

**Forest Stewardship in Ratanakiri:
Linking Communities and Government**

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COMMUNITY FORESTRY INTERNATIONAL

Supporting Sustainable Management & Restoration of the World's Forests

Community Forestry International (CFI) assists rural communities to regenerate forests by helping policy makers, development agencies, NGOs, and professional foresters develop the legal instruments, human resource capacities, and negotiation processes and methods to support resident resource managers. Community forest management contributes to livelihood security and poverty alleviation that, in turn, leads to sustainable development. CFI enables community forest management strategies to become an integral part of stabilizing forest management worldwide. CFI strategies are implemented through four interrelated thematic program areas. These include 1) Regional and National Policy Dialogues, 2) Mediation Processes and Methods for Enhancing Tenure Security, 3) Participatory Research and Field Programs, and 4) Communication. The program components are designed to engage national policy makers, professional practitioners, and communities to facilitate learning, reduce conflicts, and ultimately create management agreements that result in more equitable, sustainable forest management.

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This report has been developed as an output of Community Forestry International's Cambodia project. The project has been generously funded by the United States Agency for International Development and the John D. & Catherine T. MacArthur Foundation. The observations and opinions expressed in this publication are those of the authors and do not necessarily reflect any opinion whatever of these donors.



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Front cover photo: Kreung ethnic minority house in Rattanakiri.
Back cover: Poey Village in Rattanakiri.

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FOREWORD TO THE COMMUNITY FORESTRY SERIES-CAMBODIA

The major goal of CFI's mission in Cambodia is to support the involvement of civil society in the management of forests. Rural communities have a special role to play as forest stewards, both due to their logistical proximity to natural forests, but also because of their dependency upon these resources for shelter, water, fuel and food. In many parts of the world, forests are important components of the local economy, whether for subsistence goods, non-timber forest products, employment in commercial lumber production, livelihood generation, or involvement in the tourist industry. In Cambodia, rural communities are concerned over the destruction and mismanagement of local forests and are seeking to address problems of rapidly changing landscapes by establishing community forestry committees, mobilizing forest patrols to guard against illegal logging and land grabbing, framing user rules to control access, and securing management tenure.

In much of Asia and other parts of the world, forests are legally considered public land. While some communities may be interested in managing forest lands, they often have little basis under the law to exert authority over management decision-making. In recent years, a growing number of governments have established policies and programs to allow communities to engage in management “partnerships,” typically with national forestry agencies. India, Nepal, Cambodia, and the Philippines have passed laws that extend clear use and management rights to specific villages over state forest land.

In Cambodia, there has been a growing trend towards engaging local communities in forest management, both in planning and field activities over the past decade. In part, this transition is driven by recognition that government agencies lack the staff and financial resources to ensure sustainable use. This paradigm shift in devolving management is also being pushed from below by demands of rural, forest-dependent people. There are factors impeding this transition towards a more decentralized, participatory approach involving a wider range of stakeholders.

During the 1990s in Cambodia, commercial timber concessions covered nearly two-thirds of Cambodia's forest area and logging operations were rapidly degrading the nation's once rich forests. In 2002, the Royal Government of Cambodia suspended 4 million hectares of logging concessions, and passed the Community Forestry Sub-Decree in 2003 paving the way for a new approach to forest management. A 2003 GTZ/RGC report identified 8.4 million hectares of land suitable for community forest management, representing over forty percent of the nation's land area. However, illegal logging remains a problem and forest land clearing for speculation is rampant in many parts of the country. Further, there is economic pressure to convert forests to estate crops.

In 2003, Community Forestry International (CFI) initiated a project to support the development of community forestry in Cambodia. The CFI approach has involved building the capacity among Cambodian NGOs and Forestry Administration staff to begin implementing CF projects around the country, while supporting the development of operational guidelines for the National CF Program's implementation. CFI has helped to mobilize financial and technical support from the donor community, as well as provide training in financial and organizational management, conflict resolution, gender awareness, and sustainable natural resource management.

CFI also supports the indigenous communities in Ratanakiri where communal land management is under pressure from outside land speculators. The breakdown of communal land management systems, through privatization, is leading to widespread land loss among tribal households, and ultimately to their impoverishment and social marginalization. The pending collapse of communal tenure is opening the path for landscape-level forest clearing and land conversion to commercial estate crops. CFI seeks to help local communities sustainably manage their natural resources and conserve their cultural traditions by supporting local networks and organizations that provide legal resource rights education and promote cultural solidarity.

This series of publications on community forestry and land-use issues is designed to educate and encourage a greater awareness of the challenges facing forest dependent communities, while suggesting possible strategies to stabilize the nation's forests in ways that respond to the needs of Cambodia's forest people. As part of its greater mission, CFI attempts to disseminate information that can stimulate an on-going forest management dialogue among government, donor organizations, NGOs, the international community, and the Cambodian people. It is our hope that by transitioning management to communities and building the capacity of government and NGOs, Cambodia's critical ecosystems will be conserved and utilized in ways that benefit the rural poor.

-Mark Poffenberger, Ph.D.
CFI Executive Director

ACKNOWLEDGMENTS

This research initiative was supported by the John D. and Catherine T. MacArthur Foundation and the United States Agency for International Development. CFI appreciates the support these organizations have provided for our action research and field implementation program. CFI is indebted to the communities of Ratanakiri for sharing their learning with the field researchers. We hope the learning emerging from this study will lead to programs and policies that enhance the natural resource security of the region's indigenous people and contribute to their livelihoods.

The authors would also like to thank all the other individuals who contributed their knowledge and views regarding ways to strengthen the role of communities in managing forests. Within the Forestry Administration, we are grateful to H.E. Ty Sokhun, Dr. Sokh Heng, and Mr. Lao Sethaphal for their guidance. We also appreciate the ideas of Dr. Steven Schoenberger of the World Bank. Finally, we are indebted to the local government officials and civil society organizations that are working to improve the sustainability of land and forest resources in Ratanakiri. Special thanks are due to the Ratanakiri Network Support Program team, the Highlanders Association, NTFP, CEDAC, and all the other organizations working in the field.

Ratanakiri Province is located in the northeastern corner of Cambodia and is endowed with some of the most biologically diverse lowland tropical rainforest and montane forest ecosystems of mainland Southeast Asia's. Two-thirds of the population of Ratanakiri is comprised of indigenous peoples from seven ethno-linguistic groups who continue to depend on traditional land use systems for their livelihood. Due to the remote location and the political isolation of the region, these unique environments have survived through the 20th century, but are increasingly threatened by internal and external forces. This report explores how to enhance the natural resource security of Ratanakiri's largely rural population, while conserving the region's remaining natural forests.

Since the 1960s, the development of rubber plantations and other estate crops began jeopardizing the environment and the indigenous peoples of the region. In the late 1990s, a number of large timber, coffee, rubber, and cashew concessions were granted to outside investors. Over the past five years, the granting of extensive concessions by the Royal Government of Cambodia (RGC) has declined sharply, however illegal land grabbing has grown rapidly and is destabilizing rural communities who are losing their lands and forests, while accelerating deforestation. The Forest Administration of the RGC is concerned over forest loss in Ratanakiri, but has limited resources to demarcate the State Public Forest Lands and implement effective protection on the ground. Rural communities lack the legal documentation to prove their rights over land and forest and, consequently, are in a weak position to contest illegal land alienation and illegal logging by more powerful outside actors. This study raises the question “Could there be a mutual advantage in collaboration between the Forest Administration and rural communities in Ratanakiri, whereby communities could protect and manage State Public Forest Lands, under the recognition of the Forest Administration?”

There are a number of challenges and opportunities in developing such a partnership. The first challenge is finding ways to relate indigenous resource tenure systems and use practices to RGC laws, policies and programs, the most relevant of which are the Land Law (communal titling section), and the Forest Law with special reference to the Community Forestry Sub-Decree. This report attempts to outline some approaches that could be used relate actual land use practices to newly ratified community-based NRM laws and programs to establish a viable basis for collaborative management. The second challenge is finding ways to apply the tenure tools (communal titling, CF Agreement, CPA agreement, etc.) in ways that support existing land allocation and resource management systems that rely on communal decision making through traditional structures, while relating them to local government institutions. This paper suggests that the indigenous communities of Ratanakiri have strong incentives and potential to play a substantial formal role in managing and protecting local forests, in part due to their heavy dependence on natural resources for their livelihoods.

While the alienation of community land control has been rapid in recent years and continues to present major challenges for the sustainable use and conservation of remaining forest lands in Ratanakiri, it is the growing threat of loss of resource use rights that is driving communities to explore partnerships with each other, the RGC, NGOs, and civil society in general. If properly staffed and funded, a program to implement existing community-based natural resource management laws and policies in Ratanakiri would likely be popular and widely adopted in the province.

-Mark Poffenberger, Ph.D.
CFI Executive Director

LIST OF ACRONYMS

CFA	Community Forest Agreement
CFAC	Community Forestry Alliance for Cambodia
CFM	Community Forest Management
CFMC	Community Forestry Management Committee
CFMP	Community Forest Management Plan
CFO	Community Forestry Officer
CFSD	Community Forestry Sub-Decree
DBH	Diameter at Breast Height
DFW	Department of Forestry and Wildlife
EIA	Environment Impact Assessment
FA	Forestry Administration
FARCF	Forestry Administration Recognized Community Forestry
ICC	International Cooperation Cambodia
LL	Land Law
MOE	Ministry of Environment
NPRS	National Poverty Reduction Strategy
NREM	National Resource and Environmental Management
NTFP	Non-Timber Forest Product
PLG	Partnership for Local Governance
PLUP	Participatory Land Use Planning
PRDC	Provincial Rural Development Committee
RGC	Royal Government of Cambodia

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INTRODUCTION

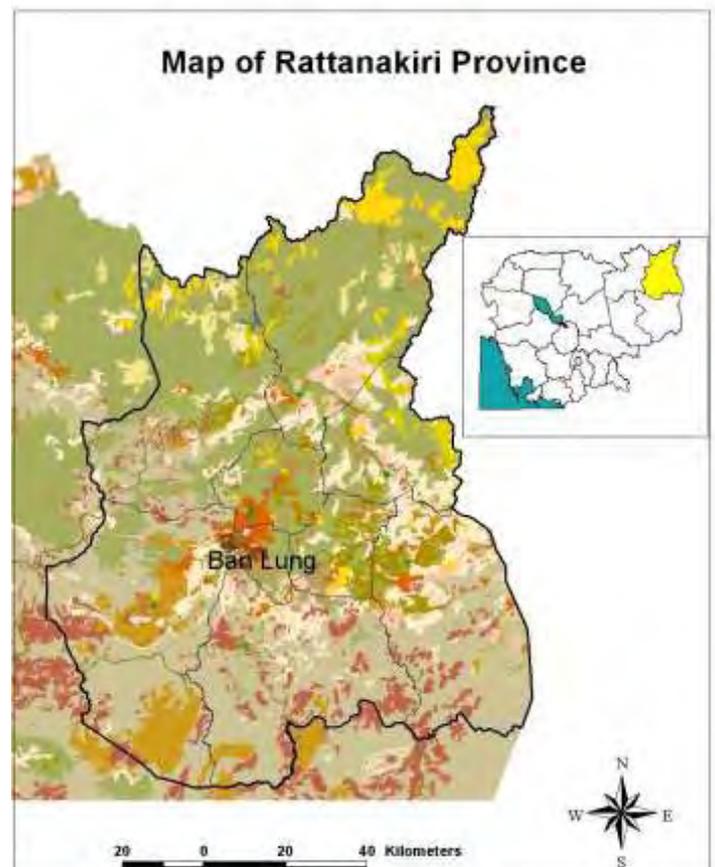
We are the people who live in the remote-isolated area in Ratanakiri, Cambodia; our daily life depends on forest products following our traditions.

-Pa Dol villagers, Jarai ethnic group¹

In the past the management of communal land and natural resources was good. The lands and resources were used without any conflicts between one village and another.

-Ul Leu villagers, Tampuan ethnic group²

Community Forestry Management (CFM) has been a traditional form of resource stewardship management in much of Cambodia for centuries. Under the Land Law (2001) and the Forestry Law (2002), as well as the Community Forestry Sub-Decree (2003), it is now possible to gain legal recognition for the resource rights of rural people in Cambodia. The establishment of a legal framework that can be supportive of community rights to natural resources upon which their livelihoods and subsistence depends comes at a critical time in the country's history. Why community management rather than leaving forest management to technical departments? Aside from their legitimate claims to the forest resources, communities represent an important resource for the protection and management of forests. Where communities are recognized and involved with the management of forests, they are often found to play an effective role in monitoring and enforcing forest management prescriptions. Communities possess immense knowledge of local forest areas, their species composition, water sources, and topography. Isolated rural communities also have the human resources to patrol remote forests tracts, where no agency staff could reach without considerable cost and time.



¹Vel Thea. et. al. 2006

²Ke Penh. 2006a

Communities have also been a force in the mismanagement and over-exploitation of forest resources. Community Forestry Management avoids this by building sustainable management capacity, project monitoring, and securing greater tenure rights so that communities have an incentive to protect the forest. In many parts of the world, communities who have been given long-term security over their traditional forests have become effective partners with forestry agencies. Communities who are empowered as forest stewards are often effective in controlling and influencing neighboring villages that would otherwise utilize the forest resources unsustainably. Supporting and promoting community use and management of forests is also a poverty reduction strategy for Ratanakiri. In many parts of Cambodia, forests are a major element in food security. Swidden farmers rely on forests for agricultural land to produce rice, corn, and vegetables, while many wild foods such as tubers and other root vegetables are collected in the forest providing famine foods when crops fail. The future of Cambodia's state public forests can best be ensured by enlisting community people in the conservation and protection of forests. It is an important strategy in reducing the unsustainable use of forest by outsiders and by community people.



Context

Ratanakiri Province is situated in the northeastern corner of Cambodia, bordering Lao PDR and Vietnam. The province is divided into nine districts with 240 villages and a population of 120,000 people, of whom 65 percent are minority hill tribes, 9 percent Lao, and 25 percent Khmer, etc. In the hill tribe villages, women and older people generally do not speak the national language, Khmer. Only about 5 percent of the people in more remote villages are literate, increasing to 10 to 20 percent in villages closer to towns.

For centuries, Ratanakiri has been one of the most remote provinces in Cambodia, populated with Tampuan, Kreung, Jarai, Brau, Kraveth and other ethnic communities. In the 1950's and 60's, rubber plantations were established in the province. More recently, coffee plantations have been planted, though the price of coffee has been low and expansion has slowed in recent years. Much land has been earmarked for industrial agricultural concessions. Since the 1960s, the development of rubber plantations and other estate crops began jeopardizing the environment and the indigenous peoples of the region. In the mid to late 1990's several concessions for agricultural plantations were granted, one of which was for 20,000 ha and would have required displacing 4,000 people. Several large logging operations were also approved in Ratanakiri in the late 1990s, including the Pheapimex forest concession located to the north of the Sesan River, near the newly formed Virachey National Park.

While negotiations with resident communities are required under current national policy guidelines, this has generally not taken place to date. Local people are concerned over the continued illegal land grabbing, as well as illegal logging pressures by outsiders that have increased steadily since the 1990s. Recently, Prime Minister Hun Sen designated Ratanakiri to be a focus of national economic development, with an emphasis on timber production, plantation establishment, and tourism. Plans include the paving of the highway from the Vietnamese border to Phnom Penh. The national government is also encouraging resettlement of lowland Khmer and decommissioned soldiers into the province. In the mid-1990s, the NRM Working Group in Ratanakiri estimated that 120 percent of the land area of the province had been allocated through either Protected Areas, designation "sales" of possession, long term leases and concessions for timber extraction, mining, and estate crops. Most of these concessions are currently "sleeping" or inactive, but represent sources of conflict with indigenous communities who claim most of the province as their current domain. The Land Law (2001) and Community Forestry Sub-Decree (2003) recognize community claims on resources, but a process to negotiate land claims among stakeholders has not been put in place.

Even more threatening has been the emergence of an aggressive land speculation market driven by external actors and private sector interests that hope to benefit from agricultural and tourist enterprise developments in the coming decade as new roads link this once remote province with Vietnam, Lao PDR, and other parts of Cambodia. Over the past two years, several hundred cases of illegal land sales have been reported by the indigenous communities, many resulting in conflict or the loss of control of land and forests by local villagers.

Problem Statement

Cambodia is currently going through an historic transition within the forest sector. Recognizing the environmental and social problems caused by unsustainable forest exploitation, 4.5 million hectares of commercial forest concessions have been suspended since the late 1990s. In addition, millions of hectares of forestland have been degraded and currently have little or no management. With several million rural people still dependent on natural resources for their livelihood, the Forestry Administration of the Royal Government of Cambodia is in the process of re-orienting the agency to engage communities in the management of degraded forests as well as ex-forest concessions and protected forests.

Currently the social, economic, and environmental stability of communities in the northeast of Cambodia is being threatened by a variety of pressures. For decades, the indigenous communities have largely been able to live according to their communal traditions, practicing farming with long fallows in the forests that surround their villages. In the past five years, however, the land rush has arrived in this remote corner of the world, with speculators eager to secure control over forest lands for planting commercial crops like cashew and rubber. Villagers relate that men with political connections come into the village with a jug of wine and a pig, and after a night of drinking, thumb-prints are stamped on blank paper, securing illegal deals that result in the loss of tribal lands. Within this environment it is also important to understand that “offerings” and “bribes” are also a form of threat. They are a display of power to which a villager refuses at his/her own risk.

