



Ministry of Justice



Ministry of Interior



Charay Ethnicity

Documentation of Customary Rules

Indigenous People in Pa Dol village
Sesan commune, O'Yadao district, Rattanakiri province

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Preface

Minister of Interior

Minister of Justice

Country Director of the United Nations Development Program

This documentation came forth from a concerted effort by the Access to Justice project team consisting of MoJ and Mol and with the support of the UNDP to enhance the Alternative Dispute Resolution system which is one of the objectives of the administration and justice reform of the Government's Rectangular strategy.

The Cambodian Government is in the process of transferring responsibilities and resources including funds, properties and staff to sub-national councils, such as the municipality council, provincial council, district council and commune council to meet real local needs through implementation of the *Law on the Administration and Management of the Capital, Provinces, Municipalities, Districts and Khans* (the Organic Law) and the *Law on the Administration Management of the Communes/Sangkats*.

The preparation for this documentation took almost one year with contributions from project staff of MoJ, Mol and the UNDP by interviewing village elders. When edited it was ensured that all the information was correctly written and did not show the position of the MoJ or Mol.

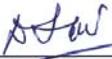
This documentation does not constitute compulsory laws and is different from the Cambodian state law. It was composed to provide more knowledge for stakeholders, particularly those working in the justice sector, on the customary traditions of indigenous people, which have special characteristics that are different from the traditions of other Cambodian people. These differences cause problems in the implementation of the conventional law. Obviously a judge will base their judgment on the law, but especially in civil cases, where the law leaves room for interpretation, the judge can fill in statutory gaps through customary rules and social traditions. In addition, conflict with indigenous people can arise through events that are interpreted differently from most Khmer people. It is important to understand the culture and tradition of indigenous people and to take these into account while preparing draft laws or other government policies.

The documentation will play an important role in assisting the work of the government, the law makers and the implementers. It will also be useful for government officers and other authorities besides those who work in the justice system to have more knowledge on the customary rules of indigenous people. The knowledge will help them to be gentle and create understanding. The customary rules will also contribute to the work of researchers, lawyers and policy makers. 

The Ministry of Interior, the Ministry of Justice and UNDP are confident that this first documentation will show the procedures and methods used in dispute resolution of the indigenous people in Cambodia to all the involved authorities and also to serve all concerned. 

Phnom Penh, 15th of February 2010

On behalf of Minister of Interior
Secretary of State



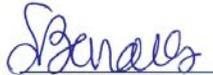
Nouth Sa An

Minister of Justice



Ang Vong Vathana

Deputy Country Director
of UNDP-Cambodia



Sophie Baranes

Foreword

Indigenous people in Cambodia live in remote areas and highlands of the country, particularly in the northeast provinces of Rattanakiri and Monduliri. These provinces, situated far from the capital Phnom Penh, are rich in natural resources. Economic development and increased migration from the Cambodian lowlands to these areas has impacted on the traditional land security and natural resource management of indigenous populations. Detrimental large-scale activities include illegal logging, land concessions and land encroachment. People in these remote provinces lack access to key public services such as education, health and communication infrastructure. Such important factors contribute to the lack of knowledge and limited capacity of indigenous people to deal with the multitude of challenges facing them today.

Indigenous communities maintain their own traditional mechanisms, rules and practices in solving a wide range of disputes and conflicts. These include community disputes between neighbours, domestic strife between couples, land and farming disputes, physical abuse and injury and accusations of sorcery and curses. Traditionally village elders, based on customary rules and traditional beliefs held by the community, have solved many of these disputes. However, such customary rules are not recognised by local government authorities and formal justice operators.

From 2006 to 2010 UNDP in Cambodia implemented the Access to Justice Project, which piloted different alternative dispute resolution mechanisms in Cambodia, with women, indigenous people and land issues being focal areas for the interventions. In terms of working with indigenous people, the project has focused on enhancing and legitimising customary dispute resolution mechanisms, promoting the awareness of rights and regulations related to land ownership, improving the dissemination of legal and judicial information, increasing recognition of the rights of indigenous people to communal lands and supporting the application of their customary rules and decision-making processes.

In 2006, the project conducted a case study on 'Indigenous Traditional Legal Systems and Conflict Resolution in Rattanakiri and Mondulkiri Provinces'¹, which found that traditional dispute resolution mechanisms play an important role in solving conflict within indigenous communities. One of the recommendations was to support an ongoing process of consultation, research and documentation with Indigenous Peoples' communities, with the ultimate goal of building agreement on how traditional systems can be best recognised by the formal system and how the interface between the two could function.

As a result, the project has assisted six indigenous communities to compile their customary rules to assist in recommending to the government to acknowledge Indigenous Peoples' traditional dispute resolution mechanisms and customary rules. This set of six books is the product of this work and an analysis as to what extent each of these rules complies with fundamental international or national human rights norms will follow. It is hoped that this will provide indigenous organisations and networks with a strong basis with which to advocate for the recognition of traditional rules and practices that are specific to community needs and that do not contradict national or international norms. At the same time, indigenous people will be strongly encouraged to abandon those rules that seriously contradict fundamental human rights norms or which affect public order or national security.

¹ *A case study of indigenous traditional legal systems and conflict resolution in Rattanakiri and Mondulkiri Provinces*, Jeremy Ironside, 2007, published by UNDP Cambodia in collaboration with the Royal Government of Cambodia.

Methodology

Prior to beginning field research, the project team prepared a questionnaire, including a list of possible offences at the village level such as criminal, civil and traditional belief violations, to be used in the research. The questionnaire was created in consultation with indigenous students from the Cambodia Youth Association (CIYA). The purpose of this consultation was to ensure the questions, and terminology used, were relevant to indigenous situations. The CIYA students were trained for two days on how to use the questionnaire. These students were employed as interpreters during the study. We also cooperated with members of the Khmer Leu association and Development Partnership in Action (DPA), who assisted in arranging meetings.

The research was conducted in four villages in Rattanakiri and two villages in Mondulkiri province. Below are the villages involved.

No.	Village	Commune	District	Province	Ethnicity
1	Kameng	Peoy	O'Chum	Rattanakiri	Kreung
2	Tumpoun Reung Thom	Taveng Kroam	Taveng	Rattanakiri	Brao
3	Ul Leu	Patang	Lum Path	Rattanakiri	Tumpoun
4	Pa Dol	Sesan	O'Yadao	Rattanakiri	Charay
5	Pu-Trou	Sen Monorom	O'Raing	Mondulkiri	Phnong
6	Pu-Char	Sre Preh	Keo Seima	Mondulkiri	Phnong

The project team met with villagers accompanied by the village chief and traditional elders. The team interviewed traditional elders, village mediators, village chiefs and male and female villagers, using a group discussion format. Approximately 15 people were interviewed in each village. Project staff also occasionally took part in cultural ceremonies when they occurred during the six-week period of this study. All information recorded has been checked with those interviewed and has not been changed or interpreted in any way.

Although most of the villagers interviewed could speak Khmer, the project team posed questions through indigenous interpreters. The project staff took interview notes and sessions were recorded to ensure a full and accurate account of statements made by those interviewed. In some instances, participants described past cases and settlements they had been involved in or had been recounted to them. In others, they could identify fixed rules that had been dictated by their ancestors, particularly relating to traditional beliefs. With some cases, participants said past dispute resolutions could inform current dispute settlements if/when a similar case arose in the village.

The resulting research is presented in narrative form highlighting offences and their resulting penalties or resolutions and the rationale behind the decisions made.

We are grateful to the traditional authorities in all six villages, who have provided invaluable information for this exercise. We would also like to thank the indigenous youth association CIYA, the Khmer Leu association, DPA and the local authorities in these areas. Without their cooperation and support, this documentation could not have been achieved. Finally we would like to thank the Agencia Española de Cooperación Internacional para el Desarrollo (AECID, the Spanish Agency of International Development Cooperation), the Spanish Government and UNDP Cambodia for their financial support.

Acknowledgements

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1. Village background

Pa Dol village is an indigenous village located along the Sesan River in Rattanakiri province. It is home to 96 families comprising of a total of 453 people. The villagers live in a small gathered community and maintain their own ancient identity, traditions, culture and belief systems. The villagers subsist on farm cultivation, collection of non-timber products and hunting. They live peacefully together and a strong solidarity exists among the community. One villager explained:

One part of this peace comes from the strong belief of the villagers in our tradition, culture and our Traditional Authority, member of which know and conserve these beliefs. Our culture and traditions are considered important as are the rules governing our community for dealing with disputes and keeping peace and happiness in the community.

Villagers explained that in the *Charay* language, *Pa Dol* means highland. It is thought that a woman named Grandma Lev who lived on a hill called Pa Dol may have given this name to the village during the French colonial period. Since the village came into existence, it has been relocated several times, particularly during times of war and under the Khmer Rouge regime. The village in its current location was established in 1996. At that time, the village was divided in two: Klang Pa Dol and the Pa Dol. Klang Pa Dol village is now located in Vietnam.



Morning scene at Pa Dol village. (Photo: UNDP/Yin Sopheap)

Note: Explanation on the ancestry of families from the *Charay* ethnicity

People from the *Charay* ethnicity live in small communities consisting of members from different *phoang* (ancestries). To preserve ancestral identities, the *Charay* ancestors maintain their *phoang* from one generation to another. The *Charay* ethnic group follows their *phoang* through their maternal lineage. If a mother is from *Phoang Sev* and a father from *Phoang Klan*, their children retain the *Phoang Sev* identity. There are several *Phoang* in the *Charay* ethnic population, including: *Phoang Sev*, *Phoang Klan*, *Phoang Romas*, *Phoang Sal*, *Phoang Rocham*, *Phoang Romam*, *Phoang Roposh* and *Phoang Kvah*. In Pa Dol village all *phoang* are represented. In each *phoang*, the respected leader is called *Kha Phoang* – generally an elderly community member regarded as having the highest virtue.

