

# COMMUNITIES AT THE CORE OF PROTECTED AREA MANAGEMENT :

LEARNING FROM CUSTOMARY TENURE DOCUMENTATION EXPERIENCES IN CAMBODIA



*Villagers actively participate in resource mapping for informing the zonation of the Chhaeb Wildlife Sanctuary. (Photo: Natalie Y. Campbell/MRLG)*

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## 1. INTRODUCTION

In Cambodia, forest-dependent smallholders have been increasingly encouraged to play an active role in protected area (PA) management through PA-related reforms. These include zonation, the promotion of community-based resource management, and the demarcation of indigenous communal land titles, among others. Some organisations have been documenting customary tenure systems using various methodologies with the objective to inform the recognition and formalisation of the land rights of forest-dependent smallholders for more inclusive PA management.

Working closely with local communities to document their customary practices and institutions, and mapping the resources they use inside PAs, will guide PA management toward greater inclusivity of

forest-dependent smallholders. It will particularly help to ensure that PA stakeholders apply free, prior, and informed consent (FPIC) standards in a more meaningful and informed manner.

This brief draws lessons from three customary tenure documentation processes implemented by the Wildlife Conservation Society (WCS) and the Highlanders Association (HA). It identifies their respective contributions to enhancing PA management and tenure rights and subsequent key policy implications, and offers recommendations to contribute to debates in Cambodia to enhance nature conservation efforts. This brief is the synthesis of the case study, *Communities at the Core of Protected Area Management: Learning from customary tenure documentation experiences in Cambodia*, published in June 2023.

## 2. REFORMS OF PROTECTED AREA MANAGEMENT

The legal framework for the management of PAs in Cambodia has greatly evolved over the last 30 years, redefining the relationship between the State and communities in nature conservation efforts (Table 1). A key element of these relations is the type of tenure

arrangements being recognised and promoted, such as (a) the full control over PAs by the State, (b) collective land tenure detained by communities, or (c) formal private and individual land rights inside PAs.

In the following table we summarise the major policy reforms that have affected the tenurial arrangements within PAs.

**Table 1: Summary of key legislation for PA management in Cambodia**

Legislation	State tenure	Collective tenure	Individual tenure
<b>1993</b> Royal Decree on the Establishment of Natural Protected Areas	24 PAs covering 3.2 million ha	Not specified	Not specified
<b>2005</b> Sub-decree on Economic Land Concessions	73 agro-industrial concessions inside PAs	No	No
<b>2008</b> Law on Protected Areas and the 2017 Technical Guidelines for the Zoning of Protected Areas in Cambodia	In core and conservation zones	Community Protected Areas (CPA) in the sustainable use zone	Land titles in the community zone
<b>2009</b> Indigenous Communal Land Titling (Sub-decree 83)		38 communities have received Indigenous Communal Land Titling (ICLT) (mainly outside PA boundaries)	
<b>2012</b> Order 01 - Individual land titling campaign in upland areas		No ICLT	Private titles issued inside PAs, covering 125,909 ha
<b>2016</b> Expansion of protected areas (Sub-decree 69)	In core and conservation zones	Community Protected Areas (CPA) in the sustainable use zone	Land titles in the community zone
<b>2017</b> Creation of new biodiversity conservation corridors (Sub-decree 7)	New biodiversity corridors cover 1.5 million ha but much uncertainty surrounds their management at the local level		
<b>2020</b> Decision by the Council of Ministers (Prakas 05)			Land certification and land titling inside the community zone (933,577 ha)
<b>2022</b> Delineation of community zone in protected areas (Sub-decree 245)			
<b>2022</b> Decision by the Council of Ministers (SCN 437)	Promoting the zonation of PAs, the modification of biodiversity corridor boundaries, and State land registration of PAs		

Since the creation of 24 PAs in 1993, the legal framework relevant to their management across the country has materialised in the expansion of State control and the privatisation of individual land rights. Collective tenure is limited to Community Protected Areas (CPA) agreements (183 CPA agreements covering 0.3 million ha, as of 2021) and Indigenous Communal Land Titling (ICLT), which represents a relatively small share of the area covered by the PA. This general trend is characteristic of the institutional context in which the documentation of customary tenure and its inclusion within the PA-related process takes place. The space given for collective arrangements is small and disputed. Collective tenure security is weak as a result.