One villager explained, “People with power are the main cause. They pay off a small number of people in the village, often those with local positions and power, and the community land is sold.” Another village leader lamented, “It was local officials who came to tell our village that we had no rights to the land we were told that we had to sell. They said that the land would be taken anyway, even if we did not sell it. We were tricked into selling 500 hectares. We want it back!” Such comments reflect the urgent need to establish legally binding agreements between the region's indigenous people and the government. There are a number of options for management of forests by indigenous communities in Ratanakiri due to their heavy dependence on forest products, and extensive local knowledge of their environment. Community-based approaches offer considerable scope, both for poverty alleviation and livelihood support, as well as for environmental conservation.

Over the past five years, the rate of landscape-level change in forest cover appears to be accelerating in Ratanakiri. Based on community reports and low-level air flights, it is evident that forest clearing is taking place in many parts of the province, but especially along the east-west highway, around Ban Lung and other district towns, and in areas with fertile red soils. Much of the land clearing appears to be driven by outside land speculators that anticipate the commercial development of the province, as soon as hard surface roads are completed linking the region to Vietnam and Lao PDR. This market integration is likely to occur within the next two to three years. Cashew, soybeans and rubber are the three most popular commercial crops displacing natural forest cover and swidden farmland.

While the land has largely been held under communal control by six local groups (Kreung, Tampuan, Jarai, Brau, Kavet, Kachok) for generations and, although the Land Law acknowledges communal tenure and creates protection against the alienation of village lands, illegal land sales are rampant. Once some type of documentation has been arranged, often with the collusion of local commune or district officials, and money has changed hands, land clearing typically begins. Village swidden land, including both fields and fallowed regenerating secondary forests are cleared, farmers' huts dismantled, and plots fenced. The exclusion of the local community from accessing plots that may vary in size from several hundred to several thousand hectares, places increased pressure on remaining village lands, often accelerating clearing of secondary forests for new plots. In addition, it is likely that some of the displaced village families seek forest lands in other parts of the province, resulting in forest clearing in other areas that may not have been under cultivation in the recent past. In 2004, Graeme Brown and Alistair Stephens conducted an analysis of factors that appear to be associated with forest clearing and land speculation identifying proximity to roads and urban centers, soil conditions, and mining as strongly associated with land use change³.

There are, however, major challenges in crafting viable management partnerships between communities and government. This involves bridging a huge cultural gap between indigenous cultures and values systems and their land use practices and tenure forms, with the government legal framework and development plans for the region. While the region is populated predominantly by indigenous peoples with its resources managed under traditional systems for centuries, government development plans and private sector interests are moving in rapidly with radically different management goals and strategies.



³ Graeme Brown and Alistair Stephens, 2004

Will community forestry be adopted as a strategy for economic growth? Will forest concessions and commercial operations and community forestry be compatible? Will the Royal Government of Cambodia have the political will to recognize the ancestral land and forest claims of Ratanakiri's ethnic minorities? Only time will tell. In this report, we provide some forest management options in Ratanakiri where the Forestry Administration and communities could cooperate to sustainably manage the region's forest, resources that are currently under growing pressure for conversion to estate crops.

This report draws on the results of research into traditional law and conflict resolution recently carried out in 15 indigenous villages in Ratanakiri and 3 in Mondulakiri Provinces⁴. The local researchers in this study were indigenous elders from the Highlanders Association and youth from the Indigenous Youth Development Programme (IYDP part of Non Timber Forest Products (NTFP) Project, Ratanakiri). The IYDP researchers also wrote the reports of this village research which form the basis of this report.

This report also draws on the experience of the Ratanakiri Network Support Project, an initiative that involves interactions of over one hundred indigenous extension workers engaged in dialogue with settlements in twenty communes across the province.



⁴See Backstrom et. al. (2006) for a summary of this research

A growing body of research is demonstrating that indigenous people in northeast Cambodia continue to operate well-developed land allocation and resource management systems that rely on communal decision making through traditional structures⁵. Management is based on the practical needs of maintaining livelihood strategies, through both rotational swidden agriculture and the collection of forest products. Communal forms of land tenure allow for the rotation of upland agriculture fields, and for the equitable distribution of land among community members⁶.

The swidden system is an integrated system of land use, where the distinction between forest and agricultural areas is often blurred. Farmers require secondary forest regeneration for soil fertility replenishment. Regenerating forests of different ages are reserved for cultivation. These younger secondary forests are intermingled with forested areas comprised of older growth that have been protected for generations as they are believed to possess strong spirits or serve as a burial forest area or because the land is too stony or steep for agriculture. In other cases, forests are preserved to shelter the village from violent storms, protect springs and water sources, or provide a convenient source of non timber forest products. Indigenous communities rely on these forested areas for many of their livelihood needs and consequently have developed effective and diverse systems to manage and protect them.

In the past, rotating the use of village lands and maintaining a dispersed distribution of villagers over the landscape were two key principles used by the hill tribe cultures for sustainable forest management⁷. This practice and the constant need of swidden farmers to promote forest regeneration for soil fertility means that overall forest cover (forest and secondary forest) in Ratanakiri has been maintained at 80% or more for several centuries⁸. Relatively low population densities assisted this maintenance of forest cover, though aerial photographs taken in 1953 show that areas with the most productive soils, such as on the basalt plateau, were intensively used for swidden farming.



⁵ See for example Condominas (1957; 1965; 1977[1957]) on the Mnong Gar of Vietnam, Dournes (1977) on the Jarai of Plei Ku, Vietnam, Matras-Troubetzkoy's (1974) study of a Brao village in Ratanakiri Province, and recent studies conducted by researchers and organizations working in Cambodia since the 1990s (e.g., Baird 2000; Baird, et al. 1996; Bourdier 1995b, 1995a; Ironside 1999a and 1999b; Ironside and Baird 2003; White 1996) (Backstom et al 2006).

⁶ Rotations are required in swidden farming to allow for fallow periods during which swidden fields grow back to forest, allowing soil fertility to recuperate (see, e.g., Izkowitz 1951; Conklin 1957) (Backstom et al. 2006).

⁷ Bourdier 1995

⁸ Fox 1998

Photos of the same areas today show swidden farms and fallows rotating along the same rivers and streams as they did in 1953. This dispersed distribution of villages over the landscape meant that each village was autonomous from the others and there was no governance structure higher than this level. Each village was confined to a certain area of land because they were also surrounded by neighboring villages each claiming their own area of land.

When asked what land use areas were important for agriculture and livelihoods at a National Forum of Indigenous People held in Kampong Speu in September 2004, participants from 12 ethnic groups representing 14 provinces listed:

- ? Rivers, streams, and their edges (banks), land at the source of streams
- ? Swiddens, fallow swiddens, paddy, fallow paddy, reserve land, spirit forests, burial forests, housing areas, forests for conversion to paddy land
- ? Deciduous and evergreen forests, bamboo forests

It is no accident that many areas where indigenous people live are actually well endowed with forests and natural resources. Protecting these resources allows them to cope in times of shortages of rice and cultivated crops. Communities take responsibility for protecting these areas and villagers (insiders) are fined much more severely than outsiders for destructive actions. Often, sacrifices of village animals are made for the destructive actions of outsiders because villagers see themselves as guardians of their lands and forests and they fear the spirits of their area will blame them and cause them harm for allowing the destruction.

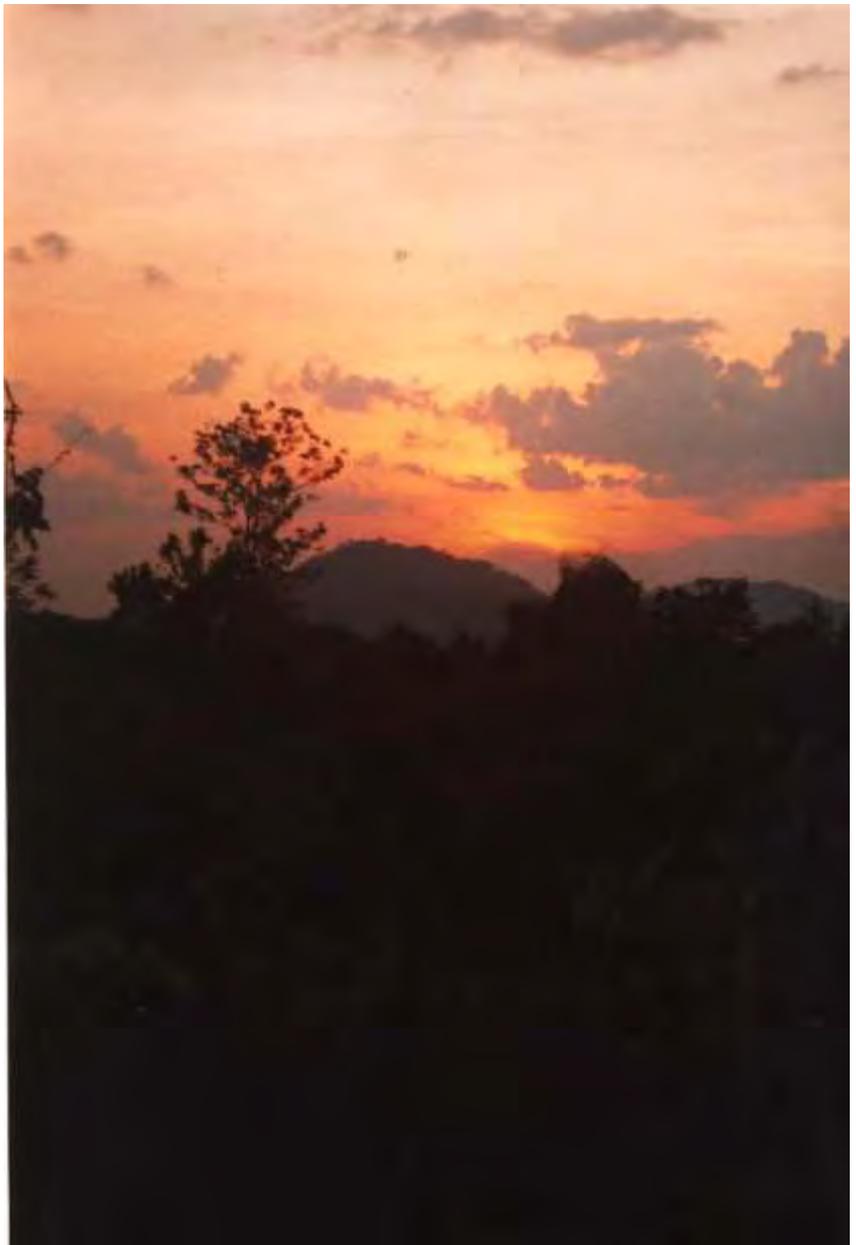
There are many reasons to support community management of forests in Ratanakiri and Cambodia. Forests are crucial for the livelihoods and well-being of communities, particularly indigenous communities that have been settled in and near the forest for generations, drawing many of their resources from them. The forest is the source of most food that is either grown in swidden (*chamkar*) fields or is harvested in the form of wild tubers, fruits, honey, insects, amphibians, reptiles, and mammals, either through hunting or gathering in forests surrounding the village. Building materials are largely generated from the forests, as well as most tools and equipment.

The forests also play a key role in moderating the climate and ensuring the hydrological functioning of streams, springs, and ponds. Villagers in Ratanakiri believe that the spirits of the forest can cause floods and droughts if people do not respect important hill areas where they live. Kavet villagers in Kok Lak Commune, for example, go to spirit forest areas deep inside what is now



Virachey National Park to make ceremonies to ask the spirits for rain. Now people say it is difficult to go to these areas to do the ceremonies because Virachey National Park staff reportedly will not allow them to enter the area. It is generally recognized among indigenous communities of the area that forests play a very important role in creating micro-climate conditions favorable for rice cultivation and other crops. These spirit areas, for example, are often important watershed areas heavily forested hills with waterfalls, etc, where community leaders responsible for conducting ceremonies in these areas report it is cool and damp all through the year.

Forests are also an important part of the religious beliefs of the indigenous communities who are largely animists. Spirit forests are respected, honored and feared. They often have interesting natural rock formations and other features (waterfalls, pools and ponds, particular vegetation) that are considered sacred. Many local people believe that spirits inhabit the forest and are responsible for the well being of the community. If community forests are lost or community management ceases, it undermines the religious foundation of these communities and results in social disruption, fragmentation, and alienation. In addition to their religious significance, communities have a strong social attachment to their forests, which provide an important environment for relaxation and seclusion from the communal village setting. If forests are degraded, important aspects of community identity may be lost. In short, forests are pivotal in the livelihoods and well being of communities. One of the strategies to achieve the overall goals in the National Strategic Development Plan 2006-2010 is, “Promoting forestry contribution to poverty reduction by strengthening community forestry's initiatives and by involving local communities in forest exploitation plans ” (NSDP 4.48)



Customary Institutional Arrangements

Traditionally, community elders managed the village's affairs. Depending on the ethnic group, one or more leader(s) are chosen to manage the village, mediate conflicts, and ensure that customary laws are followed. Village elders act more as facilitators of dialogue, consensus builders, and advisors to the heads of households, rather than playing an autocratic role in village decision making. In cases where a village has one primary leader, other village elders would assist this person with various duties (see Box 1).

Box 1: Selecting the Traditional Village Leader

Mr. Sev Yun, chief of Srala village, Kak commune, Bar Kaev district, said that the village leader was selected by village consensus after the villagers knew the leader's capacity in organising traditional ceremonies and in managing, serving and adjudicating cases for the villagers. The elders with all villagers discussed the selection of their leader. This discussion could take two to three days depending on the time that the elders and villagers took in making a decision. After the decision was made, the selected person would be invited to a meeting place and be appointed. A ceremony would then be held in order to gain recognition and trust from the villagers. He also added that some leaders were selected from the next generation of leaders by the spirits due to dreams by the elders and villagers (Backstrom et. al. 2006).

Criteria for Selecting the Village Leader(s)

From village research into traditional law the village leaders were/are chosen on some or all of the following criteria: (It should be understood that traditionally the village leader is always a man)

- Able to educate, lead and govern the village
- Has a good knowledge of traditions and rituals, and has special powers
- Has shown by experience that he is good in solving conflicts and in mediating to find the solution that is fair for everyone.
- Able to make good and fair decisions about levels of punishment and fining.
- Is clever, has higher knowledge, is wise and skilled in public speaking.
- Understands the problems of the village, is seen to have the interests of the village at heart and volunteers his time for the collective benefit. 'Active in the village and likes to help the poor' (Pa Dol Village)
- Is the oldest and wealthiest in the village. This gives him the most impact and influence.
- Has a gentle attitude. Knows how to advise the children.
- Can build solidarity in the village.
- Knows how to communicate with outside.

It is on the basis of the above that he earns his respect and the villagers have confidence and obey him.

(Information from several villages in Backstrom et. al. 2006).

The ethnic communities of Ratanakiri organize themselves in self-governing villages with strong social cohesion provided both through kinship ties as well as the villagers' sense of membership in a particular village. Among all groups, the family elders are leaders held in great respect. Elders officiate at religious ceremonies and feasts, as well as mediate intra-family disputes. They also play an important role in orchestrating land-use decision making. Their knowledge of customary law is of special importance for land and resource use, including their ability to conduct the

proper ceremonies to the spirits of the forest. Customary law, which is informed by the elders, governs and guides community decisions regarding the clearing of forests for agriculture. According to customary law, the family has rights over the land that they currently cultivate and over produce from old plots that are fallowed, but may be farmed at a later date. Fallowed *chamkar* land is often planted with fruit (bananas, payayas, etc.) and tubers, providing an ongoing source of food to the family.

After a certain time, however, the right to use a fallow *chamkar* which was abandoned and unused by the family, reverts back to the community although there is often a tradition of a previous user coming back to use the same area later. Elders often play a mediating role in land disputes within or between villages however, for the most part, village land and forest boundaries are respected between communities. If encroachment or damage occurs as a result of one family or community's action on another community's land, a fine or retribution is usually negotiated to settle the case. Mediation and reconciliation is a fundamental component of indigenous conflict resolution. If a dispute arises between two parties, one or more mediators resolves the case. It is important to note that village elders and indigenous community institutions continue to dominate village decision-making. According to one report:

The role of the village chief (a local government person often appointed by higher levels of government) is clearly seen as one outside the internal village affairs and decision-making. In one Kreung village, the people explained that they choose their village chief to play a linking role with the government because of his openness and friendliness. But they affirmed that other villagers “know more than he does” and hold more traditional authority. In fact, many villagers were very unclear exactly what the work of the village chief entailed, apart from occasionally going to meetings and relaying messages from the government. He is evidently not seen as a representative of the community as much as a representative of the government⁹.



⁹Joanna White, p.354.

Village spatial organization varies among the ethnic communities of Ratanakiri with Kreung villages constructed in a circular manner with the large houses occupied by the heads of the extended families facing inwards towards a central longhouse where village meetings are held, as well as communal feasts and ceremonies¹⁰. Smaller houses form an inner circle and are inhabited by pre-marital teenagers or young married couples. By contrast, the Jarai traditionally construct vast longhouses inhabited by all extended families, with the inner house divided into compartments for various couples and their children. Adolescents often stay in separated houses. Tampuan villagers tend to follow the pattern of either their Jarai or Kreung neighbors.