After marriage, a man shall adopt traditions from his wife's side if she carries a different *phoang* from his own. Henceforth his entire family would be regarded as belonging to the *phoang* of his wife. It is possible for the husband to be appointed to be the *Kha Phoang* on his wife's side, despite the fact that he is from a different *phoang* (see additional explanation in section 2.2 below).

The Traditional Authority is a group of elders made up of the *Kha Pleuy*, *Kha Phoang* and *Kanong* in the village (see section 2.3 below). They play key roles in governing the community, organising spirit sacrifices, settling disputes and maintaining peace and happiness within the community.

2.1 *Kha Pleuy*

A *Kha Pleuy* is a respected male elder recognised by villagers as magical or spiritual and one able to make requests to the spirits for peace, happiness and forgiveness through sacrificial ceremonies. Such a person is knowledgeable in culture, beliefs and traditional sacrifices. The *Kha Pleuy* is a descendent of the previous *Kha Pleuy* in the village. The *Kha Pleuy* has two main roles: to organise traditional ceremonies and settle disputes.

Organising traditional ceremonies

His principle responsibility in the village is over sacrificing rituals, such as village and house sacrifices, and funerals. He is responsible for mobilising villagers to contribute resources, such as buffaloes, cows, pigs or chickens and jars of wine needed for major sacrificial ceremonies. In the past², the *Kha Pleuy* was the leader and governor of the entire village, responsible for keeping the peace and securing the village against possible enemies.

Settling disputes

This person is knowledgeable in traditional culture and imbued with a spirit of fairness. Villages trust this individual and often go to him to seek advice or assistance in finding solutions to their conflicts.

2.2 *Kha Phoang*

Within each *phoang*, there is an elderly person who acts as representative and supervisor of the group; this person is called *Kha Phoang* in the *Charay* language. Traditionally, the eldest and most knowledgeable in the *phoang* is selected by its members to be *Kha Phoang*. S/he is responsible for resolving

² Dating back to ancient times up until the French colonial era.

disputes among members of the *phoang*. Additionally s/he assists the *Kha Pleuy* in organising village sacrifices for the spirits and in settling disputes in and outside the community. Typically the *Kha Phoang* is a man.

2.3 *Kanong*

A *Kanong* is generally an elder whom the villagers trust and request to be their spokesperson in seeking resolutions to conflicts and in requests for compensation. *Kanong* are not only used as mediators in conflict resolution, but also as matchmakers in the engagement process and for weddings as well. A *Kanong* can either be male or female. The villagers use *Kanong* in most of their dispute resolution activities. A *Kanong* must be an honest person and serve as an impartial and effective intermediary. A *Kanong* can be from any *phoang* as long as s/he is capable in effectively settling conflicts. In resolutions sought through a *Kanong*, the winning party has to pay 10 percent of the total *phak*³ amount to the *Kanong* as thanks for solving the dispute.



Village chief in Pa Dol village
(Photo: UNDP/Yin Sopheap)

2.4 Village chief

The commune authority nominates the village chief as the governing agent of the village. A village chief plays multiple roles, as village coordinator and intermediary with organisations or authorities outside the village, such as government officials and aid organisations.

The village chief also has the authority to call on villagers to participate in meetings or training workshops. In addition, he supports the *Kha Pleuy* in organising ceremonies in the community such as village house sacrifices, weddings and funerals. He also facilitates village activities by making announcements, passing on information, collecting contributions and conducting meetings with outside organisations. In conflict resolution, he is sometimes asked to be the *Kanong* or to join a hearing conducted by the *Kha Pleuy* to share his opinions as an elder. In cases where a disputing party does not agree with a resolution proposed by the *Kha Pleuy*, the village chief can refer the case to the commune authorities to facilitate solving the conflict.

³ This word in its original Kreung language refers to a fine or compensation paid to victim by the party who is at fault.

Village elders and villagers have for many generations solved conflict through mediation efforts between conflicting parties, continuing such efforts until an agreed settlement is reached. This ensures community members continue to live peacefully together and lessens the occurrence of acts of revenge committed against one another. However, villages attested that:

‘It is not considered a good settlement if any party involved is not happy to accept the outcome. But since the establishment of Pa Dol village, there have been no cases that could not be solved by the *Kha Pleuy*’.

In general, the conflict resolution procedure takes place as follows:

3.1 Solving conflict by the parties themselves

In cases where the dispute is not serious, the aggrieved party may meet with the opposing party to discuss the dispute. In such cases, the party who accepts fault for the dispute will meet with the other party and ask for forgiveness. Often a small amount of compensation is offered to ensure the conflict does not escalate. In solving the conflict by themselves, the parties involved avoid having to pay *phak* or having to arrange to share chicken and wine to celebrate the reconciliation.

Phak serves two purposes: one is to ensure both parties are content with the outcome; the other is to serve as a warning to the others. When this word is used, one also thinks of a conciliation ceremony in which both parties must drink wine together in sacrificial celebration of a future where they will remain friends.

3.2 Mediation through a *Kanong*

When a dispute occurs, the claimant (victim or aggrieved party) will find a *Kanong* to report the dispute to, recount the events that took place and request for compensation. The respondent must provide reasons for the alleged

wrongdoing against the claimant and does so through the *Kanong*. If the claimant agrees with the respondent's reasons, the *Kanong* will ask the two parties to bring a chicken and a jar of wine to share together as a celebration of the end of the dispute and the continuation of friendship. By contrast, if the claimant does not agree with the respondent's rationale, s/he will then take their case to the *Kha Phoang*. In cases when the respondent agrees to confess, apologise and give *phak* to the claimant, s/he can request the *Kanong* to try to persuade the claimant to discount the *phak* price. The *Kanong* goes back and forth from the claimant to the respondent to negotiate until an agreed *phak* price is reached. Then the parties will come together to share chicken and wine in celebration of the end of the dispute. However, if a negotiated price cannot be reached, a *Kanong* may become frustrated and stop negotiations. He would then refer the parties to the *Kha Phoang*. Any party can stop the negotiation by telling the *Kanong* that s/he will take the dispute to *Kha Phoang*.

3.3 Arbitration by a *Kha Phoang*

Any party who disagrees can take the case to his/her *Kha Phoang* regardless of what *phoang* the other party belongs to. In cases where the dispute is not serious, the claimant's *Kha Phoang* may call in the respondent to negotiate face to face with the claimant. But if the dispute is considered harmful to the honour of the claimant's *phoang*, the *Kha Phoang* will have to personally meet with the respondent's *Kha Phoang* to settle the matter together. Negotiation through a *Kha Phoang* is similar to the steps taken by a *Kha Pleuy*.

3.4 Arbitration by a *Kha Pleuy*

Mediation through a *Kha Pleuy* is different from steps taken by a *Kanong* in that the *Kha Pleuy* does not go back and forth serving as a spokesperson between one party and the other. Instead he listens to the facts and requests of both parties, balances the *phak* price and then makes a final suggestion to any party to pay this. Alternatively, he may simply give advice to both parties on how to live peacefully with each other. In general, conflict resolution through a *Kha Pleuy* involves three steps as follows:

3.4.1 Storytelling

When villagers come to him to resolve their conflict, the *Kha Pleuy* organises a meeting in the *Rong* house⁴, calling both parties, village elders, *Kanong*, *Kha Pleuy* and all elders and other interested people to join. During this hearing, everybody present is free to participate and share his or her ideas. The disputing parties sit on either side of the *Kha Pleuy*. First, he listens to the claimant's side of the dispute and his/her claim. Then he listens to the respondent. Each of the parties must speak the truth, providing clear and reliable evidence and/or witnesses to support their claims. Any participant at the hearing can offer information that s/he is privy to relating to the case. The *Kha Pleuy* allows time for this storytelling until he fully understands the case or finds the truth. He can then offer his suggestions of the cause of the dispute and which party is at fault. In the case where both parties reject the other's story and each insists that they are right, the *Kha Pleuy* will ask them to undertake a *bet-swear test* (see details in section 4.7.3).



Village chief in Pa Dol village
(Photo: UNDP/Yin Sopheap)

3.4.2 Phak bargaining

After the party at fault is determined, the *Kha Pleuy* asks the parties to negotiate the amount of *phak* to be paid by the guilty party. The respondent can attempt to bargain down the *phak* price based on his/her resource ability. If an agreement cannot be reached, the *Kha Pleuy* may provide suggestions on the level of *phak* to be paid based on various considerations. When dealing with bigger cases, the *Kha Pleuy* may also ask the party at fault or both parties to provide a buffalo, cow, pig or chicken and a jar of wine, based on the fault, for sacrificing to the village spirits.

⁴ This house is built in the centre of the village circle. It is usually much larger than the villagers' houses. It is used for village meetings, sacrificial ceremonies and to house visiting guests.

3.4.3 Post agreement

After disputing parties reach an agreement regarding *phak* and contributing resources for the village spirit sacrifice, the *Kha Pleuy* will ask all involved in the conflict resolution, as well as the other villagers, to join in a party celebrating the end of the dispute. In doing so, the participants bear witness to the parties' promise for a continuation of friendship without revenge. If the case is minor, the party will only sacrifice a chicken and a jar of wine. For a serious offense, a buffalo, cow or pig is required for the sacrificing. During this sacrificing ceremony everyone eats and drinks together, so that the ill will between the parties is healed. In cases where the conflict is resolved using a *bet-swear test*, the losing party is responsible for paying more *phak* for the ceremony and sacrifices to the spirits.