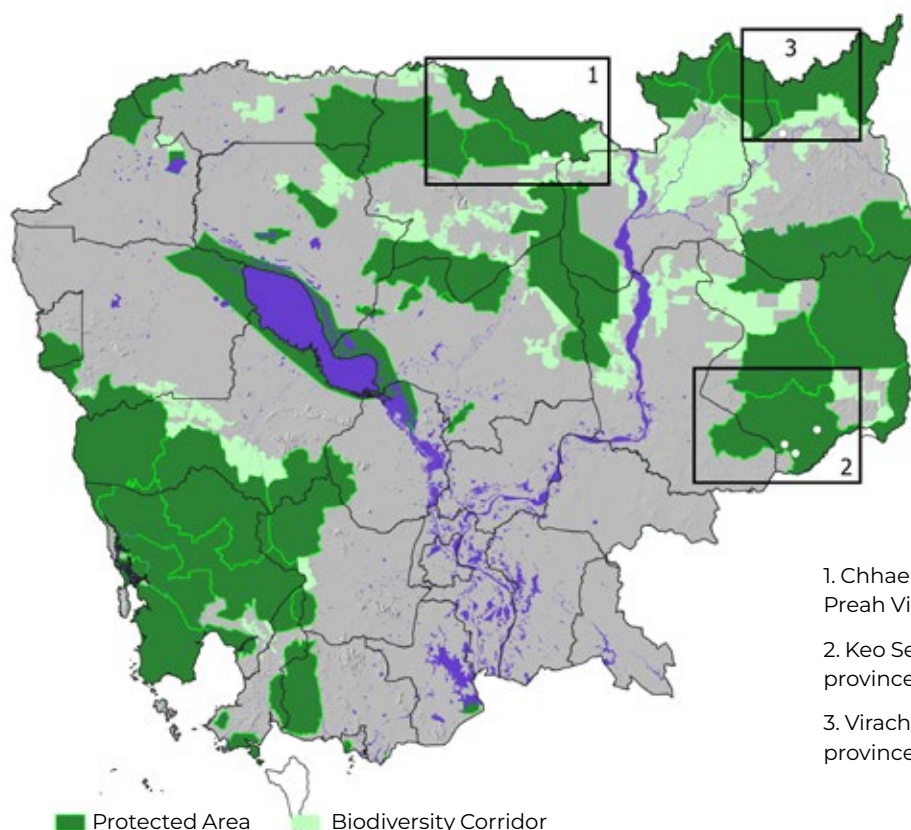
Villagers and local authorities in Chhaeb district, Preah Vihear, Cambodia come together to exchange ideas and opinions on community protected area plans. (Photo: Natalie Y. Campbell/MRLG)

### 3. METHODOLOGY

The research process for this case study took place between June and October 2022 based on a literature review, site visits, and the collection of primary data through focus group discussions and in-depth interviews with key stakeholders. In total, 130 people were consulted. The study examines three initiatives, focusing on customary tenure documentation that aimed to inform one of three different PA-related processes (Figure 1):

- Zonation of Chhaeb and Preah Roka Wildlife Sanctuaries in Preah Vihear province, implemented by the Wildlife Conservation Society (WCS)
- Management of Indigenous Communal Land Title areas in Keo Seima Wildlife Sanctuary in Mondul Kiri province, implemented by WCS
- Advocacy campaign activities on land and environmental rights on the border of Virachey National Park in Ratanak Kiri province, implemented by the Highlanders Association (HA).

Figure 1. Location of the three case study areas



1. Chhaeb and Preah Roka Wildlife Sanctuary, Preah Vihear province, WCS
2. Keo Seima Wildlife Sanctuary, Mondul Kiri province, WCS
3. Virachey National Park, Ratanak Kiri province, HA