Now the government-appointed village chief also takes a leadership role in village affairs. The traditional leaders and elders have the important responsibility of maintaining the village traditions and culture. They are in charge of conducting the village ceremonies to the spirits of the village, land, water and forests. An important part of maintaining village solidarity and village well being is maintaining harmony with the spirit world. Kak Thoum villagers (Tampuen) explained that their belief systems consisted of respecting different spirits - like the land and forest spirits, the spirit of the village, the spirit of funerals, the spirit of making offerings, etc¹¹.

While the village elders are usually men, women also play an important role in land and forest use and protection to ensure livelihoods. The Pachoe (Jarai) or traditional healer is always a woman who conducts ceremonies and contacts the forest and other spirits. Kak Thoum villagers said men have to consult with women about important land and forest decisions¹².

Indigenous Forest Use Systems

While there are some variations in land-use practices and terminology among the six major indigenous communities in Ratanakiri Province, the general categories of forest and land utilization are generally common to all ethnic cities.



¹⁰ Source: Backstrom, et. al. 2006

¹¹ Some ethnic groups (Kachok, Jarai, Tampuen) divide the village into subgroups or clans which are governed by a clan leader. The Brao language sub-groups (Kreung, Brao, Kavet and Lun) do not have clan based systems.

¹² Joanna White, p.335.

In recent community consultations in several communes with some experience in defending their forest, leaders stressed that they wanted to divide their community forest areas into two zones: ‘Protection zone’ and ‘Protection for use zone’. The protected areas are the spirit forest and other important areas (see below) which communities do not want to see being logged or otherwise destroyed. The rest of their community forest areas they want to protect also for supplying what they need for their livelihoods. By protection villagers mean to stop destructive activities and especially stop logging by outside companies. They want to preserve these forest areas for food and resource gathering¹³.

Conservation Forests

Sacred Forests - Sacred forests are common to most of the indigenous communities of Ratanakiri who believe spirits inhabit the forests. Tree felling is forbidden, as it is thought to draw the anger of resident spirits. Ratanakiri indigenous people’s belief systems are based around respecting the spirits that inhabit the world around them. These include land and forest spirits, the spirit of the village, the spirit of funerals, the spirit of making offerings, etc. There are also spirits of water and large stones. These sacred areas often include the whole mountain or hill, and local people say that they are inhabited by particularly powerful spirits. People feel a sense of awe when entering these areas.



¹³Part of the information about indigenous forest use zones was collected by Jeremy Ironside and two Indigenous Youth Development Project researchers (Mr. Pow Kum, Kreung ethnicity and Mr. Peurng Vannak, Tampuen ethnicity) in 7 villages.

Box 2: The Spirit Forests of Kok Lak Commune

In Kok Lak Commune the Kavet indigenous group has lived in the mountainous areas along the Lao border for centuries. They still have strong beliefs associated with the landscape of this area, even though they have been forced to move out of their traditional area and live in the more accessible lowlands.

Their important spirit forest areas are inside Virachey National Park the park include:

Jundo (hill) Hurling

Jundo Hurling Baie

Jundo Niep – has different rocks and a cathedral-like area 5m by 20m with a pointed roof.

Three other spirit areas are inside their community protected area and also in the park:

Dalung Louiee

Jundo Lung - has big diameter bamboo, which is never cut.

Jundo Miout Geh

These areas are characterized by different forest, bamboo and rock types. People go to these areas to make ceremonies for the rain to avoid both droughts or floods, which the spirits can cause. The spirits recognize Kavet language and this is the only language that can be spoken in these places. People have to wear a traditional loin cloth to enter these areas. They cannot smoke manufactured cigarettes, and they cannot speak loudly and loosely. They have to be careful of what they say. Another reason these areas are feared is because of the leeches which have a powerful blood anti coagulant. Villagers say there are four kinds of leeches and the kelee kelar (leech) is the worst one. It gets into the armpits etc. and the blood does not stop flowing. There are also red and black flying insects known as 'mul' which bite in these areas. There are also tiger caves, and villagers have reported seeing white (albino) animals in these areas. They also say there are an enormous number of ants.

Villagers say these areas are cool and dark in any month of the year. Many are areas of great beauty with views out over large areas. There are also waterfalls and grassland areas.

Often there are noises coming from these areas. Villagers say sounds like gongs can be heard. There are also often noises that appear to be people talking. People respect these areas because they have seen concrete evidence of unexplained phenomenon and have seen the power of these spirits. Kok Lak people say that to go to these areas it is necessary to conduct a ceremony beforehand. If not, something bad could happen, such as a high probability of a serious accident or death. The ceremony requires killing a pig, rice wine, incense and candles. Kok Lak villagers point to direct proof of the consequences of not paying respect before entering these areas. There is a story during the French Indochinese war of two French soldiers who went to the top of one of these spirit hills to make a sign for a plane to come and get them. They subsequently died and villagers are sure the spirit of the mountain killed them, because they were disrespectful.



Remote forest areas have also been used for hiding and escape. People ran and hid in these forests during wartime. They lived at the base of one of these spirit forests for 2-3 years, and people said the spirit protected them. Kreung villagers from Tong Krapo village also said that talking “loosely” or loudly in spirit forest areas is forbidden. Even before people enter their spirit forest they say it is wrong to chat with other people in the village about their intention to go to this area. Before people leave this area, they need to take hot rice with meat and tobacco, light candles, leaves for chewing (slut malu) and leave this on top of or under a big stone, to respect and appease the spirit. They ask the spirits (arruk bree dark: land and water spirit; arruk jundo: hill spirit) in the area for health and success in hunting and avoidance of accidents. Generally hunting is allowed in spirit areas, but no cutting of trees or even bamboo is permitted.



If people do not pay their respects like this, Tong Krapo villagers believe the spirit will not allow them to have success hunting and they could have an accident, become sick, or die. Disrespect can also cause unseasonal weather, droughts, while crop yields can be poor. As a consequence, the community forbids any destructive activity to happen in this area¹⁴.

Tampuen communities from Kachoan and Yeak Laom Communes also said people can hunt in these areas and collect some resources (though sometimes the resources must be consumed in the forest rather than removed). Other villagers can also use these areas and it is not possible to prevent people to go there. During traditional ceremonies people call the spirit of these areas when they have a ceremony. Certain trees are also believed to have powerful spirits. These spirits can help people to get better when they are sick. Sometimes pieces of trees with strong spirits when used for example as a washing platform can affect people and cause them to have a headache.

Burial Ground Forests - Burial ground or cemetery forests are areas where the dead are laid to rest and any disturbance of the forests is forbidden. The Jarai demarcate these areas to warn others of the taboo against any form of tree felling or other forest desecration. For example, in Tong Krapo village (Kreung) an area of 2 hectares, 150 meters from the village is reserved as the village burial forest. People cannot cut their swidden fields, but they can collect resources and even hunt 'if they dare'. People have swidden fields near the burial forest but village elders have been preventing agriculture encroaching into the area itself. Clearing this area violates people's rights and shows great disrespect for the people who have died. People also are afraid that something bad will happen to them like dying of the same illness that the person in the cemetery died of if they clear the burial forest.

¹⁴ Ironside 2006b

Box 3: The Spirit Areas of Tong Krapo and Tong Kamal Villages

Tong Krapo and Tong Kamal were formally one village and share a spirit area called Drang Yong (the house posts of Yong). In Drang Yong forest there are stone shapes which resemble large house posts. Villages said in ancient times these were wood but have since turned to stone. Another area called Tmor Bang a rock formation looks the same as a wall as of house, several metres high and tens of metres long.

In the time of the ancestors, people liked to hunt in this area. Then in the night they saw ghosts/spirit lights, and many different kinds of animal sounds. In the day they saw these big stones and saw forest people (*Beyayaie*), which are widely talked about in indigenous villages. This made people afraid when they went in there.

Together these areas make up approximately six hectares. In these areas there are all kinds of bamboo, rattan, vines, gems (no one is allowed to dig in these areas), streams, waterfalls, and big stones. There are also animals like tiger, monkey, wild pig, deer, and a variety of birds.

If people want to cut a tree in this area, this is permitted e.g. for making coffins. Resources can also be used for making the cover over the grave (*nham gayock* grave house). This makes it easy when someone dies as people don't have to go far to get the materials. Sometimes bamboo is planted near the grave to mark it. Fruit trees are also planted (*lakar*, tamarind, kapok). A rice wine jar may also be planted near the grave.

If the person who dies has a lot of possessions, bamboo will be ornately woven for the cover over the grave houses. This depends on how much the family has to feed the people doing the weaving. In the past, funeral ceremonies could last up to 7 days before burial for a prominent person. Coffins are made of high or low quality timber depending on the status of the dead person.

In Kachoan Krom village, (Tampuen, Veunsai District) people carve and paint wooden statues (*Kik*). There have been problems with tourists taking photos of these statues. If a tourist takes a photo of the grave, the villagers are afraid this will disturb the spirits of their ancestors and they will have to hold a ceremony

requiring a chicken and rice wine to ensure the spirits will not cause them any harm. Signs have now been put up asking people not to enter the cemetery. The *kik* are to accompany the dead person partly to make sure they will not disturb the living. For example, if a young man dies, a *kik* of a young women will be placed beside the grave and vice versa if a young man dies. A buffalo or a pig is sacrificed when the *kik* is put up.



Kachoan Krom villagers may also cover over the grave area after the burial, which requires a ceremony when completed. Another ceremony is held one year after the person died also requiring the killing of a buffalo or a pig. This ceremony signifies the end of the relationship with the living and the house over the grave is not repaired after this. It is not required to go to the ceremony to appease or respect the spirits of the dead. This can be done in the family's house. According to Tampuen traditions the burial forest is always to the west of the village. According to traditions, the body is buried with the head to the east and the feet to the west. In this way the dead person's spirit can go back to its home.

In some villages, close to the main towns, there are very limited areas for burial forests due to land selling. In some cases, there is no forest area and some villages have to use grassland for their burial area. People in some villages also now have to reserve a grave site. In the past, people used thatching out of tree leaves and woven bamboo weaving for rich people for the grave house. Now, people use corrugated iron, and make designs on the iron. The village leader is the one who has the authority to choose the burial forest area. Burying someone in another place could cause problems for the village. The burial forest area also cannot be changed unless the whole village is moved.

Village Shelter Forests - Village Shelter forests entirely surround most ethnic communities in Ratanakiri. They play an important role in protecting the village from violent monsoonal storms, while providing a moister, cooler micro-climate during the hot, dry season. These forests are usually older, secondary growth and ideally moist, evergreen trees that reduce the chance of catastrophic forest fires. Typically, no tree felling is allowed in a Shelter Forest. These forests provide opportunities for privacy and recreation, as well as for human waste disposal.

The shelter forest that protects Tong Krapo village has big trees and generates many resources including vines, timber trees for houses, firewood, katmar leaves for thatch roofing, and edible tree leaves (*arriniang*). This forest protects against strong winds, and people can easily collect resources for housing and eating. Village animals can also graze in this area.

Wildlife Forests - Wildlife forests are located in areas with high biodiversity values, especially if unique or sacred forests are known to frequent the area. Several villages are delineating areas for wildlife in their land-use plans, because they want to see wildlife populations restored¹⁵. Villagers are also delineating tourist areas for forest tourism and these areas also often are favorable areas for different kinds of wildlife species.



¹⁵Ironside 2001

Watershed Catchment Forests - Watershed catchment forests are located in areas that have significant hydrological run-off and are known to supply streams, springs, and ground water areas with wells. Ridge tops and ravines above and around water flow areas are placed outside swidden blocks and allowed to retain old growth forests. This is also because these areas are both steep and rocky and not good places for farming.

Water Source Forests - Located around springs and along waterways, these riparian buffer forests are well protected and ensure maximum water flow during the dry season. Water Source Forests also provide habitat for fish and amphibians that are hunted by village youth. These moist forests also produce abundant quantities of mushrooms. Tong Krapo village for example, protects five areas of spring or water source forests along the Krapo, Bassut, Kriek, Bandraee, Darkrouey streams. These places contain a lot of resources like wild taro, taro stems, rattan, and precious gem stones, in some places. People use these areas for dry season wild vegetable collection. For example, taro stems are collected for pig and human food.

In other villages such as Phnom village, Yeak Laom Commune (Tampuen), the forest area around their water source has been cleared for paddy land and some of the land has been sold. This is causing hardship as people don't have clean water, or forest to get vegetables in the dry season, or a shaded cool area for bathing. Also, erosion makes the water dirty.

Forests for Tourism

Forests for Tourism is a new category of forest use which villagers are designating more and more. These areas are protected and use of these areas is restricted. The 362 hectare forest around Yeak Laom Lake (near Ban Lung town) is one example. The forest around the lake has big trees. People can cut trees for coffins, but all other tree cutting is forbidden. Fire and people encroaching on the edges of this area for clearing swidden fields are constant problems because of proximity to the provincial town. The lake committee, made up of representatives from the villages around the lake, monitor this forest area and enforce the regulations. The area is therefore protected and has great attraction to tourists who pay a small entrance fee which assists conservation.



Agricultural Lands and Forests

Chamkar/Swidden Agricultural Fields and

Fallows - Swidden farming (*chamkar*) is widely practiced throughout much of Ratanakiri Province. The land may legally be considered agricultural under the Cambodian Land Law, but in practice, much of the area under long-term swidden rotation is regenerating natural forest.

Swidden involves the cutting of vegetation in the beginning of the dry season usually in January, burning it at the end of the dry season from March to April, and then planting a crop at the beginning of the rainy season, corn in May and rice in June or July. Most Fields are utilized for two to five years, then left to fallow for five or more years where possible. Households usually have two to four *chamkar* plots of one to two hectares in different locations. Generally, the fields are within a one hour walk of the village (2-5 km). Villagers prefer to reduce risk from destruction by domestic animals and locate their fields generally

far from the village. Swidden fields are typically dispersed to minimize the spread of potential hazards such as insect and disease infestation, as well as forest fire. While the main crop is rice, *chamkar* fields may have more than thirty varieties of green vegetables, tubers, climbers, fruit trees, and other crops.

Fallowed swidden fields regenerate as young secondary forests. They are often enrichment-planted with fruit trees and tubers, but also contain many useful natural plants including rattan, edible greens, mushrooms, medicinals, thatch, lumber, etc. In Poey Commune, one study of landscape level land-use found that only four percent of the land area in the village was under active swidden, however 46 percent of the community land was young regenerating forests, either open forest (0-2 meters in height) or closed canopy forest (2-10 meters) indicating that it was part of an active swidden rotation land pool. The remaining 50 percent of the land area was various types of older secondary regrowth that was likely outside the *chamkar* land pool and viewed by the community as varying forms of protected forest or NTFP production forest.



Bamboo Forests - These forests are important in producing poles for house construction, tools, weaving materials, as well as edible shoots. Tong Krapo village in Ratanakiri, for example, has reserved two hectares near Bandraee stream and another three hectares near Bogall forest for cutting bamboo. Tong Kamal also has reserved two places near N'Deur forest and Yourt forest of around 2 hectares total. These areas are protected from cutting for swidden; they are also not that fertile. Bamboo is useful for making floors for houses, making arrows for crossbows, weaving back baskets used for carrying nearly everything, and animal and fish traps, etc.



NTFP Collection Forest - NTFP collection forests are often found in older growth forest tracts where *chamkar* has not been practiced for a number of decades. Such forests often possess older *dipterocarpus* trees that have reached a girth of 45 to 50 DBH probably reflecting an age of 40 to 50 years. In areas with these resin trees, the majority of the village may be involved in commercial resin collection that has expanded rapidly in the past decade in some districts.

The importance of wood resin collection for household income creates a strong incentive among communities to protect their NTFP forests. In a recent study by Ian G. Baird in Teun Commune (Kreung), Ratanakiri, villagers often traveled 14 km or more to reach these resin trees, although Baird found that most of the resin trees tapped in Taven Leu are within one or two kilometers of the settlements¹⁶. In Teun Commune, there were at least 6,500 *dipterocarpus* resin trees being tapped of which 45 percent were managed privately, 17 percent were under arrangement by a group of villagers' "company", and 38 percent communally. The villagers in the study area complained that 10,000 resin trees were felled by Vietnamese commercial logging operations between 1984 and 1998. In response, Teun Commune formed a Natural Resources Management Committee (*sahakum*) and confiscated chainsaws, guns, and electric shock fishing gear. The four villages in the commune also established an 8,756-hectare commune-level protected area for wildlife conservation¹⁷. An interesting finding of the tree resin study was that "communally managed trees are being managed better" than privately held trees and that tree tenure arrangements were closely linked to "socio-cultural aspects of intra-and inter-community relationships."

As discussed above, communities wish to protect their community forest areas for communal use. This is both for livelihood security and for cultural reasons, so people can maintain their traditions. An example of the hardship for people once community forest areas are gone is seen in Yeak Laom Commune, on the outskirts of rapidly growing Ban Lung town. Apart from the area around Yeak Laom lake (See Section: *Forests for Tourism*), two other hill areas (30 and 70 ha) and a 100-hectare area of 40-year-old regenerating forest were designated for community forest in the late 1990s. The one hundred hectare forest has now nearly all been illegally sold to business people since the 2003 commune council elections. Parts of one of the hill areas have also been sold. The management regulations were only useful for a short time, because the commune chief refused to manage the area according to the community's wishes and sold these forest areas and allowed others to sell. Now, people are worried because they have no forest to use. Before, people depended on the forest for nearly everything, now most of the forest areas are gone. The belief in the spirits of the forest are still strong, but there are fewer forest and spirit places. The use of the remaining spirit areas is also now more restricted. In swidden areas near Yeak Laom, there are small forest areas remaining that are used for collecting some forest products. These forests are also being cleared by villagers and outside companies. In addition, people in Yeak Laom have no place to bury their dead as the authorities also sold burial forest areas. Traditions are now either being lost or changed. In the past, during important ceremonies, the village was closed for five days. People could not leave the village and no one could come in. Ceremonies are now shorter and there are less of them. The belief in spirits is also beginning to change. Before a ceremony was performed prior to clearing the swidden, the forest spirits were asked for a sign that they would allow clearing of the area temporarily.

