users association. Forest enrichment is to be conducted with long-term high value-native species. Thinning and pruning of branches is allowed and after 3 years of protection villagers can collect firewood, medicines and other non-timber forest products. After 30 years villagers can begin to harvest long-term timber trees; 20% of the timber harvested for sale belongs to the Forest Department and the remaining 80% to the users' group. In addition, the Forest Department can collect 10% of the timber products harvested for domestic consumption, and 10% of the value-added timber products processed within the village. Restrictions on use rights are agreed upon jointly by the users' group and representatives from the Forest Department.

**Ya Poey Community Forest, O Chum District, Ratanakiri**

On July 4, 1997, a community forest agreement for Ya Poey forest was endorsed by heads of District Provincial Forestry, Agriculture, Environment and Land Titles offices in Ratanakiri Province. According to the Governor, this process represents a *de facto* recognition at the provincial and local government level for Ya Poey Community Forest. At this point, however, the responsible Ministers and Central Department Heads in Phnom Penh have not yet recognized this agreement (Paterson 1997).

This contract approved a ninety-nine year forest protection concession for the Ya Poey Community Forest Association. This forest comprises about 4,500 ha and is used collectively by six villages. The forest is divided into four sections which are respectively named in the Kreung language: Stieng, O Taberr, Nyao, and Phnom Tapieng forests. Collectively this area has been given the name Ya Poey forest after one of the founding elders of the Kreung communities. Of the six villages using this forest some had earlier established rules of conservation. Elders in Koy village outlined three traditional rules for O Taberr forest. These forbid cutting the forest for swidden, burning, and cutting large trees.

In the spring of 1997, the 6 villages formed an association and agreed on forest protection regulations, and the functions and responsibilities of the association. Ya Poey community forest allows members to collect bamboo, rattan, and vines for domestic consumption; cut timber for domestic purposes after getting permission from the relevant authorities; gather other NTFPs for commercial purposes as long as government laws are respected and the forest is not destroyed; and hunt for small animals and fish using traditional hunting and fishing gear. The community forest regulations prohibit burning, all kinds of timber exploitation for sale, clearing land for swiddens and home gardens, mineral exploitation, fishing and hunting using modern technology and/or for commercial purposes, and hunting large mammals or endangered species.

**How Does Cambodia Compare?**

Land law and policy in Cambodia are in early stages of development. While policy makers are preparing national social forestry policy, social forestry efforts have received national and provincial level recognition on a case-by-case basis. The absence of national policy made it possible for stakeholders in Prey Ler and Ya Poey community forests to develop management models appropriate for their unique situations. Despite large differences in the quality of forest cover and the types of communities involved, these projects developed similar approaches (see Table 5.1)². Most importantly they both require users to form an association of villages interested in managing the common forest. This is an interesting point because it is the exact reversal of what is found in Thailand and Vietnam, two of Cambodia's neighbors,
where state sponsored social forestry efforts have focused almost exclusively on granting usufruct certificates to individuals for managing state-claimed forest lands and have developed no mechanisms for recognizing community management of these lands. Let us briefly compare the social forestry models found in Cambodia with those found elsewhere in the region. We will do this according the 3 types of programs discussed earlier.

**Usufruct Certificates Issued to Individual Households**

The Philippines and Thailand both grant usufruct certificates (CSCs in the Philippines and STKs in Thailand) to farmers occupying state-claimed forest lands in areas that are suitable for permanent agriculture. In both cases policy makers were trying to address credit constraints faced by squatters. While recognizing that full formal ownership would be ultimately desirable, policy makers perceived that a useful partial substitute would be granting certificates that provide usufruct rights but not ownership. These usufruct certificates were expected to enhance squatters' security of tenure and thus positively affect investment incentives and productivity.

Empirical analyses of the forest usufruct certificates in Thailand (Feder et al. 1988) concluded that recipients of these certificates did not have any advantages over other squatters in gaining access to institutional credit, and that both squatter groups (with and without certificates) received significantly less institutional credit than titled farmers who provided land collateral. Access to medium- and long-term credit was equally and severely limited for both squatter types. The sale value of land covered by a usufruct certificate was virtually the same as that of equal quality land not covered by a certificate. Similarly, capital formation did not differ significantly between STK recipients and other squatters. These empirical results thus confirmed that in Thailand, the provision of usufruct certificates to squatters in areas where they are well established is not an effective policy tool for improving economic performance.