## 4. LEARNING FROM CUSTOMARY TENURE DOCUMENTATION IN PRACTICE

### 4.1 Chhaeb and Preah Roka Wildlife Sanctuaries, Preah Vihear province

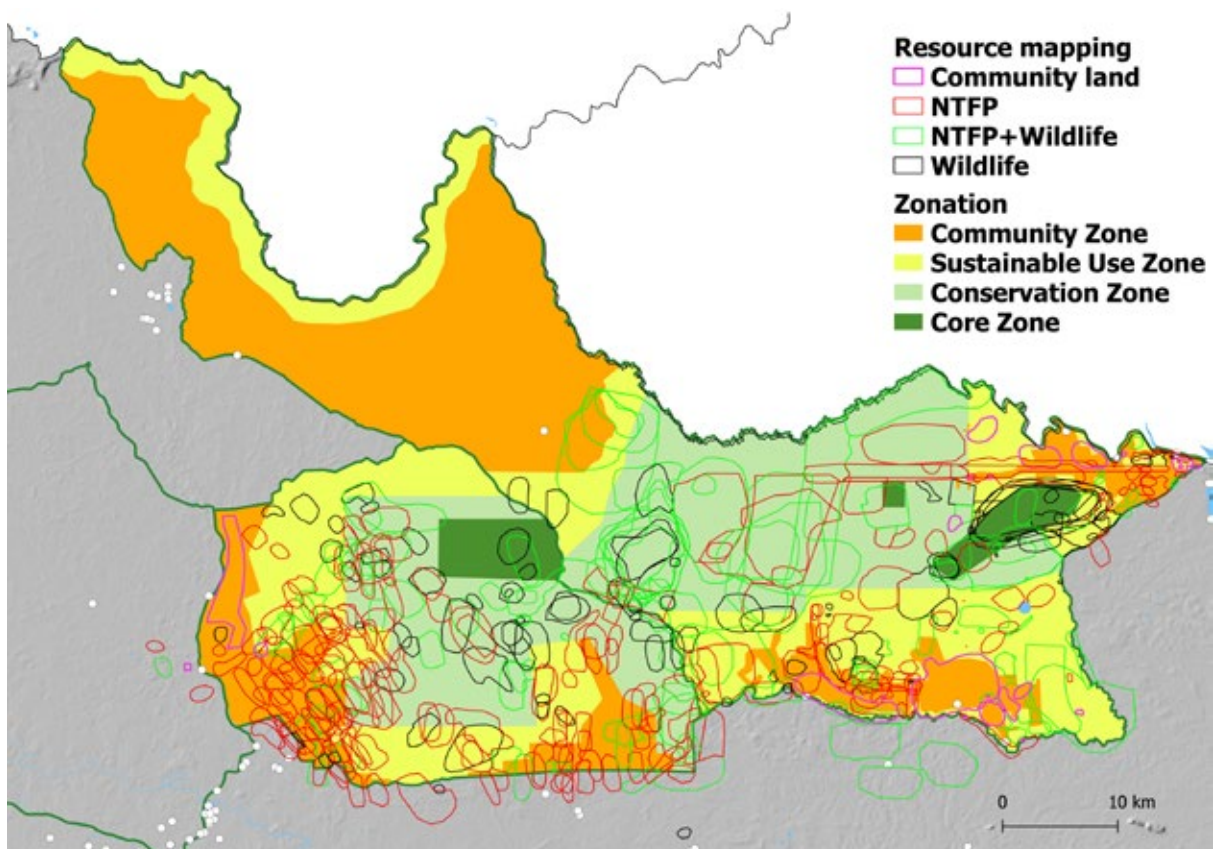
These two PAs are located near to the borders with Laos and Thailand and are home to important wildlife species (such as elephants, deer, gaur, the sarus crane, vultures, and the giant ibis). The areas provide access to non-timber forest products that are significant for local livelihoods (particularly resin trees) and also offer opportunities for ecotourism development. In addition, these PAs can be seen as one of the last remaining primary, high-value forests. The factors that have created conditions for forest pioneering into the PAs include a lack of tenure security for smallholder farmers and no clear guidance on where farming and grazing are allowed, or how non-timber forest products should be managed.

The proponents of the initiatives, WCS Northern Landscape Plains and their partners from the Ministry of Environment, wanted to document and map customary practices inside both PAs so that the zonation and actual management of the PAs could reflect the use of resources by local communities as opposed to limiting access to natural resources and creating exclusions.

The proposed intervention is based on a close reading of the Zoning Guidelines for Protected Areas in Cambodia (GDANCP, 2017). The majority of the work consisted of comprehensive workshops in resource mapping conducted at the village level. A workshop typically gathered 20–30 villagers but the team usually organised several meetings per village to cover the entire resource system. In total, 84 meetings were organised in 48 villages, involving 3,064 people (1,623 men [53%] and 1,441 women [47%]). The facilitation team prepared updated land cover maps and used them as the background for people to identify a diversity of resources that are relevant and important to them. Data and information concerning four main resource units were collected: settlement, farmland and grazing areas; non-timber forest products; important cultural and sacred forest areas; and wildlife. After the village-based mapping exercises, the team and local villagers conducted field surveys with GPS (Global Positioning System) to obtain reliable locations and descriptions of any resources that local people could not identify accurately on the map. The resource maps were then presented to all participants for validation.

After going through all the villages systematically, the team digitised all data and information into spreadsheets and a geographic information system

**Figure 2. Overlay of resource mapping and zonation in Chhaeb and Preah Roka Wildlife Sanctuaries, Preah Vihear province**