4.1 Physical abuses

4.1.1 Murder⁵

Harming or killing is strictly prohibited by the customary rules as it violates traditional ancestral values. Murder is considered the most serious violation of the community's cultural and traditional values as well as the peace and tranquillity maintained by the *Charay* people. However, the villagers maintain that they have been living peacefully in Pa Dol village and there have been no cases of murders since the establishment of the village.

Although there have not been any cases of murder, the villagers clarified that if such a case were to happen, the perpetrator would be punished in accordance to traditional rules and forced to pay *phak* in accordance with the claim from the victim's family. The perpetrator would also have to provide two buffaloes for the funeral ceremony: one for sacrificing to the village spirits and another for the burial. In the funeral process, the perpetrator would organise a *Pees*, a sacrificial ceremony asking the spirits for forgiveness and to rid the village of bad luck (see explanation 4.7.2. below). After the burial, s/he shall pay to the victim's family one blanket, an outfit, scarf, one copper pot, a set of gongs and one elephant or cash or property equivalent to the value of the elephant⁶. In the past, in cases when the perpetrator is unable to pay, the victim's family and the Traditional Authority would condemn him/her to death by burying the individual alive. However such a practice would not occur today; it is preferable that s/he becomes indebted to the victim's family and is required to work to pay off the incurred debt.

In previous times, in cases when a man raped another man's wife, if the husband were to catch the perpetrator and kill him, the man would not be held accountable for his actions (see explanation in 4.1.3. below).

⁵ According to the Criminal Code Article 199, murder is punishable with a sentence of ten to 15 years in jail.

⁶ In the time of King Suramarith (who was king from 1955 until his death in 1960), an elephant was worth 10,000 riel

Case study 1: A case occurring many years ago in the village

A fortune-teller from Vietnam came to the village to tell people's fortune. He told the villagers that everyone in the village was facing imminent danger and therefore must all come to see him in order to relieve themselves of this danger. Fearing for their lives, all the villagers brought him pork, chicken and wine. However, one family was not able to join due to the illness of their mother who later passed away. When the fortune-teller returned to the village and learned about the death of the mother, he scolded the family and attributed this death to the fact that the family had not come to him. This enraged the grieving family, which led them to kill the fortune-teller. Upon hearing of the death of the fortune-teller, the elders in his village in Vietnam travelled to the village to settle the matter. Traditionally, outsiders coming into the village to settle such a serious matter must prepare food such as pork and chicken and wine to offer in order to initiate any type of negotiation. Instead, this group from Vietnam brought dog-meat instead of pig and chicken, greatly offending the villagers who cried: 'go back because you have humiliated us by not using pigs or chicken that are animals appropriate for sacrifice, instead you use a dog which is a cheap and despicable animal. This means that you have settled the conflict'. The elders from Vietnam recognised their wrongdoing and thus did not dare to negotiate for a settlement for the death of the fortune-teller. At that point, the case was considered closed by both sides.

4.1.2 Manslaughter⁷

In the case of manslaughter, there is no death penalty. The perpetrator shall pay a *phak* of two buffaloes: one for sacrificing to the village spirits and the other at the victim's grave. After that s/he shall provide compensation in the form of a pig and a set of twelve gongs.

Villagers have confirmed that in Pa Dol village such cases occasionally occur. They explained that manslaughter can be identified on the basis of the

⁷ According to the Criminal Code Article 207, manslaughter is punishable with a sentence of one to three years in jail and a fine of 2-6,000,000 riel.

relationship and history between the victim and the perpetrator. In cases when both victim and perpetrator were friends, a death can be considered accidental, especially in cases where the perpetrator was inebriated or the victim was killed by injuries from a trap, especially a *khna*⁸ (for details see section 4.1.8). Either a *Kanong* or a *Kha Pleuy* is responsible for thoroughly investigating the facts of such a case in order to determine whether it is an act of murder or manslaughter.

Case study 2: A case occurring in the village

One day, two men who were close friends and had never had cause for conflict were enjoying drinks with other village members. As the men became more inebriated, these two men got into a fight. One man pulled out a knife and stabbed his friend, killing him. Upon recovering from intoxication, the perpetrator cried and felt immense regret for what he had done. Given the circumstances, the village elders and the victim's family considered this manslaughter. The perpetrator was required to provide two buffaloes for the funeral and compensated the victim's family with assets such as a pig, pots and gongs.

Case study 3: A case occurring in the village

A man set a *khna* trap to catch wild animals in the forest and informed everyone in the village about their locations. In addition to the announcement, he also put up warning signs as had been traditionally done by other villagers through generations. One day a hunter chased a wild animal deep into the forbidden forest and was shot by a *khna* trap arrow. He was killed immediately. Elders and villagers considered this an unintentional death. The owner of the trap spent two buffaloes for the funeral and compensated the victim's family with asset such as a pig, pots and gongs.

⁸ *Khna* is a Khmer word referring to a trap with a bamboo spear.

4.1.3 Rape⁹

Villagers defined rape as a violation where a man forces a woman to have sexual intercourse with him. They reported that there have not been any cases of rape in this village. However, if a rape did occur, the perpetrator would be fined *phak* of a set of gongs, one copper pot, a pig of the size of five *chap*¹⁰ and a jar of wine. For an attempted rape, a lesser *phak* of one copper pot, an empty jar and a pig of size of three *chap* is imposed. A virgin who is raped is considered entitled to less *phak* than that of a married woman. In the past, raping someone else's wife could be punishable by instant death at the hands of the victim's husband. Rape is considered an immoral act, leading to an unacceptable fracturing of tradition; thereby killing of a rapist caught in the act would be tolerated. Nevertheless villagers maintain that as of yet no such cases have occurred in the village.

Villagers maintained that rape has never happened in the village because they believe that this act is cowardly and shameful towards others in the village and that if the victim brings the case to *Kha Phoang* or *Kha Pleuy*, the perpetrator would definitely be penalised. Fear of getting the victim pregnant may also be a factor as this would cause the man to face problems within the community and in particular with the victim's parents, *Kha Phoang* and *Kha Pleuy*.

4.1.4 Molestation

In their community, there have been few cases of molestation reported. However, villagers maintain that if such an act were committed, the elders, including *Kha Phoang* and *Kha Pleuy* would settle it on the basis of fact finding and in accordance to village tradition.

⁹ According to the Criminal Code Article 239, rape is punishable with a sentence of five to ten years in jail.

¹⁰ A *chap* is an ancient measurement for pigs used by *Charay* indigenous people and other indigenous minorities in parts of northeast Cambodia.

Case study 4: A case occurring in the village

A young man who was curious about female sexual anatomy, one day snuck up behind a young woman who was alone and touched her breasts and between her legs. The young woman brought the case to the *Kanong* and asked that the young man be made to take responsibility for what he had done. This meant that the young man would have to marry the young woman or face a harsh penalty from the young woman's parents. For fear of such a penalty as well as having to face public embarrassment, the young man agreed to marry the young woman.

4.1.5 Disputes causing physical injury¹¹

Villagers explained that the majority of the disputes in the village occur when villagers are under the influence of alcohol and subsequently get into fights. Typically, the next day, once recovered from intoxication, the victim would go to the *Kanong* or *Kha Pleuy* to mediate the dispute and resolve the case. In the mediation, the *Kanong* or *Kha Pleuy* conducts an investigation on the causes of the dispute and then may make a recommendation that the perpetrator pay compensation, in the form of a pig or chicken and wine depending on the severity of the injury. For a minor injury, a chicken and a jar of wine usually suffice; for a serious injury, the compensation would be a pig and a jar of wine. Traditionally a reconciliation celebration (*Kas Pai*) is held, organised by the perpetrator signifying an apology to the victim and asking the spirits to rid him/her of the bad luck caused by the injury (see details in section 4.7.2). In certain cases a perpetrator may realise his/her wrongdoing and will go to the victim directly to confess and apologise. If the injury is minor and the victim does not harbour harsh feelings towards the perpetrator, the dispute ends there.

4.1.6 Threatening to kill or causing injury

Villagers explained that threats are not considered favourable acts towards others. They added that people do not respond well to threats as they cause

¹¹ According to the Criminal Code article 217, disputes causing physical injury are punishable with a sentence of one to three years in jail and a fine of 2-6,000,000 riel.

the victim to become anxious and can lead to illness. Villagers confirm that such threats have occurred once in a while, especially when villagers were intoxicated.

In cases when a threat to kill involves the use of a sword or knife, the perpetrator has to pay *phak* of a pig and a jar of wine to celebrate the *Tang Ay* for the victim (see detail in section 4.7.2). The perpetrator is required to apologise to the victim and to ask the spirits to rid him/her of bad luck. In the case of verbal threats, the perpetrator is required to pay a chicken and a jar of wine for the *Tang Ay*. In cases where perpetrator refuses to pay or celebrate the *Tang Ay*, it is his/her full responsibility if the victim dies in the manner s/he was threatened, no matter what the cause or who was at fault.

4.1.7 Arrest or detention¹²

Arresting or detaining any person without reasonable cause is viewed by the villagers as an abuse on a person and reflects negatively on the individual's honour. Therefore anybody who arrests or detains another person without reasonable grounds will have to pay *phak* to the victim. The level of *phak* is dependent on the gravity of the act, weighed against the causes of detention/arrest. The *Kha Phoang* or *Kha Pleuy* will solve the dispute upon request of the victim. He balances the rationale against the level of *phak* required from the perpetrator. In cases where the *Kha Phoang* or *Kha Pleuy* finds that the act was reasonable, such as in cases of self-protection or to prevent imminent danger, the perpetrator is not guilty and shall not be responsible for any *phak*. If he found that the act constituted an abuse by the perpetrator, the perpetrator would have to pay *phak*, such as a pig or chicken and wine.