Vietnam's program for providing usufruct certificates for agriculture and forest lands to individuals and households differs from those in the Philippines and Thailand in at least two essential ways. First, perhaps because Vietnam does not recognize private ownership, even for agricultural lands, it has given holders of usufruct certificates broad legal rights to transfer land including rights to exchange, transfer, lease, mortgage, and pass on land for inheritance (Sikor 1995). These rights are theoretically as good for forest lands as they are for agricultural lands. While a farmer’s right to mortgage land for which he has a usufruct certificate is limited to state banks or Vietnamese credit organizations permitted by the state, anecdotal evidence suggests that short- and mid-term loans are more available to farmers in Vietnam than to CSC and STK usufruct holders in the Philippines or Thailand.

The second major difference between the programs for is that while farmers in the Thai and Philippine programs have few rights of transfer, they are free to plant what they like, including agricultural crops, on their land during the 25-year contract period. In Vietnam, however, the one right the state reserves for itself is the power to specify the land-use category and to recover land if it is not used according to its assigned purpose. Consequently, many upland farmers in Vietnam find that land titling may actually reduce the stability of their land tenure as the implementation of this policy may constrain their right to continue cultivating their land in their preferred way.

Social forestry programs in Cambodia do not offer individual usufruct certificates to farmers living on or farming state-claimed forest lands. In the Prey Ler project the users’ group informally recognizes individual claims to land cleared before the initiation of the project. The 1992 Land Law makes it possible for an individual who is the temporary possessor of a piece of land to become titled owner if they can prove undisputed possession of the land for five consecutive years. In theory then, farmers in Prey Ler may have been able to gain private title to some of the land which forms Prey Ler forest. From the farmers’ perspective this may have been better than the community forest agreement. However, in cases where the Forest Department does not want to grant private title (such as in Prey Ler) farmers may prefer a mechanism whereby they could be granted limited usufruct rights as individuals rather than as a community. While in general, private title is a better mechanism for recognizing a farmer’s claim to land that is suitable for farming, in some cases the Forest Department may find it useful to have a legal mechanism to provide individuals with limited usufruct rights on state-claimed forest lands.

8
Usufruct Certificates Issued to Communities

The Prey Ler and Ya Poey community forests projects both offer usufruct certificates to community associations to manage and protect state-claimed forest land. In return for forest management, members in Ya Poey forest association can collect most forest products for domestic use as well as many NTFPs for commercial purposes. In Prey Ler, members will receive 80% of the profit from commercial timber when it reaches maturity. These are both good examples of social forestry programs based on granting usufruct rights to local communities. It is useful, however, to look at other legal mechanisms for recognizing community forest use and management rights.

In Laos the Minister of Agriculture and Forestry in Laos signed on 7 March 1996, Decree No 54/MAF on customary rights and the use of forest resources (Laos 1996). This decree defines customary rights as those rights and obligations held by an individual, a group, or households that have their root in custom and are accepted by law, and although generally not written, have the force of law. Custom is defined as the result of practices and usage that are constant and regular, are at least one generation old, are general and widespread, and are seen by individuals or groups as creating rights and obligations among themselves. This decree recognizes these rights, states that they may be transferred only within the community through inheritance and other means accepted by custom, and that they can only be removed by the gradual lapsing of custom, by explicit agreement from the holder of the right, or by law. The decree provides protection against encroachers, recognizes local methods of resolving land and resource disputes, and provides for compensation in all cases where the users means of livelihood are affected. This decree grants villagers rights to harvest forest products for domestic needs and to harvest forest products for sale as specified in district forest management contracts.

This broad but short decree provides land tenure security for customary villages over their land and forest resources. As long as this decree is not limited by other decrees or laws, customary communities in Laos have been empowered to protect and manage their resources.