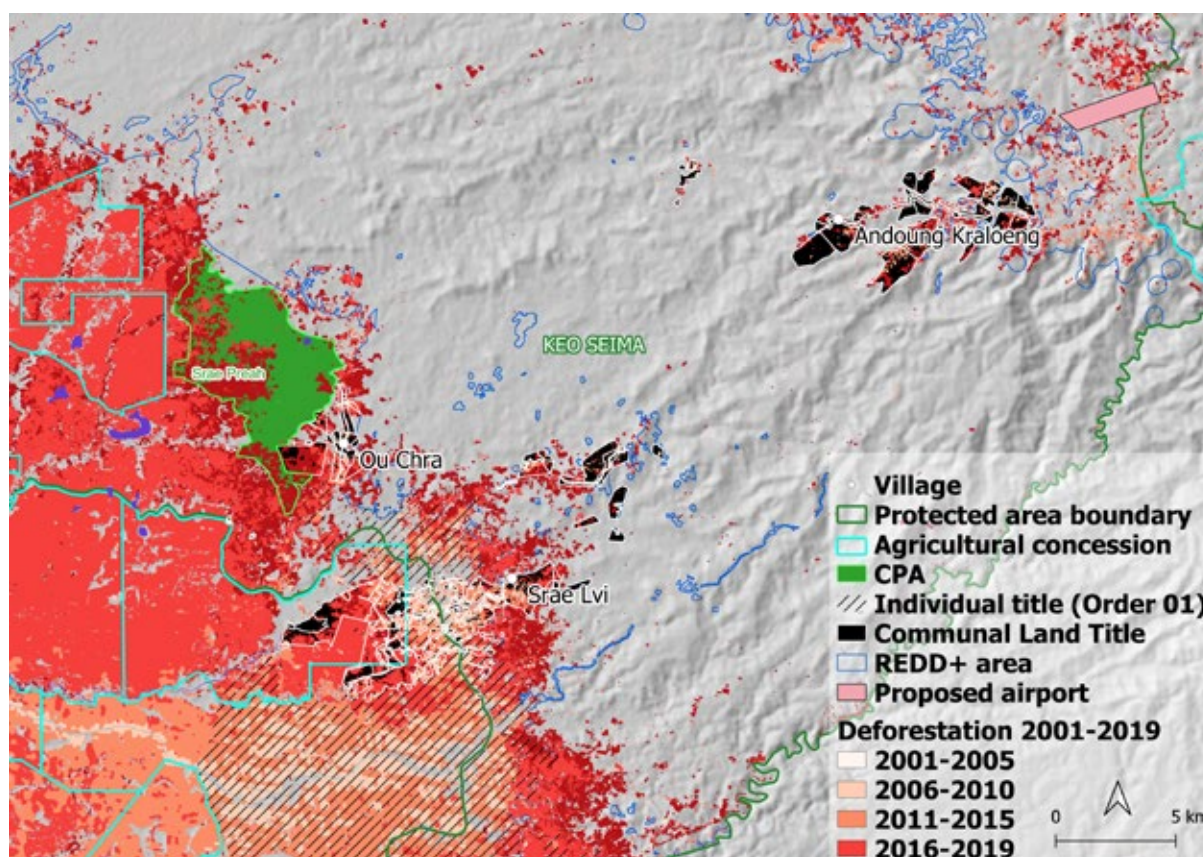
(GIS), which were used as direct inputs to draft the boundaries of PA zones (community, sustainable use, conservation and core zones). This information was discussed during various formal and informal meetings and then formally presented at district and provincial workshops. The map above (Figure 2) overlays the results of the resource mapping and the zonation of the Chhaeb and Preah Roka Wildlife Sanctuaries. It shows that there is a reasonably good match between the resource mapping and the zonation, indicating that people's input relating to the zonation process was well taken into account. The area dedicated to full protection (core zone with no access allowed) accounts for only 4% of the total area of both sanctuaries. This is in sharp contrast to other PAs such as Keo Seima and Sre Pok in Mondul Kiri province where zonation was driven by nature conservation concerns. This resulted in much larger areas classified as core zones (28% and 50%, respectively) and placed many more limitations on access for forest-dependent smallholders.

The initiative has made an important contribution to programme activities by proposing an original approach to integrating FPIC, and a more people-centred approach to PA management that fills an important gap in the existing technical guidelines for PA zonation in Cambodia.

#### 4.2 Keo Seima Wildlife Sanctuary, Mondul Kiri province

Over the last two decades, ethnic Bunong communities living inside the Keo Seima Wildlife Sanctuary have been exposed to significant transformations in land use and tenure (Figure 3). The customary land and forest tenure arrangements of the Bunong have been affected by Economic Land Concessions (ELC) and logging operations, which took place in conjunction with the important migration stream of smallholder farmers searching for land. Efforts towards receiving an ICLT were initiated in the first decade of 2000 but were only formalised in 2011–2012. The titling campaign conducted by the government in 2012–2013 under Order 01 granted private titles to individual households and generated tension with individual land use rights recognised under ICLT (Figure 3). The massive private land titling encouraged by the government outside the ICLT, created a sense of confusion on the part of community members, as two different tenure arrangements (private and collective) co-existed in the same area. People's behaviour in respect of their land inside ICLT became influenced by private land market transactions that prevailed outside. Invariably, ownership of land changed inside and outside the ICLT, without always respecting the internal rules of the ICLT.

**Figure 3. General land tenure situation (2022) and deforestation (2001–2019) in Keo Seima Wildlife Sanctuary, Mondul Kiri province**





*Recent forest clearance in Keo Seima Wildlife Sanctuary, Mondul Kiri Province (Photo: Jean-Christophe Diepart)*

The core objective for WCS in documenting customary tenure in this context was to clarify land ownership inside and around the ICLT area. The process was intended to provide information on the ground to revise the internal rules of the community in order to avoid conflict and encroachment, and to recreate trust in the collective institutions and compliance with ICLT management.