¹⁶ Jefferson Fox, p.4-6

¹⁷ Ironside 2001

Now this ceremony, in Yeak Laom Commune, is not observed. Other cultural changes include less indigenous music (including singing, gong playing) and dancing, fewer traditional weddings, and a declining respect for the elders. As a result of cultural erosion, one of the villages in the commune has now dispersed and is “no longer a village,” representing a loss of physical and cultural resources previously available for natural resource management.



Multiple Use Forests -Multiple use forests provide a wide variety of products that can be hunted or gathered. Often located at some distance from the village, timber for house construction, mushrooms, resins, and other goods may be found in these forests. Communities may share multiple use forests and rely on them for extensive rather than intensive use. Nonetheless, there is a sense of control over multiple use forests and certain conservation and protection measures may apply.

Land and Forest Management Change

While recent studies indicate that village elders deal with disputes, traditionally village members largely decided among themselves how to share the village land and forests. Brao respondents said in the past there was no need to ask permission to clear the forest in the village to make a new swidden field¹⁸.

¹⁸ Prang, Phiset 2006

Kachork representatives in the same research noted that the decision to clear an area for a swidden field is made by consensus of the people who live around the field. This is because swidden farmers often expand their fields every year and the owner of the swidden field often has rights to claim 100 metres of land adjacent to the swidden field. The size of a swidden field was determined on the labor available both to clear the forest and to be able to weed the area¹⁹. As local populations have grown and external pressures from investors has increased, increasingly many communities are attempting to tighten resource controls. In the past, it has generally been acceptable for other villages to use a village's forest area for family or subsistence use. The use of more distant forest areas is often shared between several villages and people are free to collect the resources they need, including vines, bamboo, bamboo shoots, mushrooms, fruits, rattan, malva nuts, etc. Hunting often requires traveling into the forests of other villages, and Ka Meang villagers said the hunters should ask for permission, though this was usually granted²⁰. Still, use of village lands and forests by outsiders is generally monitored and controlled. Ten villagers said traditional hunting and collecting equipment is permitted in their village's forests, but the use of guns and illegal equipment was forbidden²¹.



Changing Customary Laws and Practice

Commune administrative boundaries have frequently been drawn in ways that divide villages that traditionally cooperated and shared a common forest area. Effective monitoring and management of communal forest areas is best achieved by strengthening the traditional management arrangements that exist between certain villages, and this will likely involve community forests that span more than one commune. Disputes over newer administrative boundaries which do not conform to traditional boundaries and village alliances have caused numerous disputes between villages. Table 1 presents a number of changes and issues emerging as traditional and modern systems of governance and management interface.

¹⁹ Chan, N. 2006

²⁰ Breu, B. and Prang, P. 2006

²¹ Vel, T. 2006

Table1: Summary of the changes occurring in traditional land and natural resource governance²²

Past (and Present)	Present
People obeyed the traditional laws and respected the elders more than their parents.	Some don't follow the traditional laws and don't respect the elders. People lose their beliefs. The people that have knowledge don't train others. People participate in NGO organized community activities. Village management is not well organized.
Traditionally people communicated only orally.	There is legal and literacy training. People understand the importance of formal education.
Meetings were held in the villages. Didn't have any relationship with outside organizations.	Now relate with NGO networks and other state institutions to make reports and complaints about community problems to the outside, and help villagers understand about the impacts of development, etc.
Boundaries were set by groups of elders from adjacent communities when needed. Land was managed by the elders.	Traditional authorities' management regulations are banned. Land use is regulated by 'Government law' through elected NRM committees, with the village chief, and elders. Conflicts are often not resolved or only very slowly.
There was rotational farming and 'land was not possessed individually but was occupied freely' (Kak Thoum Village).	Each village divides their land into plans and hectares for each family. With plantation crops people occupy the land indefinitely. Population increases people but the land area becomes smaller. Villagers are restricted to a smaller area.
No land selling but land was transferred to their relatives. It could also be 'lent to grow crops'.	More and more land grabbing, (secretive) land selling to outsiders, etc. Conflicts arise sometimes because no one is sure who the land owner is. Land management is not good' (Ul Leu). Land cannot be lent to others because people are afraid the person will grow cashew nuts on it.
Sharing of resources both within and between villages was common. Good solidarity existed and there were no land conflicts (Ten, Ul Leu and Reach).	Less sharing of forest and fish resources. Competition even for firewood in some villages (Chrong). Increasing internal and external disputes.
No logging for selling, natural resources were used freely and shared.	Now forest cutting for sale, catching wild animals to sell to outsiders. Now also there are community forests.

²²Based on responses from Lut Village Workshop, Raech, Pa Dol, Reu Hon, Kak Thoum, Tompuon Reung Thoum, Ul Leu, Ka Meang, Ten Villages and Kreung and Tampuen Groups in the Khoun Village Workshop (See Bibliography for source of information).

Changes in Traditional Law

Part of the traditions the elders preserve is a body of community law which regulates village life, including the use of the village land and forest resources. Some of the customary laws that govern resource access, use rights and tenure include the following:

- ? Crossing another village's swidden field to cut a swidden is prohibited. This causes disputes and in the past these disputes could turn violent.
- ? The village leader(s) and elders would have to agree before people could cut new areas for swidden. Sometimes the village chief may be involved in these decisions.
- ? The family using a piece of land for swidden, usually has the right to claim that piece of land for up to 10-20 years, or the time it takes for the forest to grow back.
- ? In the past there was no land selling, and land use rights could not normally be given to anyone who was not a relative.

Newer regulations to address emerging management issues are frequently adaptations of traditional law and practice. In such situations, customary laws and resource use norms are revised to address current management issues and pressures. In some cases they are written down and maps are made of the community resources. Some examples include the following:

- Ul Leu Village (Tampuen) and many others have gone through a land use planning process in which the village's lands and natural resources are zoned for management and use. This includes zoning areas for swidden, spirit forest, protected forest, burial forest, wildlife forest, lands for future generations and in Lalai village 'forest for tourism.'
- New regulations to emphasize the requirement of prior permission from village elders, village chief, or village level committee before the clearing of a swidden field. Growing populations and newly established settlements has placed increased pressures on these *chamkar* resources requiring tighter regulation of land allocation through village authorities.
- Some new regulations require a contract stating the exact period of occupation in order for the community to allow someone from another village to use the village's land.
- If someone is seen cutting trees without approval from the community, the person is fined. If this happens again the fine is increased and the wood, chainsaw, and truck will be confiscated. Ka Meang villagers said when people see forest offences they must inform the village elders or the police²³.
- Several villages that all use an area of forest together are already organising joint monitoring and developing regulations for communal forest use.
- Katieng villagers had strong rules to dismiss the person who illegally sells land²⁴.

²³ Breu, B. and Prang, P. 2006

²⁴ Preu, B. and Prang, P. 2006

Table 3 below shows the numbers of conflicts related to land and forests, and who resolved them (in brackets), in Tumpuon Reung Thoum village from 2003 to 2006 (Ria, S, et. al. 2006). It is interesting to note the new types of conflicts they are now dealing with, the difficulty in resolving these new problems, and the fact that the Commune Authorities were only called in once.

Table 2: Land and forest conflict resolution in Tumpuon Reung Thoum Village (2003-2006)

Conflict and who resolved it?				Old or new problem?	
Type of conflict	Traditional authorities	Village authorities	Commune authorities	Past	Present
1	dispute over land within the family	3 cases resolved		1 case resolved	✓
2	cross the farm borders	not yet resolved			✓
3	forbid others to farm on their lands	not yet resolved			✓
4	animals eat a villager's crops	happens every year		✓	✓
5	burn the crops and the farm of others	4 cases resolved all		✓	✓
6	cut old burial forest areas	1 case resolved		✓	✓

At present, there is what could be described as a crisis of authority in the management of land and forests in Ratanakiri. There are many problems such as “land grabbing, selling land secretly (and illegally), cutting new areas for swidden (*chamkar - Kh*), catching wild animals (deer, snake, pangolin) to sell to outsiders, etc²⁵”. There is also land clearing by companies and new land owners to increase their land area, largely all for some form of cash cropping. Aul Leu villager (Tampuen) described the problem as follows: “The traditions, cultures, beliefs, the livelihoods of indigenous peoples in their communities, [including] customary laws, traditional authorities, and natural resources are all being destroyed²⁶.”

One problem emerging from land and forest logging disputes results from village elders being asked to adjudicate cases involving officials and private business people who are much more financially or politically powerful and who have been involved in illegal activities. With no formal authority or government recognition of their status,



²⁵ Ke, P. 2006a

²⁶ Ke, P. 2006a

some elders in some of the hardest hit villages prefer to stay in their farmhouses and not to get involved in resolving resource conflicts²⁷. Young people in several villages said that nowadays the elders are not able to manage land and forests well and this is partly the reason for a loss of respect for them amongst the young. While the authority of the traditional leaders is being eroded the state authorities are frequently not dealing with illegal land and forest activities. Villagers said they have noticed that with the increase in the role of the state in people's lives there is also an increase in illegal activities. They said the reason for this was there is a standard body of formal law but, 'no one obeys the laws'²⁸. In this situation there is no mechanism to stop people from committing illegal acts. The new laws are simply not being implemented. In fact they are often being flagrantly disrespected by those vested with responsibility for implementing them.

Community members overwhelmingly endorsed the traditional legal system and the elders as a viable way for them to be able to manage their affairs and their land and forests. Kak village and youth in other villages said that without the elders the village would have a disaster. Young men and women would become gangsters, the land and forest would be completely lost, and internal conflict would happen. There would be no one to advise, and no one to resolve problems²⁹. Youth from Katieng village said, "We are happy because we see the ancestor's achievement in maintaining and keeping land and natural resources for us." Land and forest loss are key issues which the youth are having to confront more and more. Community practitioners responsible for managing land and forest requested training and recognition to cope, as elders at present lack the authority and support to deal with new realities.

It is apparent that the rural communities of Ratanakiri Province are undergoing a period of rapid change where customary laws and institutions are losing authority. At the same time, national Cambodian laws and regulations are not being implemented rapidly enough to provide a legal framework for resource security management. As a consequence, a regulatory vacuum is emerging that is being exploited by land speculators



²⁷ Khiev, S. 2006

²⁸ Chan, N. and Peung, V. 2006

²⁹ Khiev, S. 2006

COMMUNITY FOREST RIGHTS AND TENURE AUTHORITY UNDER CAMBODIAN LAW

Over the past five years, the Royal Government of Cambodia has approved the Land Law, the Forestry Law, and the Community Forestry Sub-Decree (CFSD) that have created avenues to legally recognize community rights over their natural resources. Broadly, the three types of legal recognition represent varying levels of authority ranging from permitting causal use to communal ownership that can be passed from generation to generation. These levels of tenure and resource use rights include the following broad categories:

1) Customary Use of Forest Areas by Communities

This is regarded as the use of forest by communities where the villagers hold customary rights for subsistence use and there is some local responsibility for the longer term future of the forest. Sometimes communities are the users, and the responsibility for the longer term sustainability of the forest is vested with another group, often the government forest authority. Such customary use rights are secured under the Forestry Law and are operative in both Protection and Production forests.

2) Customary and Commercial Management of the Forest Areas by Communities

Often communities are not just extracting resources from forests, but they are also more actively involved in their management and feel responsible for the longer term sustainability of the forest resources. Such level of utilization and management can be legally recognized through the approval of a community forestry agreement with the FA cantonment office as defined under the Community Forestry Sub-Decree.

3) Ownership of Forest Areas by Communities

This occurs where communities have a stronger sense of rights and responsibility with regard to forest management and sustainability.

Like all “ownership” there is always some control over what can be done (environmental protection laws apply to all lands), but with community ownership, a community not only manages the forest but can have long term security over that management and has more decision making possibilities. Such “ownership” could be legally recognized through private or communal land titling authorized under the Land Law (Chapter 3).



Forestry Law

Forests can be defined in numerous ways. The broad categories include ecological definitions and legal definitions, however many nations describe their forests differently both in terms of vegetation and land use type. According to Cambodia's Forestry Law, forests are defined as follows:

Forest means a unit of natural or artificial forest ecosystem, in the form of wet, flooded or dry land, dominated by trees and mixed vegetation, natural or planted, wildlife and other natural resources located therein, primarily utilized for timber and NTFP production, conservation and other forest services. Lands to which this law does not apply include all land designated by the State as permanent agricultural land including, *chamkar*, idle land to be designated for non-timber agriculture production, industrial land, and land for urbanization and construction.

For the purposes of this discussion, it is assumed that “land designated by the state as permanent agricultural land including, *chamkar*” includes the swidden agricultural lands of indigenous communities that may be fallowed, but are still part of the swidden rotation pool. In Ratanakiri, therefore, “forest” may refer to old growth or primary forest areas that are not part of any active swidden rotation (though some old forests could arguably to be part of the agricultural system, which involves spirits residing in the forest).

There has been little legal interpretation regarding the specific criteria for identifying what forest would be included in the swidden pool. Some active rotations may take only 5 to 7 years, while others may take up to 30 years. Fallow period depends on a number of factors, especially soil type and fertility. Further, cycle areas may shift over time. As a result, should secondary forest that will be used for further swidden farming, be included as state private land or should it be considered private property? One study using aerial photos found that most of the forests in Ratanakiri have likely been part of a swidden rotation over the past fifty years³⁰.



³⁰ Fox 1998

Obviously, this requires further question definition. New legal instruments are needed to define what is meant by 'primary' and 'secondary' forests. Does primary forest mean old growth forest which was previously cut, or is it only a virgin forest? For example, at the time the French re-discovered Angkor Wat, the forest around the Wat was certainly not virgin forest, but was it ancient old growth, albeit of a secondary nature? This type of definition depends primarily on the type of previous human intervention and the time that has elapsed since then. In Ratanakiri, is a 120-year-old fallow with trees a meter in diameter a primary or secondary forest? Perhaps for the purposes of this paper, it could be suggested that “primary forest” (which is not available for communal ownership by indigenous communities) be forest that has not seen agricultural clearing within the past 50 years. In terms of indigenous forms of management in Ratanakiri, it may be helpful to compare traditional use patterns to Forestry Law categories. Broad use practices may include: 1) customary use of forest areas by communities for hunting and gathering that are usually a greater distance from settlements and least intensively utilized, 2) customary management and protection of forest areas by communities that are used primarily for environmental services such as water source conservation, protection from storms, micro climate enhancement and biodiversity conservation, and 3) communal ownership of forest areas that are utilized for swidden or *chamcar* agricultural production. The Forestry Law, Article 10 states:

The Permanent Forest Reserve consists of three sub-categories: Production Forest, Protection Forest, and Conversion Forest for other development purposes is idle State land, comprised mainly of secondary vegetation, not yet designated for use by any sector that shall be temporarily classified as Permanent Forest Reserve until the RGC designates the land for a specific use and purpose.

Within this legal framework, legal possibilities for community involvement in forest use and management can be summarized as community use within protected forests, and community use within production forests. It is apparent that there are strong parallels between the traditional forest management strategies and goals of communities and the categories of community forest use as described in the Forestry Law. The challenge has been to relate field level practices with legal categories in such a way that the zoning and registration of the community forestry areas can be implemented in a way consistent with the Forestry Law.