The Philippines has several mechanisms for recognizing long-term community rights to forest lands. One type of community agreement is the Forest Lease Management Agreement (FLMA) offered to families, communities, or incorporated groups. For a given period of time holders of an FLMA may harvest, process, sell, or otherwise use the products grown on the forest land covered by the agreement. A second type of community agreement in the Philippines recognizes the rights of indigenous minorities to manage their ancestral lands. This program delineates boundaries of ancestral domains through ground surveys and, in the process, identifies specific indigenous communities that have rights to these areas as traditional territories. These communities are then issued Certificates of Ancestral Land Claims.

The Philippines also issues Certificates of Community Stewardship Agreements (CCSAs), part of the Integrated Social Forestry Program, perhaps the best articulated community forest management initiative in the region. CCSAs run for 25 years and are renewable for an additional 25 years. The community is charged with preparing a management plan and developing, conserving, and protecting forest resources. Forest communities applying for a CCSA must prepare an application form accompanied by the forest community’s constitution, by-laws, articles of incorporation (whenever applicable), and a copy of a certificate of registration. Forest communities applying for a CCSA must establish a non-profit corporation registered with the Securities and Exchange Commission in Metro Manila (a requirement that effectively precludes many forest communities from applying for a CCSA). In addition to the incorporation documents, DAO 4/1991 requires communities applying for a CCSA to submit a sketch map of the area, a list of association/community members, a preliminary plan, and a census of all individuals residing within the area applied (Plantilla 1993).

The community forestry approach in Nepal is more structured than the Laotian recognition of customary land-use rights but less structured than the Filipino programs. The 1993 Forestry Act (updating the 1972 Community Forestry Act) gave District Forest Officers the power to hand over any part of national forests to users’ groups in the form of a community forest (Tumbangphe 1997). This act entitles users’ groups to develop, conserve, use and manage such forest, and to sell and distribute the forest products by independently ficing their prices according to an operation plan. The users’ group is an autonomous and corporate body with perpetual succession and may sue or be sued in its own name like an individual. The Nepali program was designed primarily to address community management of degraded forest lands. In the middle hills the program has had clear success in encouraging the regeneration of sal (Shorea robusta) forests.
In light of the recent fire crisis in Indonesia it is increasingly critical to recognize and acknowledge the importance and value of customary land-use rights. The Indonesian Constitution of 1945 recognizes customary property rights (adat). These rights, however, were later limited by the Basic Forestry Law with the result that customary lands can be removed from village control and given to private timber and plantation concessionaires. This resulted in strife and conflict over the control and management of these lands. Land grants to timber and tree plantation concessions often remove the only people with any concern for the long-term stewardship and careful management of the land—the smallholders claiming customary adat land rights. More critically, plantation and timber concessions to large companies undermine incentives at the community level to enforce traditional forest management practices, as well as to prevent, report, and fight fires.

Thus if the Government of Cambodia wishes to go ahead with plans to introduce large palm oil and other tree crop plantations in Ratanakiri, it is essential to create policies for granting long-term communities customary rights to their land while simultaneously making it possible for them to lease these lands to tree plantation concessionaires. The local communities should retain the right of canceling these leases if they are deemed not to be to their benefit. Policy makers in Sarawak, Malaysia, are currently investigating mechanisms whereby lands included in the Native Customary Rights Lands could be made available for lease to palm oil concessionaires.

In seeking to develop a national approach to social forestry issues in Cambodia, the Ministries of Agriculture and Environment should look closely at the example from Laos which greatly simplifies the bureaucratic paper work required by both local communities and government administrators for recognizing customary land rights and empowering local people to continue managing their forest resources. If it is felt that a more formal mechanism is necessary for recognizing the rights and responsibilities of forest communities and delineating the forest lands affected, then the policies developed in Nepal and the Philippines should provide useful insights for the development of locally appropriate approaches.

**Forest Protection Contracts**

The third type of community-based forest management programs is based on contracts between forest protection committees and state forest departments that spell out the specific rights and responsibilities of partners as well as the length of the agreement. In general forest protection contracts between forest management agencies and local communities (such as found in India and Java) have been the most successful forms of community forestry in South and Southeast Asia.