The activities were designed by WCS and their counterparts (the Provincial Department of the Environment and other relevant stakeholders who are members of the Provincial State Land Management Committee). A working group was set up at the district level, consisting of representatives from the ICLT committees, local and sub-national authorities and representatives of the wildlife sanctuary management. A team of local facilitators involved in the management of the ICLT and local officials (the Village Land Use Inventory Working Group) was formed and trained by the WCS team in conducting land inventories and in using land survey digital equipment (the Avenza Maps application). The majority of the activities consisted of a land inventory survey by the Village Land Use Inventory Working Group to identify or update the ownership of each plot of land located inside the ICLT area (settlement, agricultural, reserve land, and spiritual

and burial forest zones) and a limited area spilling out of the ICLT territory. The inventory results were transferred from the Working Group to the WCS team for processing and then returned to village groups as a digital file and hard copy.

After data processing, the survey results were presented during a village meeting and further discussed in order to revise the ICLT internal boundaries and the internal rules of the community. The process identified significant mismatches between the reality of land use on the ground at present, and the original design and organisation of the ICLT dating back to 2011–2012. The intervention brought clarity around the actual boundaries of the ICLT and about who owns what inside the collective area. This represents an important achievement for local villagers. However, the revision of the ICLT is somewhat limited because the boundaries of the main land use types (settlement, agriculture, reserved land, and burial and spiritual forest) have not changed to address the core problems identified above (extension of the ICLT area to include land recently cleared that belongs to the ICLT members, revision of spiritual and burial forest areas that usually cover more than 7 ha to increase these areas in size, etc.). The main revisions to the internal rules of the indigenous community concerned access to credit

(they reaffirmed the impossibility of collateralising ICLT land to obtain credit from micro-finance institutes) and the lifetime mobility of community members, namely the land rights retained by a community member who leaves the village for marriage or for work, or in cases of divorce.

Another important part of the initiative in Keo Seima was evident in the time and human resources invested in addressing the multiple land conflicts identified along the land use inventory process. Several types of land conflicts were encountered, involving different stakeholders and different resolution approaches. The time needed to manage these conflicts was underestimated during the design and planning phase. However, the initiative was instrumental in providing ground data and evidence to test and institutionalise land conflict resolution mechanisms with several stakeholders. This was a significant achievement. The interesting point here is that the ICLT was used as a key reference to address the conflict and to protect the communities' tenure rights.

#### 4.3 Virachey National Park, Ratanak Kiri province

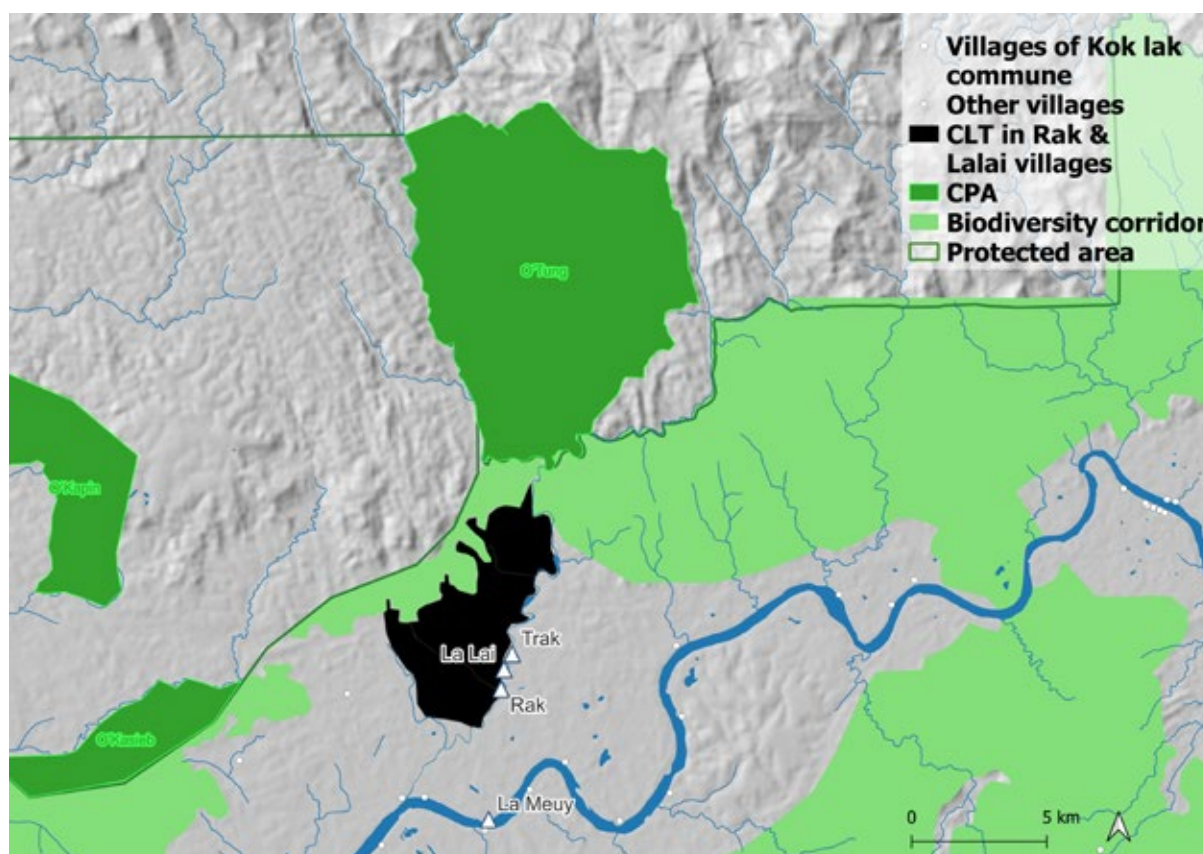
The Highlander Association (HA) approached the documentation of customary tenure as a way to inform an advocacy campaign focusing on land and environmental issues affecting the Kavet indigenous

people. These people live at the edge of the Virachey National Park. Specifically, HA aimed to develop the capacity of community youth to understand and analyse issues affecting their community and to generate knowledge that could help the community to defend their land and environmental rights.