4.1.8 Injury or death caused by traps

A *knar* trap is a trap with a bamboo spear. It stands about two meters tall with a wooden bow, bamboo spear and large arrow. It is set to the height of the animal it is intended to kill – for example, to catch wild pigs or boars,

¹² According to the Criminal Code Article 253, detention or arrest is punishable with a sentence of one to ten years in jail.

the *khna* is set to knee-level height, while for a deer the height would be set at chest height. At chest height, a person would be killed instantly if shot by the *khna* spear.

Typically villagers set traps to protect their crops from wild animals, such as wild pigs or deer that often enter their farms. Such traps are often placed along the pathways frequented by wild animals or at the entrance of the farm. Before setting the traps, all villagers are informed about their location. In addition to the announcement, they also put up easily visible warning signs, such as a small bow and arrow placed in nearby trees or bundled up bushes/grass close by the trap.

If anyone is accidentally killed or injured by a trap while entering the farm, no one would be held responsible and no *phak* would be required. However, if a trap injures anyone in the village, a ceremony called *Kamal* must be performed to rid the victim of bad luck.

4.1.9 Injury to villagers by domestic animals

Most families in the village keep animals such as dogs, cats, cows, buffaloes, pigs and chickens. In this village, only dogs have caused injuries to other people, although buffaloes are also considered dangerous.

If a buffalo injures a person, the buffalo owner must provide a pig and a jar of wine for a *Kamal* ceremony to rid the victim of bad luck. In addition, the owner shall be responsible for any medical treatment required for the wound. Should the victim die of injuries sustained by a buffalo, the buffalo would be sacrificed in a ceremony together with an offering of a new outfit for the victim's soul. Furthermore, the buffalo owner would be required to pay *phak* to the victim's family with a set of gongs, a pair of buffalo, two copper pots and a pig the size of four *chap*.

For dog-bites that cause injuries, the owner of the dog shall be responsible for any medical treatment needed and shall sacrifice a chicken and a jar of wine to perform a *Kamal* ceremony to rid the victim of bad luck. In cases when the dog

owner refuses to perform the ceremony, it becomes his/her full responsibility should the victim die. This responsibility is translated into *phak* in accordance with tradition, which consists of sacrificing two buffaloes.

4.2 Offences over property and animals

4.2.1 Theft (stealing and robbery)

Theft¹³

In this village, there have been reported cases of stealing oxen and buffaloes. Such problems are usually settled through a *Kanong*. The perpetrator is required to return the stolen property/animal to its owner and is fined property in the equivalent value to that stolen.

Typically, theft is dealt with in two ways depending on where the perpetrator originates from. The first case is when the perpetrator is from the same village as the owner and the second is for those from different villages. The first case is settled in accordance with village tradition using the *Kanong* in the village. In the second case, the property owner needs a *Kanong* and the suspected perpetrator needs a separate *Kanong*. The property owner's *Kanong* along with the owner's relatives, including village elders and *Kha Pleuy*, will typically travel to the suspected perpetrator's village¹⁴. They set up camp near the village and prepare a meal. They then enter the village and catch a chicken or pig belonging to people in the village for a meal. People in the other village appoint a *Kanong* to discover what the issue is. The two *Kanong* meet and comprehensively discuss the matter near the campsite. Then, the *Kanong* from the second village meets with his elders and *Kha Pleuy* to discuss the case. Subsequently they appoint another *Kanong* to represent the suspected perpetrator's who will mediate the matter with the *Kanong* from the first village. It often takes several days for the two *Kanong* to reach an agreed upon solution.

¹³ According to the Criminal Code Article 358, this crime is punishable with a sentence of six months to three years in jail a fine of 1-6,000,000 riel.

¹⁴ For such a trip, the *Kanong* has to be well prepared both in terms of evidence gathered and possible witnesses needed to press charges against the suspect. At the beginning of such a journey, the travelling party relies on birdsong. If they hear a bird's song coming from the left, they believe this signifies the negotiation will most likely fail, thus they may decide to postpone the trip to the next day. However, if the bird's song is coming from the right, this signifies that the time is right and the mission will be successful. In such cases, they will continue onward in their journey to the suspect's village.

During the investigation and negotiation process, villagers from the suspected perpetrator's village must sacrifice another pig for food. If found guilty, the suspected perpetrator is required to pay back in full the value of the stolen property to the owner. Another fine may also be imposed equal to the property value of what was stolen. However, more often the fine is an in-kind offering such as a pig or a buffalo used for a reconciliation party to end the dispute. The party is held at the place of negotiation with elders of both villages, as well as the property owner, friends and the *Kanong* of both parties.

Recipients of stolen property

In general, a recipient of the stolen property is a person who has bought or received any property from a thief or has consumed the stolen property/ animal together with the thief. There are two kinds of recipients: one is a knowing recipient, the other an unknowing recipient. According to their custom, the *Charay* people generally do not hold recipients of stolen property responsible for the theft; instead they hold the perpetrator of the theft responsible. In cases where cow, buffalo or chicken are stolen for food, the perpetrator may ask those who shared in eating the food with him/her to contribute to the *phak* if they were aware that the animal was stolen. Nevertheless the perpetrator is solely responsible to the property owner.

Case study 5: A case occurring in the village

One day in 2006, a man stole his neighbour's buffalo and sold it to a Vietnamese person, who subsequently hired a man to walk the buffalo across the border into Vietnam. Not far from the village, the buffalo owner went to get his buffalo back. When the purchaser learned of the situation, he returned to the village and asked the elders to settle the matter. The *Kha Pleuy* required that the perpetrator pay five hundred dollars to the purchaser and the purchaser had to return the buffalo to its rightful owner. The perpetrator also had to pay *phak* of a motorcycle to the buffalo owner and sacrifice two pigs and a jar of wine for a reconciliation party ending the dispute.

Robbery¹⁵

Villagers report they have never had any cases of robbery in their community. However, they explained that they consider robbery to be a serious offence, which is not tolerated. If a perpetrator were to be caught in the act, s/he could be killed and it would not be considered a breach to their traditions. If the perpetrator was arrested afterwards, a settlement would proceed in accordance with tradition by which the stolen property would be returned and a required *phak* of a pig, chicken, cow, buffalo, jar of wine and gongs equivalent to twice the value of the property paid. Refusing to pay this *phak* would result in police intervention.

4.2.2 Fraud and forgery

There have been no cases of fraud or forgery in this village, but there have been many cases of confusion over villager's property. In such cases, the person who has mistaken someone else's property for their own must return the object to its rightful owner or compensate them in cash. Such confusion is not generally considered an offence and thus is rarely a source of dispute. Should the person who has taken someone else's property refuse to return it to its owner as requested, a *Kanong* might be asked to mediate the matter. If mediation through the *Kanong* is not successful, the case may be passed on to the *Kha Pleuy*. When an agreement is reached, the person who mistakenly took another person's belonging must offer a pig or chicken and a jar of wine to celebrate the resumption of friendship between the two parties.

In general, fraudulent property must be returned to its rightful owner. If the fraud is over objects of small value such as chickens or ducks, there will be no requirement for additional *phak*. However, if the property is worth the value of a pig or higher, the perpetrator is not only required to return the property, but is also forced to pay *phak* of equal value to that of the fraudulent property. Anyone who fraudulently takes someone else's property such as a cow or buffalo and refuses to confess will have to undertake a *bet-swear test* to

¹⁵ According to the Criminal Code Article 364, this crime is punishable with a sentence of two to five years in jail and a fine of 4-10,000,000 riel.

solve the dispute. Such a test could include holding rice in one's mouth while jumping into the water or having boiled liquid lead poured onto one's palm (see section 4.7.2 for details).

Case study 6: A case occurring in the village

Two men owned two cows very similar in appearance. The first man's cow gave birth to a calf. Wanting the calf for himself, the second man went to catch the cow with the calf to keep as his own property. Having realised that his cow was taken, the first man demanded it back, but was unsuccessful. The first man found a person to represent him as his *Kanong* in the mediation. However, the *Kanong* was not able to resolve the case and it went to the *Kha Pleuy*. In the end, they decided to resolve the dispute through a *bet-swear test* under water (see section 4.7.2 below) to find out the truth. However when the day of the test came, fearful of losing the *bet-swear test*, the second man confessed and agreed to return the cow and calf to their rightful owner. He was subsequently fined a pig, chicken and a jar of wine to use to celebrate the resumption of friendship between the two parties.

Case study 7: A case occurring in the village

Once upon a time, a woman owned a gong. A man wanted to have the gong and offered her a buffalo in exchange, and the woman agreed. The man promised to bring her the buffalo within five days. However, she waited five days and still did not see the man with the promised buffalo; she waited five additional days before finally deciding to go in search of the man. When she found him, the man informed her that the gong had been resold but that she could go retrieve the promised buffalo in the nearby woods. Believing the man, she went in search of the buffalo, which was nowhere to be found. When she returned empty-handed, the man had already disappeared. The woman brought the case to the village elders but they did not know of this man and he was never found.

4.2.3 Fire (arson)

Traditionally, fire represents an important element of villagers' lives; they use fire for cooking, protection against insects and the cold, livelihoods such as burning resin-trees and bushes for farming, as well as for light at night. Fire is also used for burning bushes to make a new farm. Care is taken in order to prevent fires from spreading and harming residents, villages and neighbours' farms. Nevertheless, Pa Dol village does have a history of problems with fires that have destroyed some houses and farms.