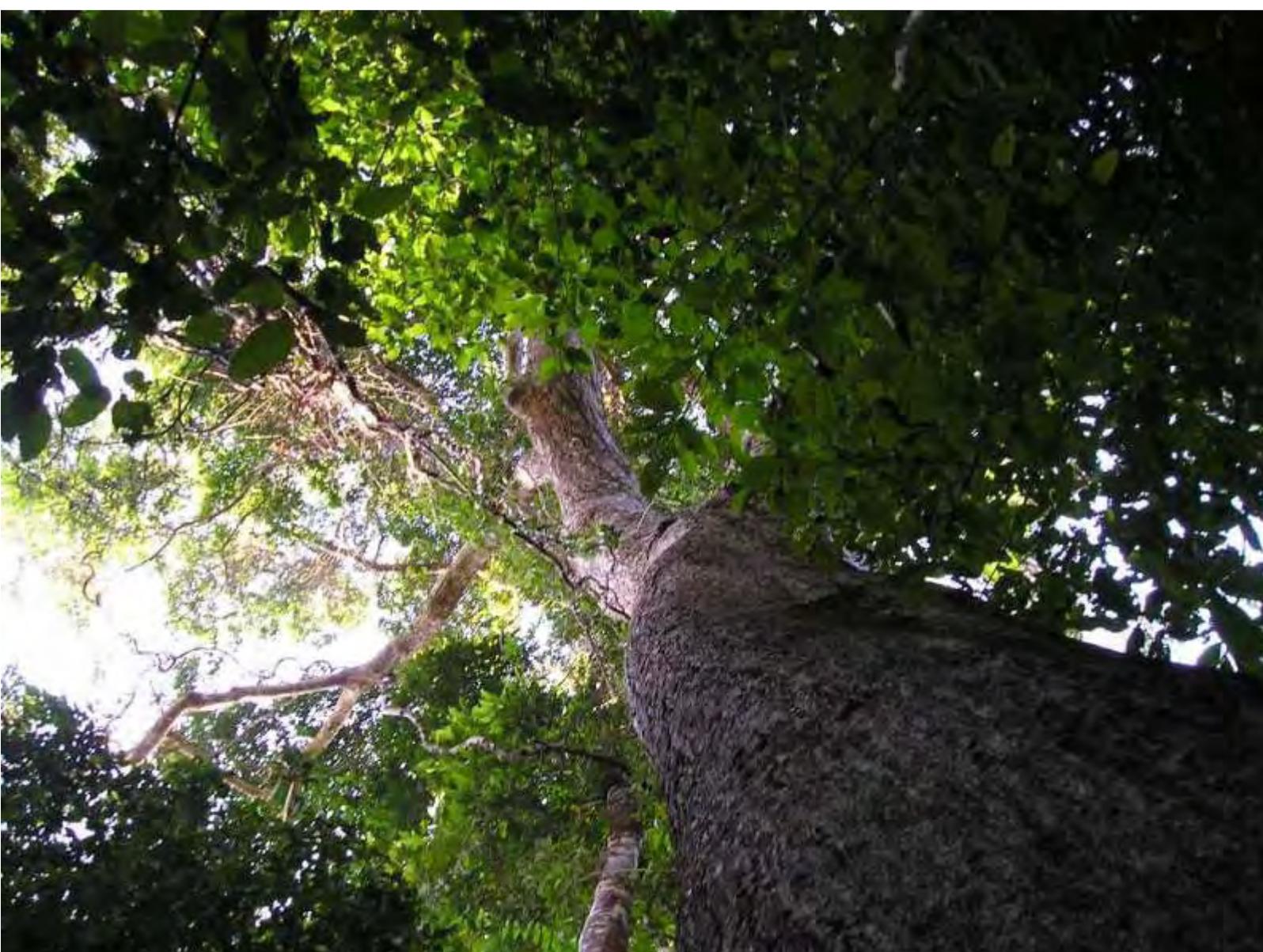


Communities within Protected Forests

One possibility for community forestry as defined as community management of forests, (but not necessarily Forestry Administration Recognized Community Forestry) in areas zoned as Protection Forest (as opposed to Protected Areas which come under the jurisdiction of the Ministry of Environment) is stated in Article 22 of the Forestry Law:

MAFF may propose the RGC to designate as Protection Forest any part of the Permanent Forest Reserve, which may qualify as a special ecosystem area, an area of scientific, cultural, or tourism value or an area for biodiversity soil and water conservation.

Since the forests of Ratanakiri are inhabited by unique indigenous cultural communities and offer high tourism and biodiversity potential, they could qualify for inclusion as Protection Forest under Article 22. Article 10 of the Forestry Law goes on to clarify that:



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Another aspect of this Protection Forest tenure is that it can be applied to the spirit forests of indigenous communities. Article 45 of the Forestry Law states:

MAFF shall recognize the religious and/or spirit forest of a community, living within or near the forest, as Protection Forest serving religious, cultural or conservation purposes. It is prohibited to harvest any spirit trees, thus they may be specially marked and shall be identified by the community in a Community Forestry Management Plan.

This would also imply that community involvement in the protection of an area is promoted in these areas and that the legal authority of the Forestry Law supports communities in protecting spirit forests from felling. With regard to other uses, there is also no legal way that concessions can be granted on Protection Forest unless Protection Forest is reclassified into production forest. If this tenure of community customary use within protection Forests is applied it may offer an increased sense of security to communities because forest concessions are not immediately possible. What this may mean is that communities are more likely to undertake and support forest management. If the community forestry was in an area of forest formally recognized as Protection Forest, the community forestry in those areas would have to comply with the objectives of Protection Forest “*primarily for protection of the forest ecosystem and natural resources therein.*”



Communities within Production Forests

Another category of forest land tenure under the Forestry Law is Production Forest. This is forest that can be used for commercial use by the government or by communities. Article 10 of the Forestry Law explains the general management objectives for production forest:

Production Forest shall be maintained in a manner to allow for the sustainable production of timber products and NTFPs, and protection as a secondary priority....the RGC may grant an area of production forest, not under use, to a forest concession through public bidding after consultation with concerned ministries, local authorities and communities.

The Government may also allocate commercial use in areas of production forest not under concession. Article 20 and 21 of the Forestry Law explain this:

Article 20: Production Forest not under concession shall be managed with a priority to meet domestic annual needs for timber products and NTFPs.

Article 21: Any person, legal entity or community may submit an application under public bidding procedures for the annual harvest rights within a production forest not under concession.

As discussed earlier, the customary use of forest by communities in all areas of forest is permitted under the Forestry Law. This means that, even without any further work or permission, communities may continue to use forests as they have done, if it is in a sustainable way. Article 40 expands on this to describe what is meant by customary user rights:

- C. For communities living within or near the Permanent Forest Reserve, the State shall recognize and ensure their customary user rights for the purpose of traditions, customs, religious and livelihood as defined in this Law.
- D. The customary user rights of a local community for timber products and NTFPs shall not require a permit and include the following:
 - 1. The collection and use of dead wood, wild fruit, products from bee hive or comb, resin, and other NTFPs;
 - 2. The harvest of timber to build houses, stables for animals, fences and to make agricultural instruments;
 - 3. The grass cutting or unleashing livestock to graze within the forest;
 - 4. The use of other timber products and/or NTFPs for customary family use; and
 - 5. The right to barter or sell NTFPs without a permit provided such sale does not threaten the sustainability of the forest. A transport permit is required for any third party who buys NTFPs for commercial purpose from a local community, in accordance with the provisions of this Law and after payment of any applicable royalties and premiums.

For communities wishing to continue this regime of use, but with no intention of increasing their forest use to commercial levels, this may be an acceptable tenure system. While subsistence usufructs are granted under the Forestry Law, communities may not feel a sense of resource security and “ownership” which may in turn undermine their incentive to protect forest.



In a forest classed as Production Forest, for example, communities have customary user rights but the Forestry Administration may allocate the area to an outside contractor for commercial use by way of concession or by annual harvesting rights. With regard to this it is not yet clear what Article 13 of the Forestry Law means, when it states the Government may:

“... grant an area of production forest, not under use, to a forest concession.....”

The term “not under use” still lacks definition and there are few legal decisions that help clarify its meaning. It is possible that customary use by communities may NOT be regarded as “use” and, therefore, forest concessions are indeed possible in areas with high community use within Production Forest. If communities perceive that the forests that they have been traditionally using may in future be allocated to concession companies or annual harvesting permits, community commitment to sustainable forest use and management may be low. If so, this definition of “not under use” would pose a major threat to community livelihoods and sustainable forest management.

One approach to address this and to allow communities to develop sustainable commercial use could be for communities to undertake a commercial operation themselves, and obtain rights to do so. In this case, the community's use would be more formally recognized. The forest would be regarded as “in use” and not open for concessions. In this way, communities may feel that they have security over the forest they use and be more involved in forest management. However, as Article 21 of the Forestry Law explains, an application and public bidding process needs to be followed and the rights are just annual harvesting rights.

Any person, legal entity or community may submit an application under public bidding procedures for the annual harvest rights within a production forest not under concession.

Under these conditions, if communities require a sense of security over forests in order to be willing to become or remain sustainable managers, this tenure system is not really appropriate. Longer term security would be required such as that explained in Article 10 of the Forestry law. Article 41 of the Forestry Law implies that Community Forestry is possible within the whole Permanent Forest Reserve (which includes Protection Forest):

The Minister of MAFF has the authority to allocate an area of the Permanent Forest Reserve to a community or a group of people living inside or near a forest area in the form of a Community Forest.

It is not entirely clear if community forestry will be recognized in the third category of the Permanent Forest Estate, the Conversion Forest (which is a temporary classification), or in other areas of Protected Forest. The Forestry Law at least does not preclude these options. With regard to the objectives of Community Forestry, Article 43 of the Forestry Law defines the management objectives of Forestry Administration recognized community forestry:

A Community Forest shall be managed in an economic and sustainable manner by the local community conforming to the Community Forestry Management Plan, rules on Community Forest and guidelines on Community Forestry.

When community forestry would be in Production Forest, the community forest would have to be or could be in line with the objectives of that forest classification, “maintained in a manner to allow for the sustainable production of timber products and NTFPs, and protection as a secondary priority.”

Community Forestry Sub-Decree

The Community Forestry Sub-Decree (CFSD) describes in detail where and how communities can gain formal recognition of their management rights. The terms are very much generated by the government in consultation with NGOs and selected community groups. Under the CFSD, community forestry refers only to areas where there is an agreement between the community concerned and the Forestry Administration on behalf of the Ministry of Agriculture, Forestry and Fisheries (MAFF). Thus, under the CFSD, “community forestry” is limited to those places where a formal agreement between the Forestry Administration and a community exists. There may be other areas of community forest management and use that are outside areas of formally recognized community forestry.

It may, therefore, be useful to distinguish between community forestry in the general sense and community forestry in the legally recognized sense. Here, we will refer to the latter as being “Forestry Administration Recognized Community Forestry (FARCF)” and refer to the former as “community management of forests” (regardless of whether they are under a formal agreement or not). With these two definitions, it can now be seen that there is currently a lot of “community forestry” in Cambodia, and not yet much “Forestry Administration Recognized Community Forestry (FARCF)”. This comes about because the laws are new and yet to be implemented. The annex to the Forestry Law states:



(FARCF)means an area of State forest subject to an agreement to manage and utilize the forest in a sustainable manner between the cantonment chief of the Forestry Administration and a local community or organized group of people living within or near the forest area and dependent upon it for subsistence and customary use.

The Community Forestry Sub-Decree supports this in Article 5:

(FARCF).... is the forest plantation of a community or state forest, where the right is granted to a local community living in or near the forest to manage and utilize the forest in a sustainable manner between the Forestry Administration and a local community.

Within that, the Community Forestry Sub-Decree, Article 10 outlines the role of community people in becoming a Forestry Administration Recognized Community Forestry:

The roles and duties of CF community members are as follows:

Follow the instruction of the Forestry Administration and MAFF, participate in developing and implementing community forestry regulations, community forestry agreement and Community Forestry Management Plan in compliance with prakas of MAFF; participate in forest resource management in compliance with community forestry regulations, Community Forestry Management Plan and other legislation related to the forest sector;? participate in sharing benefits from the community forest; participate in the monitoring of use of community forest resources by secondary users and Participate in preserving, protecting and planting the forest to ensure the sustainability of forest resources and the environment;

The Forestry Administration Recognised Community Forestry would be regarded as an official use of forest. The Forestry Administration Recognised Community may thereby preclude concession being granted (Article 13 of the Forestry Law stating that concession can be granted in areas not under use). If communities prepare a Community Forestry Management Plan, they then have a right to undertake sustainable non-customary commercial operations in line with that plan. As Article 2 of the Community Forestry Sub-Decree notes:

The objectives of this Sub-Decree include the following...establish the procedure to enable communities to manage, use and benefit from forest resources, to preserve their culture, tradition and improve their livelihood.

The Community Forestry Sub-Decree Article 12 states:

Communities under a Community Forestry Agreement may harvest, process, transport and sell forest products and NTFPs in accordance with the following conditions:

Harvest of forest products for selling or bartering shall not be allowed within the first 5 years of approval of the Community Forestry Management Plan. If the Community Forestry has been operating with a Community Forestry Management Plan prior to the passage of this Sub-Decree, then the moratorium shall be five years from the date of approval on that Community Forestry Management Plan; Payment of any required royalties or premiums; and terms and conditions in an approved Community Forestry Management Plan. Based on the Community Forestry Agreement, Community Forestry has the rights to plant, manage, harvest forest products and NTFPs and sell tree species as approved in a Community Forestry Management Plan.

Under the Community Forestry Sub-Decree Article 44:

A local community, operating under a Community Forest Agreement, shall have the right to harvest timber products and NTFPs within the demarcated area stated in the Community Forestry Agreement and in accordance with the Community Forestry Management Plan.

Note that customary bartering and selling of NTFP's is a right under Article 40 of the Forestry Law and does not need a permit. The term of a Forestry Administration Recognized Community Forestry agreement is not more than 15 years but it may be renewed at the end of its term if there have not been any significant problems. This gives communities a right to use and manage the forest area for an extended time period extending a greater sense of ownership over the forest resource. This may see an increase in or maintenance of desire to protect forests.



Land Law

Land tenure options defined by Cambodian laws are primarily outlined in the 2001 Land Law and the 2002 Forestry Law. The Forestry Law is supported by the Community Forestry Sub-Decree. In relation to the land tenure by indigenous communities, the Land Law states:

Article 25: The lands of indigenous communities are those lands where the said communities have established their residences and where they carry out traditional agriculture. The lands of indigenous communities include not only lands actually cultivated but also includes reserves necessary for the shifting of cultivation which is required by the agricultural methods they currently practice and which are recognized by the administrative authorities.

As discussed in sections below, some areas of mature forest may be included in the communal land title of indigenous communities. The possibilities for indigenous communities include communal ownership as described in Article 26 of the Land Law:

Ownership of the immovable properties... is granted by the State to the indigenous communities as collective ownership.

This collective ownership includes all of the rights and protections of ownership as are enjoyed by private owners. But the community does not have the right to dispose of any collective ownership that is State public property to any person or group.

Article 26 implies that State Public Property (which includes forests) can be part of communal ownership of indigenous communities and states that, if it is, it cannot be sold to others (State Public Land cannot go into a private title). With regard to what lands can go into a communal title, Article 25 for the Land Law states:

The lands of indigenous communities are those lands where the said communities have established their residences and where they carry out traditional agriculture. The lands of indigenous communities include not only lands actually cultivated but also includes reserved necessary for the shifting of asserted by the communities, in agreement with their neighbors, and as prescribed by procedures in Title VI of this law and relevant sub-decrees.

Also, as the Land Law states in Article 26:

“...collective ownership includes all of the rights and protections of ownership as are enjoyed by private owners”

In this case, however, if the land included in communal title is state public land it can be used but not sold. The Forestry Law then defines the use, in Article 10:

Private Forest shall be maintained by the owner of the land with the right to manage and develop, harvest, use, sell and distribute the products from their land.

This would mean that indigenous communities could maintain the forest within their communal title and could use it for customary or new, sustainable commercial use. There would not be a 15-year period associated with this and communities would have a sense of ownership over the forest within their communal titles, but could not clear it for agricultural land. Forests would have to be maintained as forest, and this could be strengthened within the actual titles when they are granted.

Another aspect of inclusion of forest within a communal title should also be considered. This is the effect it will have on the speed and practicality of communal land titling. This is a very important issue for indigenous communities, as land speculation and illegal manipulation of communities to alienate land under use by indigenous people in Ratanakiri is intensifying. The security of agricultural land will assist in reducing the need of communities to clear new land from forest areas and reduce the pressures on the forest. If the forests are included in a communal title, only a mapping of the boundary areas would be required, saving considerable time and allowing the communal titling process to proceed faster. Forest areas would be maintained as forest as discussed above and land security for indigenous communities would be enhanced. Table 3 presents some of the advantages of different land and forest tenure options.

Table 3: Comparison of Land and Forest Tenure Options

Tenure Option	Positive aspects for communities	Limitations or issues	Applicability
Customary use of forest areas by communities within Protected Forest under the Forestry Law:	<ul style="list-style-type: none"> •The forest is formally classed as forest that must be protected •Customary use is a right •Concessions cannot be granted •Commercial harvesting rights cannot be granted. •Forestry Administration Recognised Community Forestry can follow 	<ul style="list-style-type: none"> •There may be little sense of ownership over the forest (but this could be overcome by a good relationship between FA and the community and that could involve Forest Administration Recognised Community Forestry •Commercial activities could not be developed by communities so community interest in management may be lower in some instances. 	<ul style="list-style-type: none"> •Good for areas where communities are only interested in protecting the forest and their customary use of it but are not interested in new commercial use.
Customary use of forest areas by communities within Production forest under the Forestry Law	<ul style="list-style-type: none"> •Customary use is a right •Forest Administration Recognised Community Forestry can follow •Commercial use by communities cannot be developed. 	<ul style="list-style-type: none"> •Concessions can be granted •Commercial harvesting rights can be granted. •Communities could feel that there was very low security over the forest resource and be less inclined to conserve it. •FA are the managers and communities could feel disinclined to help monitor the forest resource. 	<ul style="list-style-type: none"> •Because of lower security for communities this tenure is only suitable for where communities do not use the forest as part of their normal livelihoods or where they want to develop commercial activities themselves.
Customary use of forest areas by communities within Production forest- Commercial use under the Forest Law	<ul style="list-style-type: none"> •Customary use is a right •New commercial activities which would be sustainable would be permitted. 	<ul style="list-style-type: none"> •There would have to be public bidding for rights to do commercial activities •Commercial activities of communities would rely on annual permits 	<ul style="list-style-type: none"> •Not very suitable for indigenous communities
Forest Administration Recognised Community Forestry Under the Community Forestry Sub-Decree	<ul style="list-style-type: none"> •Customary use is a right •Commercial use by communities could be developed with a community forestry management plan. •Concessions can not be granted •Commercial harvesting rights probably can not be granted. •Communities could feel motivated to monitor and protect forest resources. •It may be possible to have annual harvesting by outsiders by mutual agreement. 	<ul style="list-style-type: none"> •FARCF requires a lot of agreements and plans. •It is possible that communities feel dominated by the FA if the relationship is not well managed and developed. •Community Forestry Agreements can only be for 15 years terms 	<ul style="list-style-type: none"> •Forest Administration Recognized Community Forestry is very applicable to forest areas that indigenous communities traditionally use. It is only moderate in its security for communities. •It can be recognized in both production forest and protection forest. •It is ideal for areas that are removed from indigenous villages and not best placed into communal title.
Communal ownership under the Land Law	<ul style="list-style-type: none"> •It reduces the amount of mapping of exclusions from a communal title •It may speed up land titling and increase land security as a result. •Forest areas must be maintained as forest. •Sustainable commercial activities are permitted. •Communities can have a strong interest in long term maintenance of the forest. •It is administratively easier once established •It is a long term tenure and reverts to the state if communal title dissolves. 	<ul style="list-style-type: none"> •The communal title over spirit forest areas would not immediately preclude commercial operations in those areas and in so doing be a weaker protection (though there are penalties for failing to maintain the forest in forest areas). •There may need to be greater clarity of the need for protection of some forest areas stipulated in the communal land titles. 	<ul style="list-style-type: none"> •Community ownership is very suited to many areas of forest close to indigenous communities, especially within the overall complex of agricultural lands. It would make the land titling process faster and improve and forest land security.