In this initiative, HA conducted activities in Kok Lak commune involving two villages (Lalay and Rak) that extend both within and outside of Virachey National Park (Figure 4). In both villages, an ICLT process was initiated in 2013 but the titles were received only in 2020. In the meantime, the Ministry of Environment introduced a biodiversity corridor that overlaps with land and forest resources utilised by the Kavet people (Figure 4). This overlapping area has been used by the communities since ancestral times and people in both villages requested it to be included in the ICLT area. "However, the land in this overlapping area was carved out of the ICLT area as part of the biodiversity corridor before the communities received the titles and without conducting sufficient consultation in local language with the communities". As a result, this biodiversity corridor deprived communities of access to these resources including forestland plots for permanent and shifting agriculture.

The initiative is part of larger provincial working group called the '7 Languages Working Group' that unites seven groups of Indigenous Peoples (IPs)

**Figure 4. General land tenure situation (2022) and deforestation (2001–2019) in Kok Lak commune, Ratanak Kiri province**



differentiated based on the language they speak – Tampoun, Kreung, Brao, Jarai, Kachak, Kavet and Lun. HA have been working with young local village facilitators and researchers (known as *Chon Bangkoal*) who were selected in consultation with village elders and authorities. The groups consisted of four committed young adults (18–22 years old).

The methodology for the documentation process was designed by the HA team with support from an external advisor, following an approach developed in Myanmar.<sup>1</sup> After an orientation phase, young village facilitators then conducted the majority of the customary tenure documentation through an holistic approach that tries to elicit the interconnection between different aspects of the local customary tenure. They examined the village history, local institutions and their interactions, traditional festivities/rituals, weddings, offerings and groups in the village such as NGOs. Mapping and analysis covered land use and customary tenure practice changes over the last 40 years, and local resource use and transfer (including benefit-sharing mechanisms). After analysis, the research findings were presented to local groups and local authorities and HA has sought to use the documentation to advocate for greater recognition of land rights, including regaining access to land lost to the biodiversity corridor.

The documentation was carried out according to plan and the report offers insights into both villages about the history, changes in land use, customary practices and resource tenure. It also presents an institutional analysis that maps out key organisations and collective activities in Kok Lak, the influence they carry and how they interact. Local researchers conducted the data collection quite independently using a variety of research tools, for which they had received training from the HA staff (resource mapping, labour calendar, land use change analysis, stakeholder and social service mapping, etc.).

The technical line departments/offices at the provincial or district level were not included in the institutional set-up of the activities. This is a missed opportunity considering that the State institutions could have drawn on recent legislation (e.g., Prakas 05 and SCN 437) to adjust the boundaries of the biodiversity conservation corridor responsible for the loss of access to land and resources that are vital for local communities. Despite this difficulty, as a result of this process HA has started to engage with local authorities at village and commune levels to present and jointly reflect on the research findings. This helped to inform a preliminary discussion with representatives from the Provincial Department of Environment in October 2022, which could be the first step towards helping the communities to regain access to the biodiversity corridor.



Community members of the Rak Lalai ICLT on the border of Virachey National Park, Ratanak Kiri sharing about ICLT and CPA boundaries. (Photo: Natalie Y. Campbell/MRLG)

<sup>1</sup> Allaverdian, C., Fogerite, J. Scurrah N. and Si Thu Than Htike (2017). *Documenting customary tenure in Myanmar. A guidebook*. MRLG guidebook #1. Vientiane & Yangon: Mekong Region Land Governance.





Rice paddies in Keo Seima Wildlife Sanctuary Mondul Kiri province (Photo: Jean-Christophe Diepart)

## 5. HOW CAN DOCUMENTATION OF CUSTOMARY TENURE ENHANCE PROTECTED AREA MANAGEMENT?

Has the documentation of customary tenure informed PA-related processes? Has it been effective in ensuring that they adhere to inclusivity and FPIC principles? Three main themes emerge from the case studies:

### 5.1 The scope of customary tenure

In the cases studied, customary tenure has been examined in very different ways. In Preah Vihear, the identification of customary tenure mainly consists of resource mapping, focusing on the spatial dimension of the resources, and less on the institutions (norms and rules) that local communities have devised to manage them. In contrast, the land use inventory conducted in Mondul Kiri has been coupled with conflict resolution mechanisms and the revision of the community's internal rules. However, these were limited to areas located inside ICLT zones and have not included the entire customary territory managed by local communities. As such, the approach is truncated and does not offer a full recognition of customary tenure. In Ratanak Kiri, customary tenure has been the most holistically examined to include resource units, management institutions, benefit-sharing mechanisms and power dynamics. It also incorporates an institutional analysis of support organisations. Each of these approaches responds to specific contexts and objectives. Nevertheless, for customary tenure documentation to be an effective tool for inclusivity in PA management, it should encompass:

- the entire territory and resource units managed by the communities, irrespective of the type and level of recognition and formalisation they enjoy
- the local institutions and practices crafted by communities to manage these resources, share the benefits and address conflicts
- the different uses and management of resources employed by the diverse users – IP members versus non-members of community groups, or gender, ethnicity, etc.
- how certain groups with legitimate rights may be affected by processes of exclusion
- land use changes and their underlying factors, especially in the context of the rapid integration of IP into the market economy.

### 5.2 Interconnection between documentation and processes related to protected areas

Strengthening the recognition of customary tenure and the role of local resource users in the management of PAs entails engagement and negotiation with government and other actors with diverging interests in development and conservation. For government actors to understand local land use and livelihoods, a meaningful consultation process should be in place to give people space to formulate (or revise) the rules for managing resources on their terms. Furthermore, communities also need to understand government frameworks and procedures for PA management as well as what formal recognition processes entail from the perspective of the State.

The (co)production of knowledge through the customary tenure documentation process can provide a fruitful interface for such engagements and negotiations to take place. The process of (co) learning tends to encourage exchange that can lead to common understanding. This requires the involvement of State and other relevant actors in the process to ensure that the outputs of the documentation can be used to influence and improve PA management processes. It is also important to establish clear reporting and information-sharing mechanisms with State actors, typically those from the Ministry of Environment, provincial administration and the Ministry of Land Management, Urban Planning and Construction, among others.

### 5.3 From participation to empowerment

If the process is carried out in an environment where local communities and people are listened to, and their knowledge valued, customary tenure documentation can be effective in motivating local communities to take action themselves. This could happen through the undertaking of their own assessments, raising awareness around key land and forest tenure issues or addressing the challenges identified. The documentation process is not a rapid assessment – it requires time, technical support and capacity, and incurs costs. Moreover, it is critical to maintain the momentum beyond the research and to link it to broader processes for change such as policy and legislation.

Documentation can be an empowering learning process that enables forest-dependent smallholders to clearly define and sustain their role in PA management. The interests of the community can be represented in a way that is self-determined and the process enables community members to tackle certain problems on their own authority.



Meeting with commune authorities in Chhaeb Wildlife Sanctuary to discuss inclusive protected area zoning (Photo: Pel Martin)

Facilitators of customary tenure documentation should be aware that documentation itself does not offer solutions for PA management but provides a catalyst for local communities and resource users to assess their priorities and inform their decisions and actions. Beyond the learning process, for interest and momentum to be maintained, they need to be linked to wider PA processes and actors.

## 6. CONCLUSIONS: OPTIONS FOR POLICY AND PRACTICE SUPPORT

The lessons from the three initiatives lead to several recommendations relevant to the legal and policy framework and PA management practices:

### Opportunities for improving policies and regulations

- Improve zonation guidelines for PAs in Cambodia to include how to consult with, and involve, local communities.
- Recognise the documentation of customary tenure as an interim protection measure to better secure tenure rights.
- Use documentation of customary tenure as a mechanism that supports the implementation of the Sub-Decree 245 and SCN 437.

### Key lessons for a successful documentation process

- Establish PA working groups at the provincial level inclusive of local authorities to support and review the documentation process.
- Broaden the scope of customary tenure documentation spatially and in terms of actors and institutions i.e., by giving special consideration to gender, ethnicity, etc.
- Design the documentation process with a specific objective in mind and clarity about the intended use of the documentation outputs.
- Create a coordination mechanism and mutual accountability between all stakeholders.
- Use documentation as a capacity development opportunity to build knowledge within the community and to empower it in dealing with internal conflicts and in negotiating with outside actors.