Residential fires

Typically anyone who causes a fire out of carelessness which results in the destruction of other people's homes is held responsible and is required to organise a ceremony to rid the residents of bad luck. Unintentional fires however do not require a payment of *phak*. In cases of arson, the perpetrator must pay *phak* equivalent to the value of the damaged property in addition to payment for the actual damage to the property. Subject to negotiation, a ceremony would require a buffalo, pig, chicken and wine to be provided. If a perpetrator does not organise a celebration and a family member subsequently gets sick, the perpetrator is then required to pay with a buffalo for the ceremony. Nevertheless, the villagers affirmed that they are tolerant of each other and generally do not impose any *phak*. Typically only the sacrifice of a pig, chicken and a jar of wine is required to rid them of bad luck. Most cases of fires in the village are unintentional.

Case study 8: A case occurring in the village

In 2004, a man in Pa Dol Krom village¹⁶ accidentally set fire to his own house. The fire soon spread to other villagers' houses. In this case, the villagers exercised tolerance and understanding and did not force the man to pay reparation, nor did they impose payment of *phak*. Instead, they organised a ceremony to rid themselves of bad luck for which the man provided a pig and a jar of wine.

¹⁶ Pa Dol Krom village is part of Pa Dol village but is located a few kilometres from the main Pa Dol village.

Case study 9: A case occurring in the village

During harvest season, most villagers move onto their farms in preparation. A man left his grandson at home to go to his farm. While the grandson was preparing a meal, he accidentally set fire to the house, which then spread to neighbouring houses before villagers put it out. Exercising understanding and tolerance, they did not seek any compensation for the damage caused by the fire. Nevertheless, the grandfather voluntarily killed a pig for a ceremony to rid the villagers of bad luck.

Case study 10: A case occurring in the village

A teenager started a small fire to burn the hair on an animal hide. Accidentally, a piece of amber was blown from the fire by the wind onto a farmhouse. The house burned down and numerous objects were lost, including a pile of rice. Realising his mistake, the boy's parents apologised to the house owner and offered to replace the lost rice and sacrifice a buffalo to get rid of bad luck. The house owner accepted the apology and suggested only a pig be sacrificed instead of a buffalo.

Farm fires

Fire caused by the inability to control a burn

Traditionally before burning bushes in the farm, farmers will slash and clear a perimeter buffer area to prevent the spread of fire to neighbouring farms. All neighbouring farmers are invited to witness the setting of the fire to ensure protection of their farms. An inability to control a burn occurs when, despite careful preparation, the fire spreads to the neighbours' properties perhaps due to strong winds. In this case, the burner need not pay a *phak* to the neighbouring farmers, but instead is required to help in cleaning the affected farms. If crops in neighbouring farms are damaged, the burner must compensate the farmers for half the value of the crops. If the burner does not help cleaning the affected farms, s/he may be required to pay *phak* of a pig, chicken and a jar of wine. However, the *phak* amount is dependent upon the understanding and tolerance of the community.

Fire caused by carelessness of the burner

By contrast, in the event that the burner does not inform his/her fellow farmers of plans to slash and burn his/her land as described above, and the fire spreads to neighbouring farms, s/he is responsible for paying *phak* for the total damage incurred. The *phak* can be in the form of a pig and a chicken as well as wine to be consumed together signifying reconciliation and the restoration of a peaceful cohabitation. The burner is still required to help clean the affected farm(s).

Today, most disputes over farm fires occur on cashew farms. Typically a solution is found with the aid of a *Kanong* or *Kha Pleuy* and those responsible are required to pay compensation money in addition to a pig or chicken and wine. For fires that occur on land considered sacred, it is not considered an offence to customary rules, as it does not affect villagers directly.

4.2.4 Causing damage to people's property

Some cases of destruction to other people's property have been reported in the village, especially during times when villagers are intoxicated. This often leads to the destruction of plates, pots and jars of wine. Whether a conflict ensues is contingent upon the tolerance of the property owner. If the owner exercises tolerance, the perpetrator is usually not held responsible. However if the owner takes the case to the *Kanong*, *Kha Phoang* or *Kha Pleuy*, the perpetrator will have to pay for reparations or replace the damaged property, as well as offer *phak* in the form of a chicken and a jar of wine. However, when someone causes damage to people's property twice or more, the property owner will always ask the *Kanong* to mediate the conflict and impose *phak*. If the perpetrator possesses property but refuses to pay, the *Kha Phoang* or *Kha Pleuy* will confiscate his/her property in accordance with the amount of the damaged property they are responsible for.

If the perpetrator is a minor, then his/her parents shall be held responsible.

4.2.5 Cattle grazing on someone else's rice farm

Traditionally, villagers cultivate rice once a year during the rainy season between July and December. During the cultivation season, all cattle are required to be tied up so as to avoid them consuming other people's rice or farms, lest the cattle owner be responsible for the damage. By contrast, during the dry season, cattle are able to wander freely without fear of reprisal for grazing on other people's farmland. Any *phak* required should be equal to the amount of damage incurred and can be given in the form of rice, livestock or wine.

In the event that one's cattle continue to stray and graze on someone else's rice farm even after repeated warnings from the neighbouring farmer, that farmer is allowed to penalise the cattle owner in the amount of damage incurred plus compensation for the cost of a ceremony to rid the rice field of bad spirits. In addition, the cattle owner must provide a pig or a chicken for re-sacrificing to the rice spirits based upon the amount of resources that the rice farmer has spent for annual rice sacrifices. For example, if the farmer uses a pig for the annual sacrifice to the rice spirits, the cattle owner must use one pig for it. The farm owner is not allowed to kill the cattle. If he does, he must compensate the owner. However, if cattle has strayed and grazed on the rice farm more than two or three times and the cattle owner did not do anything to stop the cattle, the cattle owner is required to pay damage to the farm owner.

4.2.6 Killing or injuring someone's animal

Villagers reported numerous conflicts over incidents of animal killings such as killing dogs that steal food (particularly steamed rice), buffaloes grazing on rice farms and pigs killed in a trap.

Typically, when cattle stray and graze on neighbouring farms and the farm owners warn the cattle owner more than three times and nothing is done about it, the farm owner(s) is/are allowed to kill the cattle without reprisal. However if the cattle stray onto the farm less than three times, the responsible party must replace the cattle if it is killed or treat it for injuries if it is hurt. In cases where dogs steal food, the same procedure applies.

Case study 11: A case occurring in the village

Several years ago, a man's buffalo broke loose and grazed on a neighbour's farm. The farm owner, who became angry, threw a machete at the buffalo with the intention of chasing it off his land. The machete landed on the animal's ankle and cut its tendon. The farmer went to see the cattle owner to settle the problem. The cattle owner asked the farmer to replace the buffalo, which had to be slaughtered because of its injury, with the meat to be shared equally between them. The farmer agreed to replace it with a smaller buffalo instead of one of equal size. The two parties reached an agreement and used some of the buffalo meat and rice wine to celebrate the reconciliation with others in the village.

4.3 Offences over reputation and honour

4.3.1 Curses and verbal assaults

Against other people

Examples include verbal assaults, derogatory insults, curses (such as putting a curse on a pregnant woman to have a still birth) or accidental death. When someone casts a spell or curse on another person, the perpetrator shall be fined in accordance with tradition. The victim can require *phak* of a pig the size of two *chap* and a jar of wine for the party to end the dispute and facilitate the healing. In the case of minors verbally cursing elders, they are not penalised, however their parents are informed and asked to correct their behaviour.

Against parents or relatives

In *Charay* culture, curses and verbal assaults against parents or in-laws are considered the most serious acts of disrespect and are thus prohibited in the community. The victim of such an act may ask for *phak* of up to a pig. Villagers however said that such a case had never occurred. In cases of children cursing their parents, parents can levy a penalty on their children.

4.3.2 Defamation

Defamation refers to gossip, speaking untruths, or unjustly accusing someone with the intent to destroy their honour.

Villagers assert that there have been repeated cases of gossiping and defamation in their village. In general, it is difficult to find the original source of such defamation. Without clear evidence, it is virtually impossible to bring such cases to the elders. However if the case of defamation is considered serious and the victim is able to find whom the perpetrator was, then s/he will likely bring the case to a *Kha Phoang* or *Kha Pleuy* for adjudication. In cases of serious defamation such as falsely accusing someone of raping another's wife or a woman of being pregnant with a child that is not her husband's, the *phak* can be up to a pig the size of three or four *chap*.

4.4 Relationships in the community

4.4.1 Borrowing, renting and contract care taking

'When borrowing an object from someone, we must return it; it is in our culture', villagers affirmed. Villagers always depend on each other to borrow cattle, motorcycles or even money. There have not been cases where people have failed to return a borrowed object to its owner, but postponing the return date does occur. However, if somebody fails to return a borrowed object, s/he will be faced with a penalty from the owner. The villagers follow the rule that, *'if someone borrows an object and does not fulfil his/her promise to return it, they will be fined twice the value of the borrowed object'*.

Similarly, borrowed cattle must be returned as promised and should not be used for any other purpose other than that agreed with the owner. If using cattle for unauthorised purposes, the borrower will be held completely responsible for any injury or death that results. For example, if a man borrows cattle to plough his rice field but instead uses them to transport timber, and if the animals get injured or die, the borrower is held responsible for replacing them. In cases when the borrowed animals were used as agreed and they die at another time in the future of old age or disease, the owner will not hold the borrower responsible.