COMMUNITY FOREST MANAGEMENT IN RATANAKIRI

Over the past decade, the growth of illegal land speculation in Ratanakiri Province has placed mounting pressure on the land and forests of indigenous communities, as well as on state public forest lands. The absence of cadastral surveys, state public land demarcation, and communal and private titling has created an environment where illicit land manipulation and transactions can flourish. There is an urgent need to clarify land and forest resource management rights and responsibilities throughout the province. The Forestry Administration has the role and responsibility to demarcate the state public forest domain and to determine which areas are suited to Forestry Administration Recognized Community Forestry. This is stated in both the Forestry Law and the Community Forestry Sub-Decree. According to Forestry Law Article 42:

The cantonment level of the Forestry Administration, through consultation with parties concerned has the duty to study conditions of the Permanent Forest Reserve in order to accurately demarcate and allocate suitable forest areas as Community Forest based on the capacity of forest resources and the need to ensure customary user rights of local communities.

Further, in the Community Forestry Sub-Decree Article 7 it is noted that:

The local Forestry Administration shall assess and analyze the requirements and problems faced by the local communities that requested to establish a community forestry community with the involvement of local authorities or commune council.

The Community Forestry Sub-Decree Article 24 goes on to clarify that:

The Forestry Administration shall have the following roles and duties... assess and demarcate forest area for establishing community forestry

The Forestry Administration also has the role of coordinating with the Ministry of Land Management, Urban Planning and Construction in order to delineate land for inclusion in communal titles of indigenous communities. While much of the legal framework is in place to begin establishing recognized community forestry sites and to begin issuing communal titles, the lack of technical and financial resources has constrained this process in Ratanakiri. Further, many of the operational problems associated with the implementation of the Forestry Law and Land Law have yet to be addressed. This report has been prepared in order to suggest possible approaches to guide



the allocation of community rights over forest. As stated in the introduction, the paper suggests where and how communities currently utilize the province's forest lands and proposes possible criteria for zoning of forest areas within Ratanakiri. Such a zonation could facilitate the application of tenure options under current laws and sub decrees leading to a greater clarification of management rights and responsibilities. As suggested in Table 3, it can be argued that land with the highest potential and importance for community management of forests should eventually be transferred into appropriate communal land title. If security of protection of old-growth forest resources is written into the communal title, such tenure would allow communities a very real sense of ownership and responsibility for the forest they have traditionally managed. It would assist the communal land titling process, increasing agricultural land security for indigenous communities and thereby increase forest security. Lands with slightly less importance to communities could become Forestry Administration Recognised Community Forest, either as Protected Forest (where no new commercial operations were desired by communities) or as Production Forest (where new sustainable commercial operations were at some stage desired or required by communities). The challenge is to attempt to match customary systems of land and forest use, with the most appropriate legal tenure mechanism or resource management program endorsed by the Royal Government of Cambodia. As yet not even a delineation of state public/private land has been done in Ratanakiri, nor has there been any delineation between Production Forest and Protection Forest.

Identifying Potential Communal Land and CF Areas

Over the past five years, a number of organizations have been involved in working with the provincial government to develop land use plans, and in the process to document local resource management systems. These provincial maps have been made by the Community Natural Resource Management Project under the management of the Provincial Rural Development Committee (PRDC) in collaboration with the Partnership for Local Governance (PLG), Non-Timber Forest Products (NTFP), International Cooperation Cambodia (ICC) and Cooperation Internationale pour le Developement et la Solidarite (CIDSE). They have been done with teams from each of these projects facilitating community dialogue that defines their current land use. Sketch mapping and field mapping includes the use of handheld GPS units and remote sensing data.

Using the categories described in Table 4, it is possible to look at how much of these areas are under different forms of traditional management. The land-use planning maps that have been done to date do not cover the whole of the province. For this reason, it is not possible to use the total of land use areas from these current maps to say what the situation is within the whole province. Map 1 shows which areas have been mapped and also shows some of the customary land uses that have been mapped. Virtually all land, forest, and water resources fall into customary use.

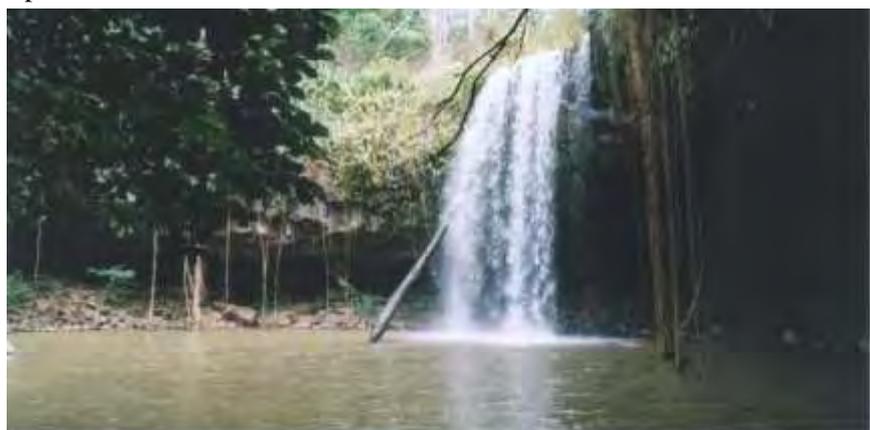
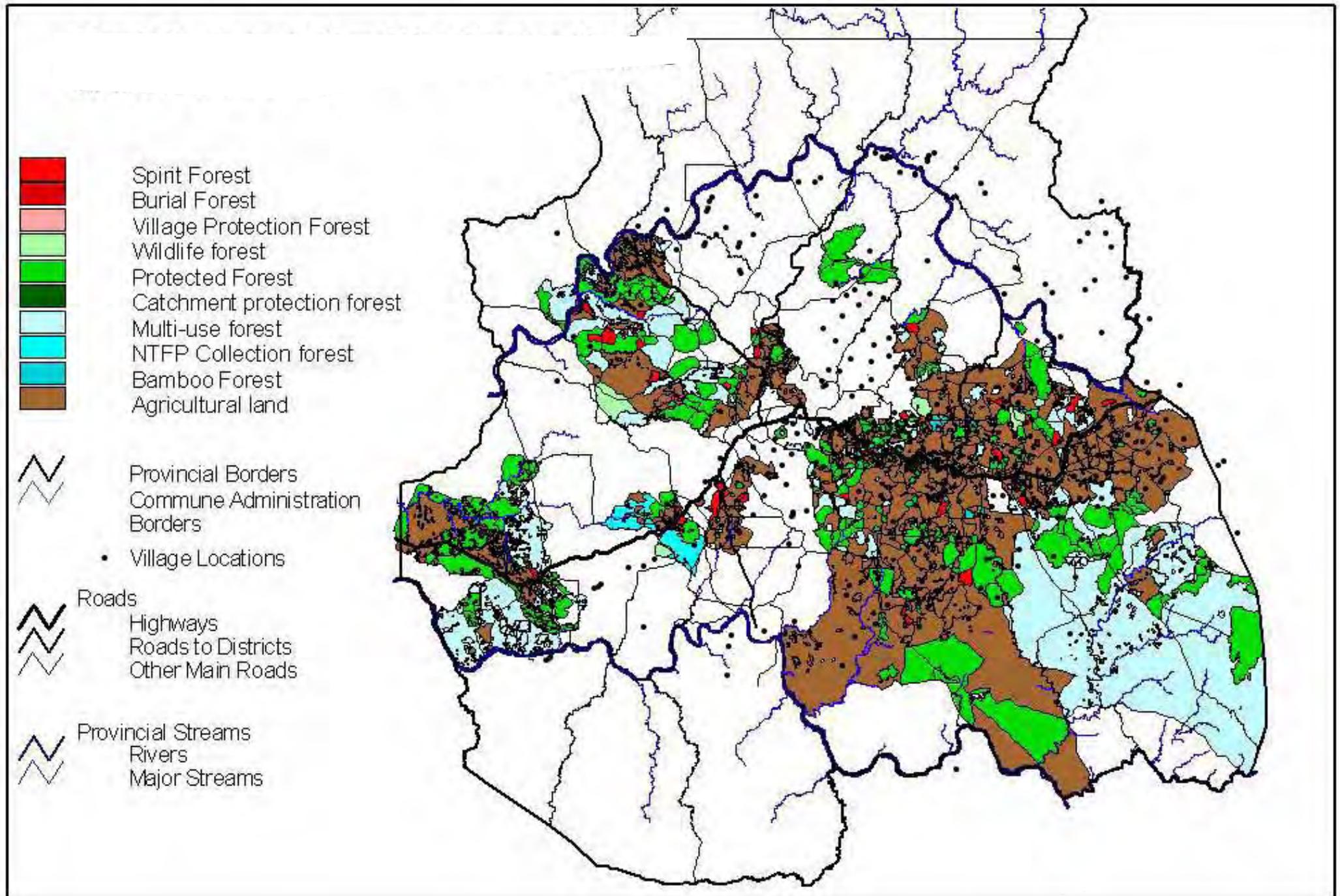


Table 4: Indigenous Land Use Categories

Forest Use Type	Products and Benefits
Conservation Forests	
Sacred Forest	Appeasement of Spirits – Hydrology
Burial Forest	Disposal of dead - Hydrology
Village Shelter Forest	Protection from Storms Hydrology Micro-Climate
Wildlife Forest	Medicinals Recreation
Watershed Catchment Forest	Hydrology Timber
Spring Forest	Enhanced Spring Flow Fishing
Production Forests	
Chamkar/Swidden Field and Forest Fallows	Multiple crops from agricultural land firewood
Bamboo Forests	Bamboo poles and shoots
NTFP Collection Forest	Medicinals, mushrooms, rattan, resin oils
Multiple Use Forest	Wood, Hunting and gathering



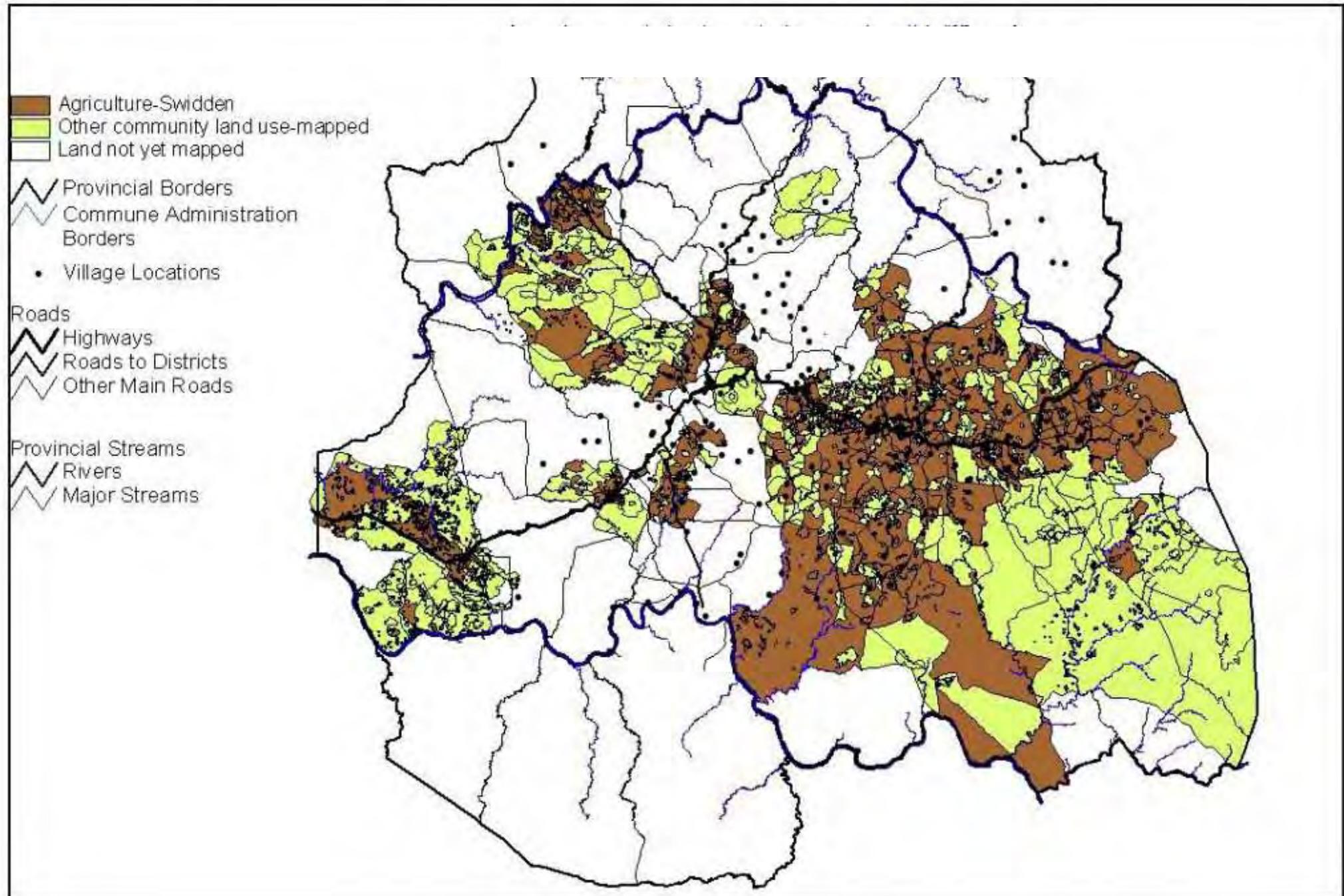
Map 1: The Extent of Land Use Planning Mapping as at December 2004



It is possible to use provincial land use maps to see how much forest occurs within the customary use types that have been suggested. Map 2 provides a view of the area under a swidden cultivation cycle. This includes forest land that has been cleared and is currently under cultivation, as well as fallowed agricultural land that is covered by regenerating forest generally ranging in age from 1 year to 25 years. As is evident from the map, swidden lands tend to be located relatively close to communities within 2 kilometers and usually not more than 5 kilometers from the settlement.