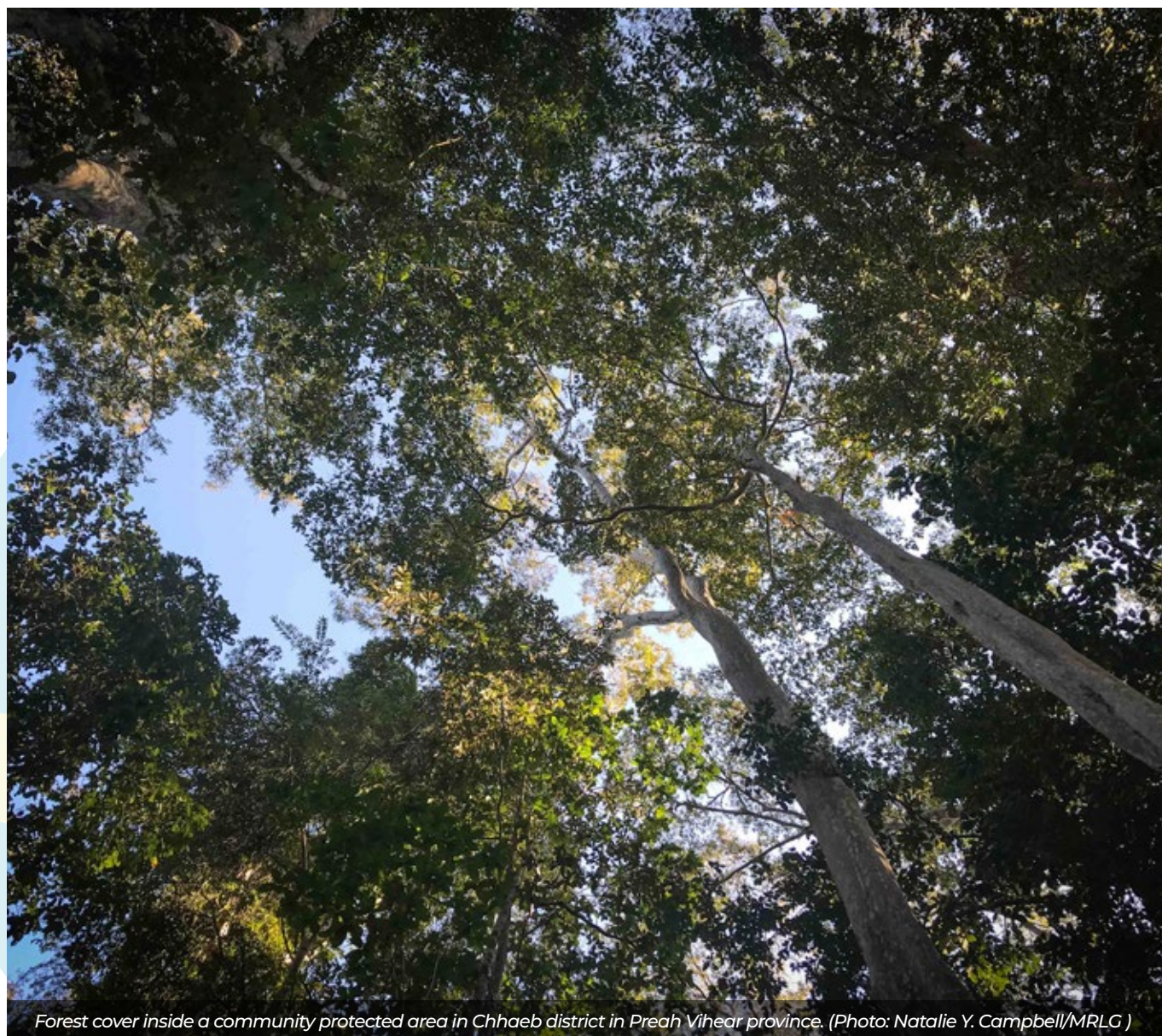
## 7. LOOKING AT THE FUTURE OF PROTECTED AREA MANAGEMENT

Conservation is best achieved with the participation of forest-dependent smallholders who live inside or close to PAs. The three experiences outlined above show that recognising forest-dependent smallholders' practices and tenure rights inside PAs can contribute significantly to community well-being and conservation efforts. Documenting these rights thus also works in the interest of the State to achieve its goals of sustainable forest management and inclusive economic growth.

The experiences discussed here can inform conservation NGOs who want to strengthen the effectiveness of their interventions. The Royal Government of Cambodia, and particularly the Ministry of Environment, who are engaged in reforms of the PA system, can also learn from these ground experiences, placing people at the centre of these discussions.



*Local basket made from local materials for foraging mushrooms and other forest products from the CPA in Ratanak Kiri Province (Photo: Natalie Y. Campbell/MRLG)*



*Forest cover inside a community protected area in Chhaeb district in Preah Vihear province. (Photo: Natalie Y. Campbell/MRLG)*

This brief presents the lessons from three experiences of customary tenure documentation in protected areas in the Cambodian provinces of Preah Vihear, Mondul Kiri, and Ratanak Kiri. It is based on the work of the Wildlife Conservation Society and the Highlanders Association. The study examines how effective the documentation can be as a tool to improve tenure and natural resource rights, protected area management and conservation practices in protected areas. In particular, it can help to ensure adherence to inclusivity, and the principles of free, prior and informed consent (FPIC). The brief also provides key insights into the importance of recognising the practices and tenure rights of forest dependent communities inside protected areas for both community well-being and conservation efforts.

This brief is a summary of the original case study: Diepart, J.-C. and Oeur, I. (2023). *Communities at the core of protected area management: Learning from customary tenure documentation experiences in Cambodia*. Case Study #8. Phnom Penh: MRLG, WCS, HA.

Available online at: <https://www.mrlg.org/publications/customary-tenure-documentation-cambodia/>

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