With regard to assets, including motorcycles, a borrower is responsible for the repair of any damage incurred. If s/he cannot afford to pay for the cost of repair, his/her relatives can pay on his/her behalf. However, if this is not possible and no relatives can help out, they would need to work for the motorbike owner to repay the debt owed.

When a borrower neglects to pay back money owed, even after repeated reminders, the lender can ask the *Kanong* for help. The borrowed property can be confiscated from the borrower.

In cases where a loan is given in food, for example rice, the debt of rice will always remain to be repaid (even upon death of the borrower) and can be transferred to other family members. Rice is considered the food of life for the community. As everyone in a household eats rice, such a loan would be transferred to other family members. By contrast, if the loan is in cash or in kind such as gongs, copper pots or cattle, the family of the borrower is not responsible for paying back an unpaid loan, unless the lent objects are physically left in the custody of the family.

In cattle contract caretaking, the agreement involves alternate ownership of a yearly calf; the cattle/buffalo owner gets the first calf, the caretaker gets the second. In cases when the caretaker does not adhere to this agreement and instead keeps the calf to him/herself year after year, the cattle owner can seek the *Kha Pleuy's* help in retrieving the calf. The cattle may remain in the custody of the caretaker, but s/he will be required to pay a fine of a chicken and a jar of rice wine for the celebration of the end of the dispute.

Villagers added that there is contract rice farming in which the two parties, the farm owner and farm worker, have an agreed terms of reference. Typically, the farm owner will get 30 to 40 percent of the annual rice crop, while the worker gets 60 to 70 percent. If the worker does not share the crop with the owner in accordance with their terms of reference, the farm owner can ask the *Kha Phoang* or *Kha Pleuy* to confiscate his/her share of crop from the worker.

4.4.2 Lending each other a hand

Lending a hand is a traditional form of solidarity maintained in the village. The villagers help each other, particularly during the farming season when slashing and burning forests to clear the land and while planting and harvesting rice. The villagers rotate their assistance to each other and if a person is absent for their turn to help, there will not be any dispute. However, if one repeatedly fails to turn up to help, s/he can be fined. The fine would be around 5,000 riel per day (estimated in today's currency).

4.5 Farming systems (shifting cultivation)

Villagers practice shifting cultivation or crop rotation. Their shifting cultivation is practiced the same way as that of other highlanders, as follows:

- Search for fertile land based on the growth of forests
- Start cutting down the forest and leave the timber to dry out. Then clear an area large enough to conduct farming
- Burn all the cleared forest timber and clean the land
- Plant the rice crop
- Tend to the rice to ensure crop growth by cleaning land and weeding as needed
- Harvest the rice
- Leave the retired soil until the rains begin
- After the rains, clear the soil by removing grass and clearing bush. Plant and tend to the crops, then harvest at the end of the season. Villagers repeat this practice on the same farmland until the soil is exhausted and a new area of land is required.
- After cultivating a piece of land for several years, the land becomes exhausted. Villagers then leave this farm to 're-grow the forest' and allow recovery of its fertility; it thus becomes fallow land. Villagers leave the fallow land unused for 20 to 30 years depending on the time need to recover land fertility and on the availability of forest farmland close to the village. The fallow land is considered communal land, so any villager can clear it to conduct their farming.

- The members of other villages cannot cross the customary boundary to farm within their territory; this is considered a taboo. If they want access to the land, they must ask permission from the *Kha Pleuy* in advance. The customary territory of Pa Dol community is identified by their traditional practices, which acknowledges the natural boundaries created by mountains, trees, steams and valleys.
- Look for new land to cultivate farms. In general, new forest farms are created on fallow land abandoned over the last 15 years. Villagers explained that according to their practices, they do not like to clear virgin timber forests. This is due to the fact that they do not have enough tools for clearing, as well as their belief that such forests are spiritual places to be kept for wildlife hunting and collection of non-timber forest products.

Village elders maintain that thus far land disputes have not occurred in this village, except for a few disputes with neighbouring villages. Customarily, villagers observe a taboo that requires them to clear land in a straight line; nobody has the right to clear land that crosses this straight path. Anybody clearing land in this path can be fined. They would then be responsible for organising a sacrificial ceremony asking the spirits to maintain peace, happiness and prosperity within the community. The *phak* is usually a chicken and a jar of wine.

Case study 12: A case occurring in the village

A number of years ago, village elders had a conflict with a neighbouring village regarding clearing land beyond their border. People from that village had begun to encroach onto their village land. Village elders went to the border and requested that the neighbouring village elders negotiate a solution with them. They began the process with a sacrifice of a pig and a jar of wine and concluded that the disputed land had to be remeasured and demarcated by proper boundaries. They then agreed that any future land encroachments between the villages would be solved by dividing the disputed land in half.

4.6 Marriage and family

4.6.1 Marriage

In the *Charay* tradition, men and women have the right to choose their partners in life without discrimination. However, the *Charay* people have a taboo that strictly prohibits marriage among people of the same *phoang*. They explained that people of the same *phoang* are considered to be siblings being born from the same mother.

If a man and a woman of the same *phoang* fall in love, they are deemed in violation of their community's traditional rules and can be punished. According to their belief, the act of the couple will bring bad luck and lead to a disaster befalling the village. To rid the village of this bad luck and avoid disaster, the parents of the couple must sacrifice a white buffalo, a black buffalo, a chicken, a jar of wine and a set of gongs according to the decision of the *Kha Pleuy*, for the celebration of the *Phka Pleuy* (see details in section 4.7.2). After this ceremony, the couple can live together as husband and wife. Villagers recalled that in the village there have been cases of children within the same *phoang* falling in love. In those cases, the couples had to go through the *Phka Pleuy* ceremony before they could live as husband and wife.

Today, due to the fact that a number of young couples have committed suicide in protest against this customary rule, the *Kha Phoang* and *Kha Pleuy* met and came up with a number of changes. Nowadays, a young couple of the same *phoang* can live together as husband and wife if it is proved that they are not related within five generations. The *Kha Pleuy* decides on the matter after having traced back their ancestry for at least five generations. If nothing is found, they can become husband and wife after a simple celebration that need not be a *Phka Pleuy*. In the past, as it was absolutely prohibited for people of the same *phoang* to get married, there was no need to trace back their ancestors.

Pre-wedding

Traditionally during courtship in the village, a couple in love will exchange gifts such as cigarette lighters, cigarettes or pipes, with an oath not to accept gifts from any others. At this juncture, they are free to be together as long as the

young woman does not become pregnant. If they conceive a child at this stage or they will be required to organise a *Phka Pleuy* and sacrifice a white and a black buffalo.

A young man must find a *Kanong* who will consult with the young woman to ensure that their feelings are mutual. If the *Kanong* receives a positive answer from the young woman, the young man must ask the same *Kanong* to consult his own parents and pay a fee of a jar of wine. If the parents agree, they ask the same *Kanong* to consult with the young woman's parents with a fee of another jar of wine. When all parties reach an agreement, both the young man and the young woman must find a *Kanong* to discuss the wedding arrangements or sacrificing ceremonies. The *Kanong* work together in fixing the date of the wedding. They then organise a ceremony for spiritual sacrifice signifying the engagement of the couple. In the engagement ceremony, the couple establishes conditions that they will remain faithful to each other until their wedding day and if either of them betrays the other or terminates the engagement without reasonable cause, s/he will have to pay *phak* according to the agreement. After the engagement ceremony, the couple can live together and have children. The couple must prepare themselves and resources such as pigs, chickens and rice wine for their wedding.

Wedding

On the first day of the wedding, a sacrificing ceremony, with a chicken and a jar of wine each from the bride and groom, is held to celebrate the groom's entry into the bride's family. By nightfall, a chicken is killed and cooked for the groom and bride to feed to each other. On the second day, a party is held as per custom. There are two *Kanong*, a man for the groom and a woman for the bride. On the night of the second day, in front of their parents and the two *Kanong*, the newly wed couple must swear an oath of loyalty toward each other agreeing that if either one of them commits adultery s/he shall be penalised in accordance to the agreement made at the wedding. After this family meeting, the *Kanong* brings the groom to the bride's house. The next morning, another celebration ceremony is held to conclude the wedding process.

Post-wedding

After the completion of the wedding ceremony, the groom must live with the bride's family. Five years later, the couple may build a new house but are still under the management of the wife's parents. If the groom wants to go back to live with his parents he may face a penalty imposed by the wife's family. The groom may ask permission to move to live with his parents for five years. However if they prosper economically, they may live there permanently.

4.6.2 Divorce

Traditionally, divorce is considered a major dispute that must be solved by enlisting the help of the *Kanong*. There can be many reasons for requesting a divorce, including the death of a spouse. When getting divorced, the *Kanong* must consult the conditions determined during the engagement or the wedding regarding conflict resolution. In addition, the *Kanong*, the *Kha Phoang* or the *Kha Pleuy* must discuss why the couple wants a divorce. They need to balance and consider the causes of the divorce, with the request for divorce by each party. In cases where the couple cannot be reconciled, the *Kha Phoang* or *Kha Pleuy* decides to let them divorce and their property and resources will be divided in accordance with the agreement of both parties. The children must stay with their mother regardless of which party is determined to be at fault.

If a divorce is requested only one or two months after the wedding the person requesting a divorce is responsible for paying to the victim the amount of a copper pot, a traditional jar and a pig of two or three *chap* in size. In the case when the couple has lived together for ten years or more, if a divorce is requested, a person requesting a divorce without acceptable grounds shall be penalised with *phak* in gongs according to the number of children that they have, that is, if they have three children, the penalty is three gongs.