Map 2: Land Use Mapping to December 2004 - Agricultural Lands

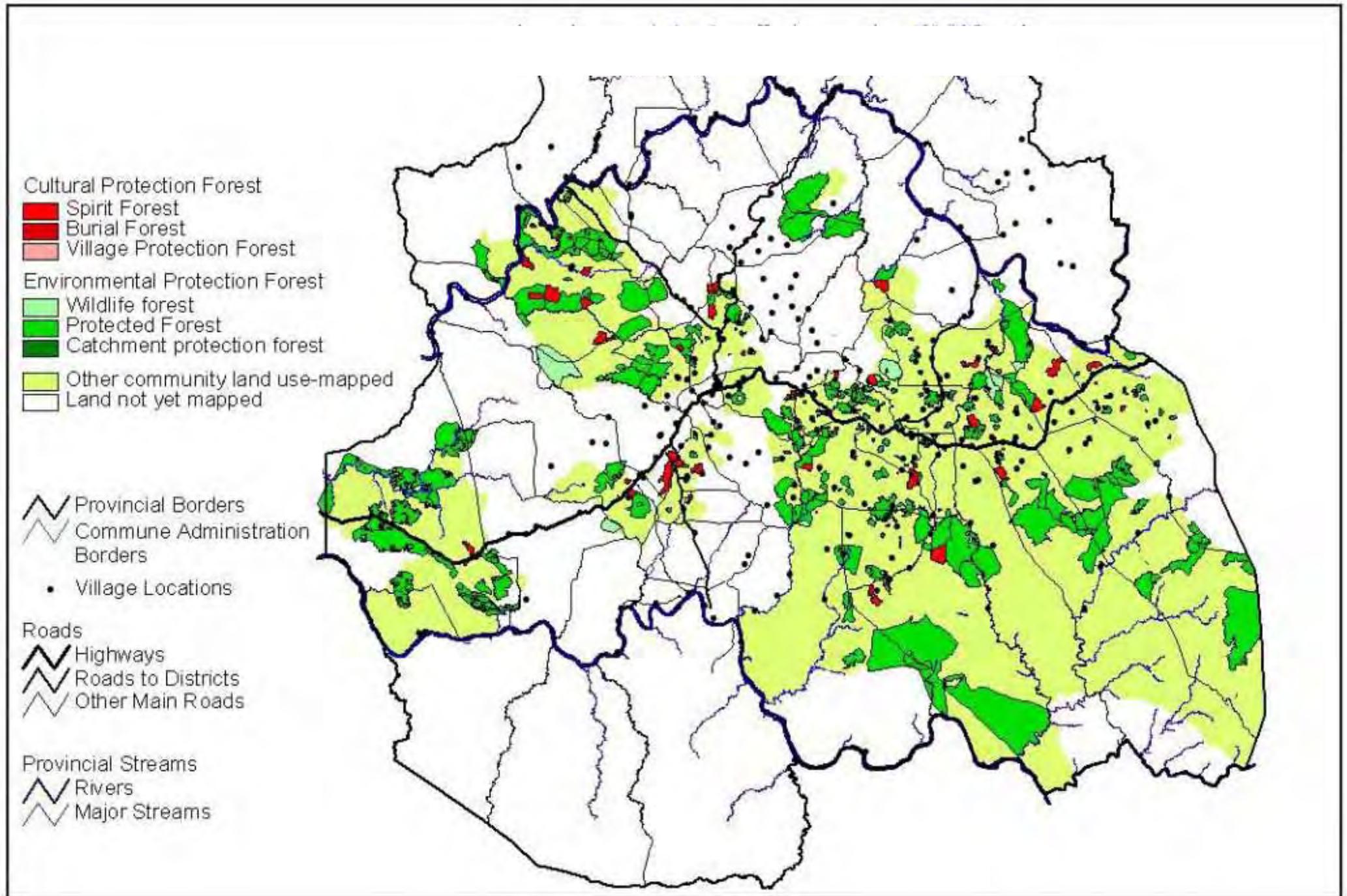


Large areas of forest are conserved for cultural and environmental reasons by the indigenous communities of Ratanakiri (see Map 3). Cultural forests, such as spirit and burial forests tend to be smaller and located near the settlement, while watershed and wildlife forests are larger and located at somewhat greater distance from the village. As the map indicates, over one hundred sacred forests are scattered widely throughout the province. Virtually all communities maintain strict conservation policies to protect these areas. Because the forests are carefully conserved, with no green cutting allowed, they often retain old growth trees, springs, and endemic flora and fauna of interest to eco-tourists. Greater community tenure security over these forests could be enhanced through national or international programs that recognize community protected areas. This would help to offset external pressures that alienate community lands. In some communities, there have already been incidences where sacred and burial forests were illegally purchased by outside investors.

Communities report that they protect these areas because they support wildlife important to the village. Indigenous communities also designate some forests for protection as shelter belts around the settlement. Watershed protection forests as well as spring forests are also conserved for their hydrological functions, as well as special habitat values as fisheries and wetlands. These forests can vary widely in distance from the village. Shelter forests are almost always in close proximity to the settlement, while wildlife forests may be at considerable distance from the village. Forests protected for water by communities that have been surveyed to date are frequently located from 2 to 5 km from villages.



Map 3: Land Use Mapping to December 2004 - Forest Areas Communities want to Protect



Map 4 indicates that indigenous communities protect and manage large tracts of forest as low intensity production forest, largely for non-timber forest products. These include multiple use forests, NTFP forests, and bamboo forests. Much of the Multi-Use Forest identified by communities is situated from 5 to 10 km from the villages. There are, however, significant areas within the zones 0 - 2 km and 2 -5 km from villages. Some of these multi-use forests may be very important areas to communities and would be best recognized under Community Forestry Agreements, or, if there are small areas of forest within the agricultural lands of communities these could be incorporated within the communal title of those communities. Small bamboo and NTFP forests are usually near settlements so that household members can easily access them for goods for building, medicines, foods, fibers, and related materials. Multiple-use forests that are relied on for hunting, timber, resin collection, bird nests, and other products that are sought out periodically or on a seasonal basis are often larger in size and at greater distance from the village (see Map 4).



Map 4: Land Use Mapping to December 2004 - Forest Areas Communities Want to Use for Sustainable Harvesting

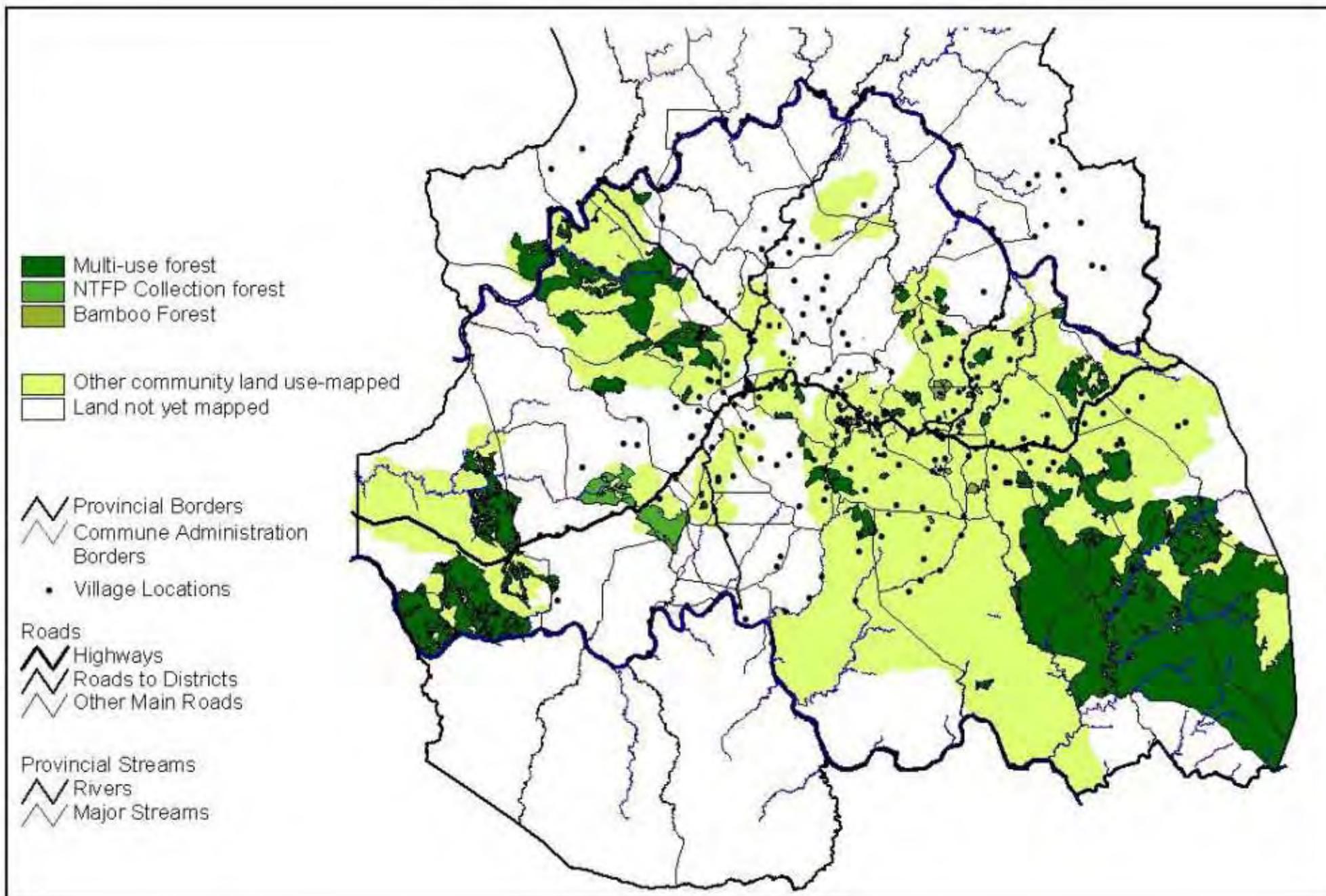


Table 6 provides a helpful indication of the area under different customary use regimes and its distance from the village. Table 6 shows that the percentage of total land area under forest increases as one moves away from the settlement.

Table 5: Spatial Distribution of Forest and Land Use Types by Distance from the Village

Forest type	Hectares within 0-2 km of villages	Hectares within 2-5 km of villages	Hectares within 5-10 km of villages	Hectares over 10 km of villages	Forest cover- age total hectares
Spirit forest	2,196 ha	2,309 ha	488 ha	<i>none</i>	4,993 ha
Cemetery forest	890 ha	63 ha	<i>none</i>	<i>none</i>	953 ha
Village protection forest	38 ha	<i>none</i>	<i>none</i>	<i>none</i>	38 ha
Wildlife protection forest	92 ha	1,562 ha	57,83 ha	27,269 ha	34,706 ha
Catchment protection forest	10 ha	<i>none</i>	<i>none</i>	<i>none</i>	10 ha
Protected forest	11,897 ha	29,401 ha	19,680 ha	17,590 ha	78,568 ha
Multi-use forest	12,747 ha	35,758 ha	24,675 ha	10,166 ha	83,346 ha
NTFP collection forest	1,121 ha	2,535 ha	441 ha	<i>none</i>	4,097 ha
Bamboo forest	647 ha	684 ha	<i>none</i>	<i>none</i>	1,331 ha
Agricultural Land					
Total	29,638 ha	72,312 ha	51,067 ha	55,025 ha	208,042 ha

Table 6: Land Area and Distance from Village

Buffer distance from village	Total area of Land use mapping	Forest Area mapped within land use maps	Percentage of area under Forest
0 - 2 km	103,780 ha	296,38 ha	29%
2 – 5 km	133,220 ha	723,12 ha	54%
5 – 10 km	789,12 ha	510,67 ha	65%
> 10 km	705,30 ha	550,25 ha	78%
Total coverage	386,442 ha	208,042 ha	54%

In trying to develop maps to indicate where different land and forest management tenure systems may be appropriate in Ratanakiri, considerable thought was given to the types of meaningful indicators or characteristics that could be mapped. Elevation was considered to be a factor because hills have been noted to be significant as areas of spirit forests. It was thought that altitude or elevation could be used to map this factor. On closer examination, however, it was seen that altitude was not a good estimate of areas above the general landscape. This was because some areas lower than the surrounding lands were actually higher than hills in other areas. For this reasons, elevation could not be used for approximating significance for community management of forests, though topography remains a determinant of forest use practices.

Red soil areas are also considered important because much of the agricultural lands of indigenous communities occur on red soil areas. It was thought that mapping these areas could help indicate which areas were important for inclusion in communal land titles of communities. Red soil, however, as a sole determinate, has limitations as it excludes white soil area with forest of value to communities. As a consequence, areas close to villages on white soil were just as important for communal titling as those on red soils. For this reason, soil type was not included as a factor predicting potential for community management for forest. After evaluating a number of factors, the most important was distance from a village as it generally reflected the community's level of dependency or intensity of use. Distance from the village was considered as the primary factor indicating the potential for community management. Distance has been used effectively in other countries as a proxy indicator for community resource dependence. The closer the forest is to the village, the more the resource is used and the more it is relied upon. The current village locations from the Ratanakiri Provincial GIS database were used and zones around them mapped (see Map 5).

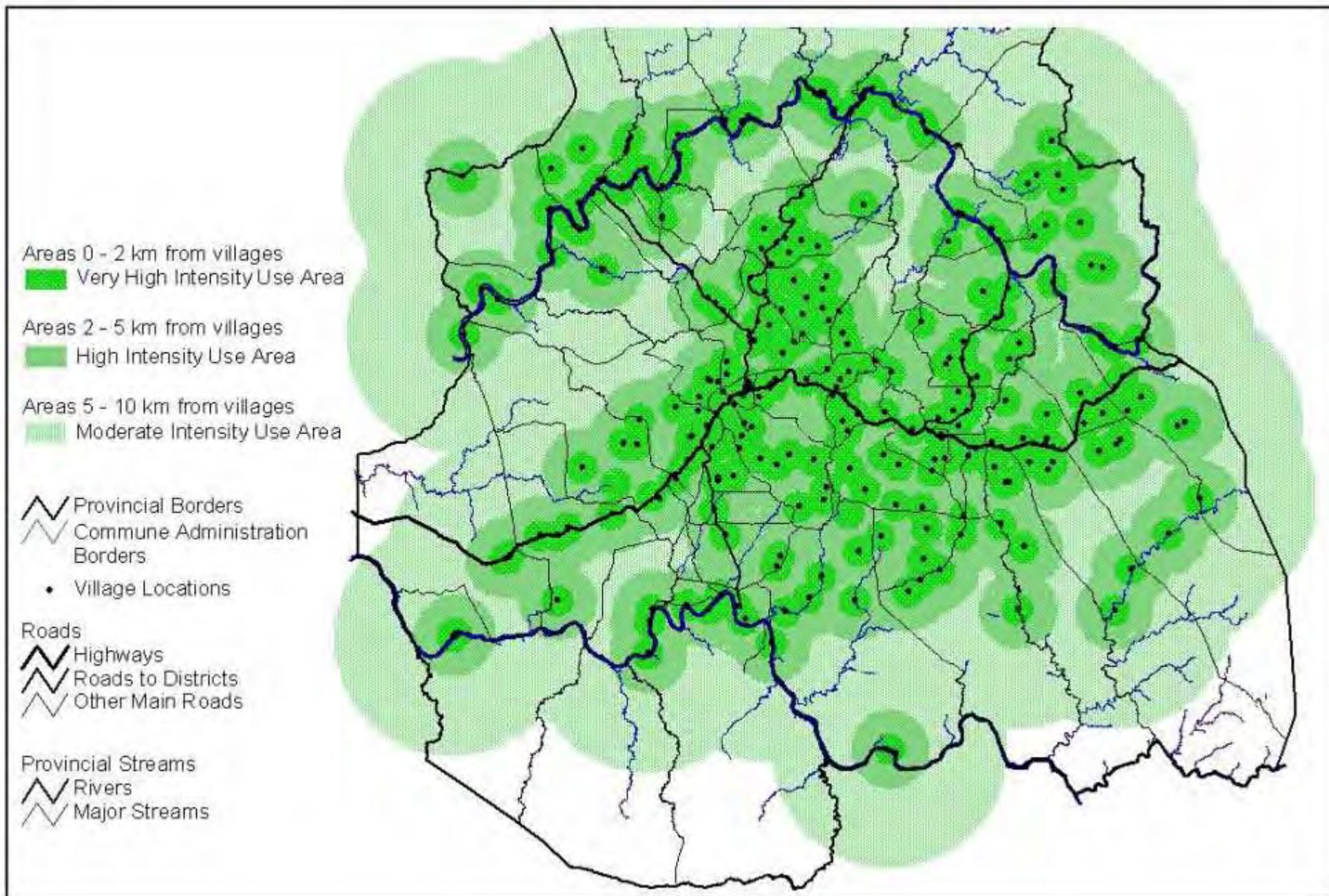
When using distance as an approach for land use planning it is important to remember that the broad zones are not suggested as final management zones. For example, it may be that some forest areas of special importance to communities are located from 5 to 10 or more kilometers distance from villages as indicated in Map5 community usufructs need to be recognized. The reason for doing the broad zoning is to gain a rough approximation regarding how much forest should be allocated to communities under different tenure mechanisms within Ratanakiri. Zones were then given a value of potential for community forest management as follows:

- Areas 0 to 2 km from any village in Ratanakiri were mapped as having a value of “5” for potential.
- Areas 2-5 km from a village were valued at “3”
- Areas 5-10 km from a village were mapped as having a potential value of “1”
- Areas over 10 km from a village were mapped as having no or negligible potential for community forest management

It should be noted that this approach does have limitations. Some areas of high significance to communities are far away from the villages. In areas where there is flat land, but hill forests at greater distance from the settlement, these hills are actually often very significant to the community as they may possess a different species composition or have an important hydrological function. These variations cannot be mapped easily. Therefore, the maps presented here are initial attempts at zoning what may be significant areas for community use, management and ownership of forest. Nonetheless, using distance as a reflection of the level of importance of the forest as a resource for the community can be helpful in obtaining a preliminary assessment of where priority should be given in strengthening local tenure authority, especially during a period of intense external pressures on the land.



Map 5: Ratanakiri Province Showing Village Locations and Distance Zones Away from Villages



Matching Indigenous CF with Government Tenure Mechanisms

Using mapped potential to suggest tenurial arrangements for community land and forest management zones provides an estimate of the amount of area that could be allocated to communities under different tenure mechanisms. In actually implementing the tenure agreements, adjustments would need to be made to address prior claims and concessions, including existing privately titled areas. Other factors would include matching tenure to reflect existing land use and land cover. The concentric rings presented in Map 5 provide a general guide to the probable degree of community control required over the resource given the intensity of dependency by village households. The map suggests that much of the province's forests are used to varying degrees by village members and that tenure should reflect use levels. Actual use levels would need to be determined for individual communities.

This study suggests that it would be important to utilize the most secure tenure mechanism to optimally strengthen community rights over resources that they are most dependent upon for their settlements and livelihoods. As Table 7 proposes, land that is generally within 0 to 2 kilometers of the settlement should receive priority for communal titling to protect the village households, their immediate agricultural lands and waters sources. Forest lands within 2 to 5 kilometers could be recognized as community forests through agreements with the Forest Administration, while customary use rights are extended under the Forest Law for more distant forests. Still, these arrangements need to be made flexibly and on a localized basis to respond to site specific variations, historic claims, and other issues.