The government of Indonesia, for example, recognizes some 6,000 forest villages on Java containing at least twenty million people (Peluso and Poffenberger 1989). The social forestry program is designed to offer farmers a greater volume and wider range of benefits and benefits over a longer period of time. At the village level, a forest guard/community organizer works with local farmers to design and implement land management plans for state-claimed forests. Bargaining sessions between the forest-farmer groups and the forest guard determine the trees to be planted on the state-claimed lands and form the basis of a contract between the parties spelling out the rights and obligations of each group. Based on land quality and spacing, the State Forest Corporation determines the primary forest species to be planted. The plants used for filling in the spaces between forest trees, for fencing, and for intercropping are chosen by the forest-farm efficient land-use groups. A general contract is used for all social forestry projects, but the content of the contracts is determined individually for each project. Contracts are written in the local language so that all parties understand the content. These contracts form the basis of the one-year social forestry plans and are renewable as long as both sides are happy with the results.

In Vietnam a similar system is found on land managed by state forest enterprises, as well as on land covered by Decree 327 projects. Some workers are paid wages for forest management operations on a performance basis and others are allocated the management of pieces of forest land for raising food for a given period of time. The contracts basically provide payments to households for successful replanting, but do not include the transfer of any form of use rights to households.

Cambodia does not yet have any legal mechanism for granting forest protection contracts. These mechanisms are useful tools for replanting forest cover or allowing natural forest cover to regenerate in areas where the Forest Department wants to maintain control of the land and the trees. These types of contracts are less beneficial to local people because they severely constrain their rights to land and
products. Yet these contracts are useful tools in areas where population density is high and farmers are willing to invest labor in protecting forests in return for being allowed to intercrop agricultural crops between the trees or in return for cash payments. A forest protection contract is another model that might have been appropriate for the 300 ha of cleared land utilized for upland cropping in Pray Ler Community Forest.

Conclusions and Implications for Cambodia

It is increasingly recognized that social forestry may serve as one of the most important instruments for development of the marginal lands and their communities. State-claimed forest lands, with or without actual forest vegetation, have become the last frontier. As de facto if not de jure managers of these resources—resources that have become more valuable to the society as a whole, given recent investments in downstream infrastructure, agricultural intensification, and industrialization—upland inhabitants may find they have increasing leverage in determining their future.

We are seeing that the development of community institutions for the management of local resources is an important element in revitalizing local economies and improving the conditions of rural people. Securing tenure is the first step to developing these resources in an environmentally sound and sustainable manner and the only avenue to an improved standard of living for the people at the periphery and for the nation as a whole. Empowerment must be concerned not only with participation in planning and management but with access to information—about production methods, about processing technology, about market conditions. Voices from the field—from the Philippines, from India, from Nepal, and elsewhere—increasingly call for the development of rural people’s marketing skills as necessary for the conservation of forest resources and improvement of community welfare (Leocadio 1995; Fortman 1988; Edwards 1994).

The multi-faceted role that the forest fulfills in the cultural, economic, and environmental milieu have put this resource at the center of conflict so that it has become an arena for potentially some of the most important social and political changes in our time. Recognizing that there are no “miracle trees,” no “quick technological fixes,” and no “cookbook recipes for success” is the first step. The varied and complex systems, natural and social, existing in the highly adaptable highland communities require flexible and pragmatic response. Policy makers and planners must accept and accentuate the benefits of the diversity that complexity implies. Social forestry is one method by which we may explore the opportunities for development of the currently socially and economically marginal areas where much of this rich cultural and biological diversity lies.

Social forestry has to its credit a significant number of successes and the forest has been restored under local management where government commitment and supporters’ perseverance has been lasting. As the resource recovers, however, it is anticipated that debates over the capability of the public to manage the resource and over the value of the forest as a national asset will re-emerge. One currently sees such a situation surfacing in Nepal. The successful protection of state forest lands by the community in an area of one of the oldest social forestry projects (Nepal-Australia Project) in the central hills has resulted in a luxurious regrowth of forest vegetation. Many villagers now want to establish a sawmill to benefit from the harvest of the timber crop. This attitude makes both the district and national forestry officials very nervous, to say the least. They can imagine the forest cleared and the situation returned to what it was twenty years ago. Even after nearly two decades, the cooperative management of forest resources in Nepal continues to be a wary marriage of both competing and conflicting interests.