Anyone disagreeing with the proposed divorce must seek a *Kanong's* help identifying the root cause of the problem in order to negotiate a resolution to the dispute.

Acceptable reasons for a husband to divorce his wife without paying *phak* are:

- If the wife becomes pregnant by other man
- If the wife has intercourse with another man

Acceptable reasons for a wife to divorce her husband without paying *phak* are:

- If another women is pregnant with his child
- If he has intercourse with another woman more than twice
- If he commits more than two cases of physical abuse against his wife
- If he is lazy and does not want to work to earn a living

Anyone wanting a divorce for reasons other than the above must pay *phak* to his/her spouse as promised during the wedding or engagement plus an additional *phak* in gongs as described above.

In the case where a wife or husband dies, the living spouse cannot remarry unless their spouse has been dead for over a year. Before remarrying, the living spouse must participate in a sacrificial ceremony for their dead spouse to signify the breaking of marital relations, as well as provide compensation to his/her family in accordance to the premarital conditions promised. If the living spouse marries or becomes pregnant by someone else without performing such a ceremony, s/he is responsible for paying *phak* to the dead spouse's family as stipulated in the wedding/engagement promises as it is considered against culture to do this. The dead spouse's family will demand compensation on his/her behalf as promised during the wedding process.

4.6.3 Sexual intercourse 'against culture'

Traditionally, sexual intercourse 'against culture' refers to a sexual relationship between a man and woman who are not officially engaged nor have requested permission from the spirits to become physically involved. This is considered a 'cultural guilt' for which the victim can claim compensation for damages resulting from the guilt.



A Charay family in Pa Dol village. (Photo: UNDP/Yin Sopheap)

In the case where an unmarried woman and unmarried man have sex and do not inform their parents or elders and the woman becomes pregnant, this will bring about 'cultural guilt' due to the fact that this is considered a violation of traditional norms.

Normally, the young woman must tell her parents and elders that she is pregnant and by whom. The accused young man must find evidence or a witness to prove that he is not responsible; otherwise he is presumed to be the father of the child. Typically the parties involved will confess the truth. Along with their parents, both parties must offer at least a pig, a chicken and a jar of wine for a sacrificial ceremony called *Phka Pleuy* asking the spirits for forgiveness and for happiness and health. The *Phka Pleuy* ceremony requires the two individuals (together with their parents) to use pig or chicken blood to paint the ladders of the houses of the *Me Arak*, *Kha Pleuy*, pregnant women people who own traditional objects such as gongs and clay urns, as well as the houses of people who are injured, people who are ill and families of those who have recently died, to ask them for forgiveness and pray for their happiness and health. The meat is then divided into portions to be shared among them. In cases where both individuals want to marry

each other, their parents will arrange for a wedding according to tradition. In the case where the young man does not want to marry the young woman, he must compensate her parents a minimum of one cow, a pig, a chicken and a jar of wine. If the young woman does not want to marry the young man, she is free to refuse.

In cases where an unmarried man has sex with another person's wife, he will be responsible to pay *phak* of two sets of gongs, three pigs and two copper pots. The husband must also fine his wife with a pig and a jar of wine, if he still regards her as his wife. In cases where the husband does not want to be with her any more, he can penalise her as much as he does the unmarried man.

In cases where a married man has sex with an unmarried woman, his wife can penalise the unmarried woman with a set of gongs, a copper pot, three pigs and a jar of wine. The unmarried woman is considered guilty because although she knew that the man was married, she still had sex with him. This is to deter other women from committing the same act.

In cases where a married man has sex with a married woman who is not his wife, he is penalised by her husband. The husband can penalise his wife's lover with three pigs, a set of gongs and a copper pot. The man's wife can penalise her husband's lover with the same demand.

4.6.4 Inheritance

There exist two kinds of methods for sharing inheritances: while people are still alive and after they have died. According to *Charay* custom, when parents get old, they usually plan to share their property with their children and relatives in order to avoid conflicts once they have passed away. In this case, the property owners, while still alive, have the right to allocate their property to anyone in any amount. Usually, s/he would give to a spouse who is still alive and to their children. At times, a *Kanong* is asked to witness and record the will for sharing property. In cases when property owners have passed away without leaving a will with the *Kanong*, the children must ask an elder in the village to serve as the *Kanong* and to divide the property in

accordance with custom. Generally, daughters get more property than sons, because they live with their parents, while sons mostly live with their wives' families. Younger and unmarried siblings continue to live under the care of their elder siblings. Thus the property is usually shared between the elder siblings who will continue to take care of them.

Case study 13: A case occurring in the village

There lived a widower who was dying. He possessed a set of gongs and a buffalo. He asked the *Kanong* to record his will, taking note of how he wished to share his property after he passed away. The will said, 'sell all the gongs and share the money equally, among all my children. The female buffalo shall be given to the youngest child, but the buffalo calves shall be shared among the older children'.

Case study 14: A case occurring in the village

A husband and wife without children had four buffaloes. The husband sacrificed two buffaloes for his wife's funeral when she died. He told the *Kanong* the use the remaining two buffaloes for his funeral.

4.6.5 Abduction and consensual running away

The villagers affirmed that there has never been any forced abduction in the village. However, there have been reports of couples in love deciding to run away together to live elsewhere because their parents disapprove of their relationship. Such a couple can return to their home village without fear of punishment. Their parents can then marry them in accordance with tradition. If the young woman is pregnant, it is necessary that a village sacrifice ceremony – *Phka Pleuy* – be performed.

4.7 Taboos, major ceremonies and beliefs

4.7.1 Taboos

In Pa Dol village, no one universal taboo is applied. Instead, villagers maintain taboos in accordance to their respective *phoang*. Anyone who accidentally brings taboo items into a family's house is required to make a sacrifice to the house spirits asking for happiness and immunity from illness and accidents causing injury or death. This sacrifice is conducted in accordance with the custom of the household.

The following are legends leading to the establishment of each *phoang's* taboo:

Case study 15: *Phoang Sev's* taboo on soft-shell turtles

A *Phoang Sev* man was travelling along the river in search of bamboo to build a house when his boat sank. Fortunately, a huge soft-shell turtle dragged him and his boat to a spot on the riverbank where there were lots of bamboo and shoots. He was able to collect as much bamboo and bamboo shoots as he needed before returning home. He arrived home late at night and went to sleep without telling his family his good fortune. In his sleep, he dreamt the same soft-shell turtle told him that his *phoang* must not touch or eat soft-shell turtles lest his people get sick or die. After waking up the next morning, he told his family and his *phoang* not to touch or eat soft-shell turtles from then on.

Case study 16: *Phoang Klaong's* taboo on Tra Gnar birds

One day a pregnant woman went into labour. Her husband asked a traditional midwife to come and arrange all that was necessary for the delivery. Unfortunately, after seven days and nights of labour the baby still had not been born. Many traditional midwives had come to help but having been

unsuccessful, they all eventually returned home. The man was worried and kept crying as his wife was so exhausted. Nobody thought that the woman could deliver the baby and therefore relocated the woman to a nearby hut as they thought she would die. On the seventh day, a big bird came through the roof of the hut and sang a lullaby, which eased the woman's pain. The bird continued to sing from morning until afternoon, then jumped to the ground. Suddenly, the baby was born. That night, the man dreamt the bird told him not to touch or eat birds of his kind. The next morning, he told his family and everyone in his *phoang* not to touch or eat that type of bird from then on.

Case study 17: *Phoang Sev's* taboo on rattan

A woman went to bathe in a mountain stream with a baby in her arms. She laid the baby down under a tree on the stream bank and went down to bathe. The baby started to cry but the woman did not hear it because its cries were drowned out by the noise of the falling water. Suddenly a crazy person arrived at the stream and saw the baby crying. He then tried to find out what was causing the baby to cry. The man saw the top of the baby's skull moving up and down and presumed that this was what was causing the baby to cry. Then he glimpsed a rattan bush with sharp thorns nearby and picked off one of the thorns. He pierced the thorn into the soft spot of the baby's skull hoping to ease the baby's crying. Instead, the baby died immediately. When the woman returned from bathing, the man told her what he had done. Upon seeing her dead baby, the woman began to cry. However she felt she could not blame the crazy man but instead thought the rattan must be the cause of the baby's death. From then on she prohibited everyone in her *phoang* to eat or touch rattan.

Case study 18: *Phoang Sal's* taboo on grass-pigeons

Once upon a time there was a woman who liked to eat sugar cane. She ate sugar cane from morning until night causing a big hole to develop in her cheeks spanning one side of her mouth to the other. Frightened, she called for help but no one could assist her. A pair of grass pigeons came by and helped sew the hole in her cheeks. In return, the woman promised to tell all villagers in her *phoang* not to touch or eat grass pigeons from then on.

4.7.2 Sacrifices and ceremonies

Village sacrificing

Typically, a village sacrifice is organised when a *Rong* house is repaired or rebuilt. People also hold village sacrifices when villagers encounter dangers such as illness or death and ask to pray for happiness and prosperity in the village. Village sacrifices require a buffalo, a pig, chicken and wine to pray to the *Rong* house spirits to provide villagers with health and happiness. In order to sacrifice a buffalo, pig, chicken and wine for the ceremony, the *Kha Pleuy* gathers contributions from all the villagers. After the ceremony is conducted, a taboo is enforced in the village, which strictly prohibits anyone from leaving or entering the village for five days. The village entrance is guarded to prevent this from happening. Violating this taboo is punishable by the obligation to pay for another village sacrificing ceremony.