Table 7: Suggested Tenure Option by Distance from Village

Distance from Village	Suggested Tenure Arrangements	Area
0-2 km from a village (priority ranking =5)	Communal ownership under the Land Law	220,556ha
2-5 km from a village (priority ranking =3)	Forestry Administration Recognized Community Forestry under the CF Sub-Decree	309,393 ha
5-10 km from a village (priority ranking =1)	Customary use by communities under the Forestry Law	332,235 ha
>10km from a village	Customary use by communities under the Forestry Law	36,848 ha
Total		899,032 ha

SUMMARY

In conclusion, much of the land area in Ratanakiri Province is under the active use and management of indigenous communities, but this is being threatened by encroachment of community tenure. It is clear that a wide range of land and forest management regimes are utilized by rural households and that most resources are administered collectively by village institutions, although household rights of usufruct are often assigned both to land as well as specific trees.

Spatial analysis described in this paper suggests that distance from the village can be used as a rough indicator of importance of the resource to the community. Land and forests within 2 kilometers of the village, including shelter forests, sacred forests, *chamkar* land and forests, and spring forests are the most intensively used and managed resources and should be considered for communal title. Forests from 2 to 5 kilometers typically hold a moderate level of importance to communities, as they may be important for agricultural land and non-timber forest products. These forests need to be considered for Community Forestry Agreements under the Community Forestry Sub-Decree. More distant forests are generally less intensively utilized, and are primarily relied on for hunting and gathering of non-timber forest products. Nonetheless, distance from the village can only be used as a general reference of importance.

As was noted earlier, some distant forests possess high value resin trees that are a very important source of income for some village families. Further, tenure rights to collection may be quite well delineated. Tenure arrangements are also needed to create incentives for continued conservation of forests that are protected by indigenous communities. Forests that are deemed important by communities for their environmental services, including water and biodiversity, should be zoned as “protected forests” by the Forestry Administration, with collaborative management arrangements established with resident communities.

The indigenous communities of Ratanakiri have a substantial informal role in managing and protecting local forests, and are also heavily dependent upon them for their livelihoods. The alienation of community land control has been rapid in recent years and continues to present major challenges for the sustainable use and conservation of remaining forest lands. Communities are often poorly prepared to deal with pressures placed upon them by local officials and outside entrepreneurs, as well as their own desire for cash. A villager relates his own experience:

They came to the village and said 'we want to buy your land.' The man didn't say who he was and we do not know how to sell land, as we had never done this. They told us not to speak Jarai (the local language) and to put our thumb print on the paper. The commune council chief bought 3 litres of wine and a pig for a feast to celebrate the land sale. Then they came with tractors. They fenced a very big area, much larger than they said they would. We know now that we were wrong to agree (to the sale).

Now we know the law and our rights. If we lose our land, we lose our sense as a people.

In this case, the company felled 400 hectares of forest and destroyed the homes of 20 families. Each family was given \$400, but the families have since spent the money and now have lost their homes and agricultural land. Such cases are increasingly common in Ratanakiri and regularly appear in national newspapers. The question is whether those components of the Land and Forestry Law can be mobilized to extend greater tenure authority to vulnerable ethnic communities throughout the province? At present, there are minimal field project resources, either in terms of staff or funding, to implement a strategy to secure community resource rights. Unclear and unstable land and resource tenure pose serious obstacles to sustainably managing the estimated four to five million hectares of secondary forest lands lying outside of forest concession and protected areas.

A challenge to successful implementation of new laws and policies is their integration into national development plans and donor priorities. According to the Rectangular Strategy for Growth, Employment, Equity, and Efficiency that was launched in mid-2004 by the RGC as the national development agenda, government planners envision promoting economic growth through agriculture, infrastructure, and private sector expansion. With limited resources, the RGC is dependent on development assistance to finance many aspects of this strategy. This approach has led to a commercialization of agriculture, expansion of speculative land markets, and a clearing of natural forests throughout the Mekong region, often displacing indigenous peoples and their land use systems. As an Asian Development Bank report notes: "Recent relatively rapid growth has not led to a significant reduction in poverty." There is a need to consider alternative approaches to the development of Ratanakiri Province that places greater value on conserving the natural environment and the unique cultural composition of that region.

Development plans and policies that further support private sector investors that are already rapidly acquiring land and forest control, often illegally, will only accelerate deforestation and land alienation across the province. An alternative approach that seeks to build and strengthen indigenous resource stewardship systems, while building an eco-tourism infrastructure and industry could protect Cambodia's national heritage while stimulating sustainable economic growth that contributes to social equity. An important step in this process is enhancing the land and forest tenure security of the local population. With the necessary legal instruments already ratified under the national land and forest laws, it is only necessary to establish a strong political will to implement policy and organize the financial resources to proceed with their implementation.



Cooperation with the Local and National Government

An important aspect of the development process in Ratanakiri is the increased presence of government in the villagers' lives. Efforts to encourage decentralization, the establishment of commune councils, national and local elections, proliferation of media, international donor-funded projects, and NGOs have all brought people into closer contact with the state than they had been before. Communities now more than ever need to cooperate with the state authorities, and the state authorities should build bridges, partnerships, and strategic alliances with local communities to protect and manage the forest resources. The commune level could facilitate dialogue between the FA and the traditional authorities. Research into traditional conflict resolution showed the cooperation that is occurring between the state and traditional authorities in dealing with cases which cannot be resolved within the village. Cases are brought to the village chief and then to the commune and district authorities when the case requires formal law. This cooperation could be examined to understand how to improve forest management. Villagers interviewed during recent research requested the state authorities to assist them to resolve conflicts and disputes over land, and forest and natural resource destruction. They also requested that there be a reduction in conflicts created by local government involvement in illegal activity.

In a situation like Ratanakiri, where the implementation of the law has been slow, mechanisms for regulating forest management are urgently needed. The forestry authorities are not able to deal with the hundreds of minor, and even major, forest offences that occur on a daily basis. There is a valuable opportunity to build an important first defense against forest destruction through strengthening the role of the traditional elders and recognizing community forest management systems that are already operating. In addition to indigenous forms of management, many other villages are developing new uses for their forests by designating areas for forest tourism.

Implications for Policy

The policy discussion focuses on how to promote positive interaction between formal and traditional legal systems and how to deal with abuses of power and authority which are often behind illegal forest activities. The problems are more social than technical. Policy options for forest management include:

1. Strengthening community forestry tenure security and livelihoods using proximity criteria described earlier in this report,
2. Developing a network of community based monitors under the supervision of traditional elders in cooperation with the Forestry Administration.

The guiding policy principle in coordinating forest administrative and management efforts in indigenous areas should be to connect the extensive and detailed local knowledge and traditional management practices of indigenous communities to longer term forest development strategies. Indigenous communities have so far not been part of this policy discussion, nor have their concerns and issues been integrated into regional development dialogues. Village people involved in this research project felt that if the formal legal system, including the Forestry Law and Land Law, was properly implemented, allowing for full community participation, this would help to defend their rights and interests.

Indigenous forms of governance in Ratanakiri are not static but dynamic, transforming in a landscape of changing political and economic realities. As in the rest of Cambodia, social and economic changes in the highlands have been acute over the past fifty years. War, revolution, recovery, and development have all had far-reaching effects in the northeast. Although change is arguably taking place at a more rapid pace than anytime in the past, and this is undoubtedly placing stress on traditional values, land use practices, and institutions, these systems have always adapted to changing circumstances through history. With the right emphasis and support, there is no reason why traditional systems cannot evolve and adapt to cooperate with the state forest management systems and legal structures (Backstrom et. al. 2006). In summary, recent land and forest laws can respond to indigenous resource use systems if there is a regional policy that promotes such integration, a political will to move forward with the implementation of national laws, and the technical and financial resources to support this process.

The most logical development pathways for indigenous swidden systems, for example, could be a transition to diversified, long term agro-forestry rather than clearing forest to plant monoculture plantations or annual cash crops. The communal swidden lands could act as a buffer between cash cropping areas and forested areas, with the swidden areas being more a mix of cropping, agroforestry, and fallows. Community-based forest management also includes protecting and encouraging wildlife and there is also potential for utilizing degraded or open dry forest areas for managing and farming wildlife, allowing villagers to become wildlife guardians for tourism. Even sustainable harvesting of wildlife should be possible with secure land ownership and forest management agreements. Wildlife populations could be a useful indicator of forest health. Forest health can be easily monitored and managed by communities creating new opportunities for conserving forest areas.



Important cultural areas such as spirit forests which connect the people to their village land and forest should be recognized and delineated as protected forest areas. Management of these areas could be either formalized under a community forestry agreement or incorporated into a communal land title. For ease of management and for allowing more genuinely integrated approaches to resource management, it is important to develop a package of full and partial use rights. The Philippines, India and a number of other Asian countries offer some examples of these kinds of arrangements.

These options above are consistent with the broad goals for poverty reduction in the forestry sector to maximize benefits to rural communities through community based forestry, agro-forestry and agro-forestry livestock systems. These strategies seem ideally suited for forest based communities and for communal land ownership, and they should be prioritized for poverty reduction in order to support 'development with identity' in the poorest, remote, rural indigenous areas in the country. For communities to invest in these systems they need the tenure security supported that can be extended through new forest and land legislation.

To many Cambodian and foreign field staff working in Ratanakiri, it is evident that the post-war recovery and development boom is having a profound and marginalising effect on many highlanders. Much of the current economic 'boom' in that province is based on illegal land clearing, logging of community forest areas, and unproductive land speculation often through forced and illegal land buying at ridiculously cheap prices. The losers in this process are the indigenous communities and the forests. While a few local persons and outside investors are making profits, the vast majority of Ratanakiri's population is experiencing a process of land and resource alienation that feeds a larger breakdown of culture, community institutions, and rural livelihoods. Deforestation also threatens the province's fragile soils and once rich biodiversity, with long term negative implications for the future productivity of the natural resource base. A major force driving deforestation and social destabilization is the lack of legal authority of the indigenous communities to defend their communal lands and forest. Communities argue that allowing them the autonomy to manage their internal affairs including the management of forest areas would help stabilize the situation. As a recent study concluded:

Traditional conflict resolution in the community, directly managed by the village leaders with the support of the villagers, would be a good way for them to operate under official recognition. This custom will never be lost if the villagers in the village together help and try to conserve it, especially natural resources. If the natural resources are lost, everything else will be lost as well³¹.

³¹ Rean, K. and Vel, T. 2006

Recommendations

Community forest management needs to be strengthened to deal with increased conflicts over land and forests. The natural decision making unit for governance and conflict resolution is at the village level. Recent discussions with the indigenous communities in Ratanakiri generated a number of specific recommendations for action suggested by the communities themselves³².

Community recommendations for land and forest protection:

- ? Stop the illegal alienation of land and forest resources.
- ? Village traditional leader(s) and the whole community need to cooperate in delineating an easily recognizable boundary with neighboring villages. Make a written contract and seal this in the traditional way: chicken, pig and jar of rice wine contributed equally from both villages. Village and Commune authorities need to be witnesses of this agreement and this needs to be recognized by relevant government departments and Provincial authorities.
- ? Village members need extension training so they understand the importance and the impacts if the land and forest is lost.
- ? Anyone who cuts or destroys forest without agreement will be fined by the community.
- ? If any offender trespasses across the village boundaries (e.g. to do swidden) they will not be recognized as having rights to cultivate (and they will be fined under the traditional system).
- ? The community needs to report to the local government authorities (or relevant forest institution), especially if the same offender persists in breaking the community law. Both traditional and government authorities need to cooperate closely together to resolve conflicts.
- ? Indigenous communities should work together to write down the community laws related to forest protection and management.



³²Backstrom et. al. 2006,

Community recommendations to NGOs:

- ? NGOs and Networks should facilitate good communication between communities, organizations and state institutions. This could include building greater awareness of traditional management processes among relevant state authorities.
- ? NGOs concerned with NRM conflict resolution, human rights, and legal aid, should be trained about laws such as the Land Law, Forestry law, land and environment issues, communal land and forest use, and other developments to clearly understand about the laws and articles.
- ? NGOs should cooperate with the FA and other relevant government institutions to find ways to resolve new problems, maintain traditions, and strengthen land and forest governance.
- ? NGOs should lobby the government and other organizations to recognize the people who are responsible for land and forest management in indigenous communities.

Community recommendations for strengthening cooperation with the State:

- ? Security over community land and forest and recognition of traditional governance should be seen as a way to improve traditional management at the local level. The village traditional authorities should be given the authority to deal with both forest monitoring and community forestry.
- ? Communities would like the government to recognize and support the traditional authorities to use their own laws to resolve conflicts and manage their community. Communities would like this right to protect the identity and traditions of each minority group and for fighting poverty.
- ? Traditional land and forest management systems should be incorporated into the national policy framework.
- ? The relevant government institutions need to understand traditional management, and the traditional authorities need to know the government laws.
- ? Clarify the level of responsibilities that the traditional authorities will have within their village areas, taking into consideration what they are doing already and the added authority they require to deal with new problems. Communities request the state authorities to cooperate in forest, land and natural resource conflicts including the exploitation of minerals and gems, claims of ancestral land, and community boundary conflicts.
- ? Government and commune authorities need to find the best way to resolve conflicts in accordance with the government's legal guidelines. Government officials need to stop unjust decisions, bribery, extorting money and exploiting poor people in the state justice system, so that it can provide fair judgment and be a model for the indigenous peoples.
- ? Find the method to stop corruption in order to decrease poverty that is increasing in Cambodia today. One way to do this could be establishing a Citizen's Complaints Bureau in northeast and other provinces as mentioned in Cambodia's National Strategic Development Plan 2006-2010.

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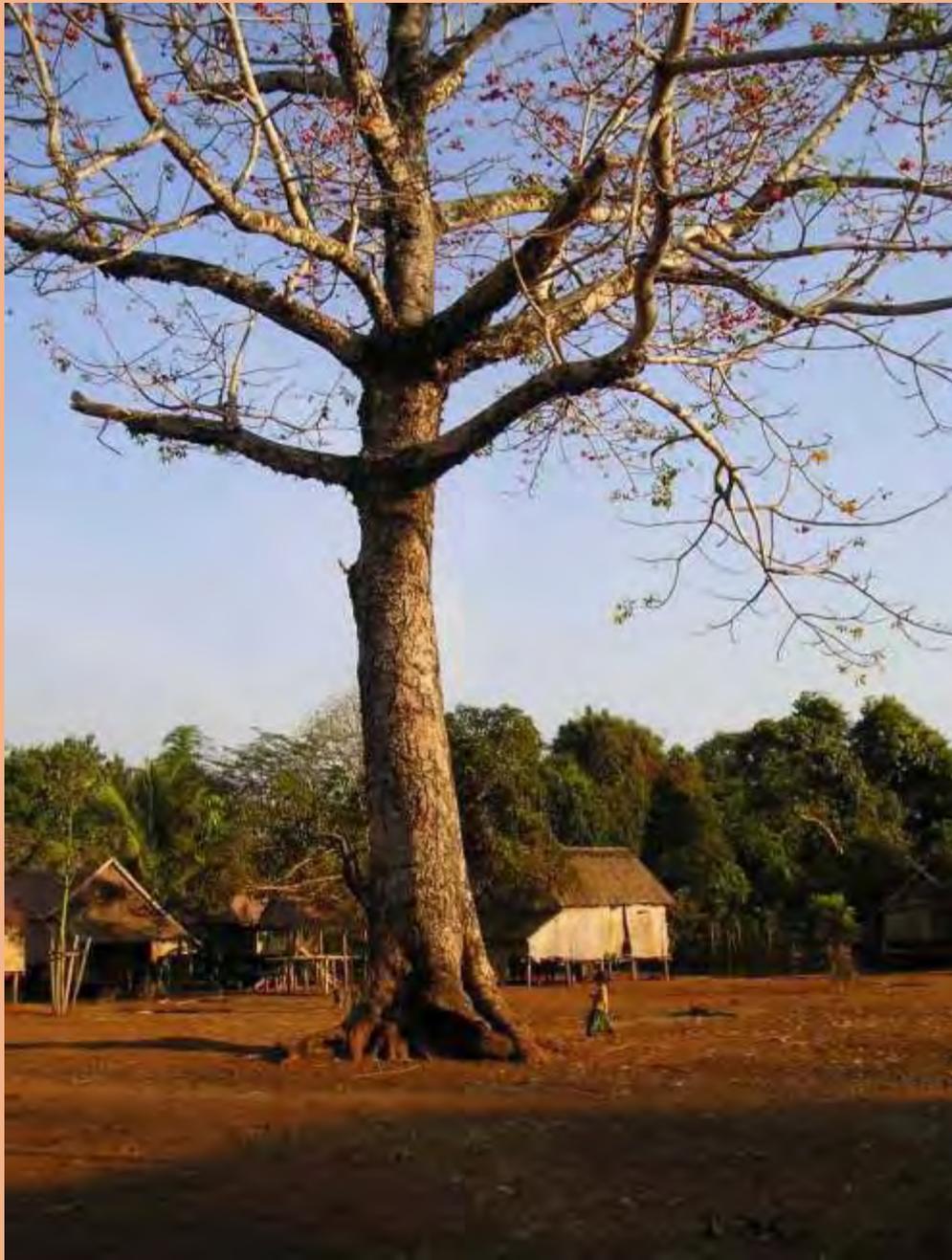
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