Is the new orientation toward social forestry of Asian forest departments a recognition of their new constituency? Historically it is observed that as long as there is valuable resource to exploit, the powerful elite will be there to claim it. When the resource is destroyed, the forest department will lose its political support. Having exhausted the resource for which it was responsible, it has in essence lost the source of its power, thence its political base: its legitimacy is under threat (cf. the case of the Philippines). Forest departments across Asia must recognize that the local communities and their revitalized forests are their new power base. Accordingly in the coming years, we will see the profession reorient itself to serve the needs of this new constituency as the rural communities call for more sophisticated silvicultural inputs to increase the productivity of the forest they control (Karkee 1995).
New Social Forestry Policy in Cambodia

"Social forestry" is essentially a process of institutional change for which the forest provides the backdrop or the arena. The special historical and cultural experience of each social group makes each situation unique. To seek a "model" for Cambodia may be to fall into a simplistic trap of technological determinism. Most recent studies of the development of agrarian societies examine technological elements within the social context (Perdue 1994). Climate, soil, crop varieties, livestock, and equipment may constrain but do not determine what farmers grow. Population growth, soil fertility, class structure, and market development are common problems worldwide. Only the analysis of politics, economics, and cultures can lead to an adequate explanation of the needs and responses of a particular community.

It may be informative to study the activities of other cultures and societies in their attempts to integrate upland and rural communities into mainstream development, but there is no one best model, no off-the-shelf solution, that can be successfully applied to every case. The most suitable approach will emerge from and be molded by local institutions and local knowledge. The most successful social forestry experiments examined, whether in India, Nepal, Thailand, Indonesia, or the Philippines, are observed to be those that most closely reflect their own social, cultural, and economic environment while integrating the five basic principles and organizational guidelines previously noted. The most appropriate management system is an ever-evolving program recognizing the interactive relationship between the interlocked, hierarchical natural and social systems.

Even in the absence of a national social forestry policy, Cambodia already has two successful social forestry legal instruments in the Prey Ler and Ya Poey Community Forestry agreements. The continued success of these and similar programs is dependent on maintaining sufficient flexibility at the national and provincial levels to allow local institutions and knowledge to mold locally unique solutions. Rather than a single social forestry policy, it is recommended that Cambodia develop a "menu" of social forestry options that allows planners and communities to pick and choose the solutions best suited to their needs. Such necessary flexibility is not to be found in models but in processes incorporated in institutional mechanisms such as well-defined forest user groups. Institutional structures that recognize this will reduce the friction and conflict in resource management.

More specifically, in order to broaden the types of social forestry options available, I believe that policy makers in Cambodia should look at developing legal mechanisms for granting forest-use rights to individuals as well as the community approach already adopted, and that they should consider whether circumstances exist where forest protection contracts might be appropriate. With regard to individual versus community rights there may be a preference for different types of rights according to ethnicity. I believe, for example, that the usufruct certificates issued in Vietnam, granting individuals broad legal rights to transfer lands, reflects a cultural preference on the part of the lowland Kinh for individual usufruct rights. Among the ethnic minorities in the uplands, however, these individual rights are valued less, and, at least among some groups, there is desire for a mechanism that would allow them to acquire land communally. In Ratanakiri, Colm (1997:24) found that members of the Jarai ethnic group would prefer individual title to their land whereas members of the Tampuen group would prefer communal title. It is also very possible that the lowland Khmer would also prefer individual title. Hence a well designed menu of community forestry options would allow mechanisms for granting individual as well as communal usufruct rights to state-claimed forest lands.

References


Endnotes


2 The similar approaches developed in these two programs may be due to the influence of Gordon Paterson who worked closely with the design and implementation of both programs.