Villagers themselves can leave or re-enter the village, however they do have to respect certain taboos such as the following: men shall not chop firewood, fell trees in the woods, fry rice, cast fishing nets or eat taro, while women shall not shampoo their hair. There is no *phak* for those who do not abide by the taboos however, as this is considered a personal security issue; violating the taboo may get oneself into trouble. For instance, villagers believe that a man felling trees during this five-day prohibition period may become injured or get killed by falling trees.

Case study 19: Background of *Rong* house worship

There is an old legend that tells the story of an old lady named Grandma Veng who liked making jars of wine, which she kept stored in her house. The wine she made tasted sour and was not very tasty; nevertheless, during village ceremonies people always came to her house to drink her wine, as she was one of the villagers' favourite people. The villagers had been keeping one buffalo for sacrifice at an upcoming *Rong* house celebration. One day, a buffalo from Som village fought and killed the buffalo that was meant for the sacrifice. Everyone in the village became angry and wanted to catch the Som village buffalo to replace their dead buffalo in the sacrificing ceremony. Some villagers however were reluctant to go ahead with this plan. Grandma Veng heard of the reluctance of those men and intervened saying, 'If you all are afraid of the buffalo, leave it to me, I will go alone. However, from now on you should not wear shorts (*peng*) anymore, I will wear the shorts instead. Cowards like you should wear a skirt like mine'.

This outburst embarrassed the men and prompted them to go and catch the buffalo for the sacrificing ceremony. People of Som village were not happy when their buffalo was caught and began gathering weapons to fight against Pa Dol village. Fortunately, government soldiers from Andong Meas district arrived and ended the conflict. Since then, villagers maintain that the *Rong* house is a sacred place where sacrificial ceremonies must be held in order to maintain happiness, prosperity and peace in the village.

Rain sacrifice

When the monsoon season arrives but there is little rain, the village farms begin to dry out, prompting the *Kha Pleuy* and other elders to meet to try to find a solution for their dying rice plants. Typically a solution is found in conducting a rain sacrifice requesting the spirits to bring rain. This sacrificing ceremony is performed by tying up a chicken and placing it a bamboo cage. The villagers together will start chanting 'rain! rain!' and the chicken is killed. There is no taboo associated with this ceremony.

Funerals

Natural death

Traditionally when someone dies, the family will arrange for a funeral with the participation from other villagers; together they play music, dance, eat and drink until the day of burial. The body is buried in a forest about 200 metres from the village. The funeral ceremony typically takes three days. Villagers believe that in keeping the dead body too long, the soul of the dead may take the souls of those who are still alive. On the fourth day, one day after the burial, there is a strict prohibition for all villagers on cutting trees, picking fruits and collecting vines or vegetables and fruits that fall to the ground. The villagers believe that anyone who breaks these rules will be in danger. There is no *phak* associated with those breaking rules because accidents and illness only befall those who break the rules. Relatives and friends are able to visit the grave to sacrifice food in the cemetery at any time, except on the burial day. In times when resources are scarce and the family cannot afford a cow, buffalo or pig for the funeral, a promise can be made to postpone the ceremony until the family can afford to provide the animals for sacrifice. When the time comes, the family must provide a cow, buffalo or pig as well as chicken and wine for a ceremony to be held at the cemetery. A day before the ceremony, they call upon the dead to stay at the burial ground. The next day, the family has to clear the ground and organise the ceremony. Villagers and relatives then join in the ceremony and play gong music, dance, eat and drink for one, two or even three days, depending on resources available.

Accidental death (ty hong¹⁷)

The villagers consider accidental deaths to include occurrences such as falling from a tree, hanging oneself (suicide), or death during the childbirth. These kinds of deaths are called ty hong.

If a villager is killed or dies due to an accident outside the village, the body is not allowed to be brought into the village for a funeral. This is due to a strong belief that bad fortune will accompany the body and befall the villagers. The funeral will

¹⁷ This is a Lao word. Both Khmers and highlanders use it in their spoken language referring to a death caused by an accident or sudden occurrence, such as a suicide or homicide.

take place outside the village with the building of a small hut for the body and another larger hut for the ceremony. In case of an accidental death within the village, the funeral ceremony must be held at the location where the dead body was found. Children are not permitted to participate in the funeral.

In addition, the family must conduct another ceremony, *Phka Pleuy*, in order to dispel bad fortune from other villagers. Traditionally, the victim's family takes pig's blood and paints the toes of all participants in the ceremony. It is believed that pig's blood will stop any future misfortune befalling the village. The villagers said that for many generations when an accidental death occurred in the village, they would often move their village to another location. They believed that an accident could befall any one of them and the soul of the dead person would become an evil ghost. Today the villagers no longer move their village based on this rationale.

Ceremonies relating to curing illness

Typically when a villager becomes sick, traditional medicines such as tree-leaves, roots, barks, vine or even grass are used as remedies. People also believe that spirits cause sicknesses and they therefore seek consultation from a *Me Arak* (a woman who can be asked by the spirit to borrow her body to communicate with human beings). The tellers may be able to determine the reason the person is sick and advise a spiritual sacrificing ceremony. In such a ceremony, a chicken is sacrificed with a jar of wine. If the person remains sick, a pig and wine are also used. With persistent illness the highest level of sacrifice used is a buffalo and wine. If this does not work then it is considered that the illness is incurable.

The sacrificial process requires the sick person to follow a regimen that includes taking complete rest and not leaving the house or even sitting outside the front of the house for three days (when the sacrifice is a chicken and wine), five days (for a pig and wine) or seven days (for the sacrifice of a buffalo). Other people, with the exception of family members, are strictly prohibited from entering the house of the sick person. Typically a sign is put up outside the house to advise others about the sick person. This could be in a

form of tree-leaves tied with string or a piece of wood hung across the walkway to the house. During this isolation period, violators of this rule must pay *phak* of a buffalo, a pig or chicken and wine depending on the level of the sacrifices that the family had earlier offered. The *phak* is for re-organising the spirit sacrifice ceremony. The sign is to be removed after the isolation period.

Ceremonies related to farming systems

Lapoy Bosh

This is a ceremony performed to aid in the search for fertile farmland. It is the first step in the traditional farming system. The villager finds a forest area with fertile land, then cuts trees or some bark to mark a sign to others that s/he is going to clear this section of forest for farming. Villagers turn to their dreams to find out whether the spirits will allow him or her to farm in this location. If the dream is good, it is a sign that the farmer can farm on the land s/he has marked out, however, if the dream is bad s/he must sacrifice a chicken with wine to the forest spirits asking them to allow him/her to clear the land. The next night if the farmer's dream is good s/he will continue to work that piece of land, otherwise s/he will not farm in that area and will continue the search for land in another location.

Kpes Klay

This is a ceremony to ensure the spirits will look after the villagers whilst they farm. After the *Lapoy Bosh* ensures that this is a good area to farm, the villager will clear a few square meters of forest, make a small fire, and then arrange an offering with a small jug of water near the fire. Upon returning after a few days, if the farmer finds that the items, such as the firewood and water jug, are scattered away from their original spot, the area is considered unfit for farming. If those items remain in the same position, it is a sign they can farm there because the spirits are happy to look after and tend to their farm.

Pem Klair

Indigenous highlanders typically cut down trees and clear land for plantations such as rice. The villagers say that they first clear small trees and bushes, before cutting down the bigger ones. A sacrifice is made to the spirits to ask

for safety in their work; farmers otherwise believe that the trees will fall on and injure or kill them. For this sacrifice, wine or a chicken can be used according to the resources of the farm owner. The sacrifice is also organised to celebrate those who help clear the land. This ceremony is called *Pem Klair*.

Nyum Chek

After burning all bushes and trees, villagers collect the remaining unburned wood and proceed to plant on the land. In the middle of the period of rice production, the farmers hold another sacrificing ceremony to request that the rice continues to grow free from destruction by termites or rats. As in other ceremonies, this is done using an offering of chicken and wine.

Nyum Kdech

After the rice is harvested and stored, farmers conduct another sacrificial ceremony (the last one of the farming season) offering a pig with a jar of wine. This sacrifice is conducted at the village rather than the farm.

Other sacrificing ceremonies

Pees, Kas Pai, Tang Ay, Kamal

These ceremonies are usually held to dispel bad spirits and ill fortunes that may befall the rice crop. They are also performed for those farmers whose property and rice have been damaged by fire or animals and in prayer for the return of safety and prosperity to the farm. As in other ceremonies, this is done using a chicken and wine. Chicken blood is mixed with rice husks used to make wine and showered on the site where the fire burned or the cattle previously grazed. This sacrifice is performed by those responsible for the damage including the provision of chicken and wine.

Chayorleg Pangat

This sacrificing ceremony is conducted whenever there is physical violence that results in bleeding or broken bones. Villagers conduct this sacrifice to allow guilty parties to apologise and bring the soul of the victim back to their body, as it is believed that the soul of the victim leaves the body when there is such an injury. This in turn allows for the victim's health to return. It is also performed

when a villager's general health is bad or a specific wound cannot heal, or if it is thought that the person's soul has left his/her body for another reason. For instance, in cases when parents harshly scold their children who then become thin and sickly, villagers believe that the children's souls have also left their bodies. In such cases the parents will perform this sacrifice with the purpose of calling back the soul, allowing the individual to be cured.

If parents are suspected of causing their children to have this condition, they are responsible for conducting the sacrifice. If this suspicion is relayed by a *Me Arak*, then the *Me Arak* is the one who conducts the sacrifice.

In cases of physical violence, the perpetrator must pay *phak* of a chicken and a jar of wine to conduct this sacrifice. The perpetrator must put his finger in the wine, whisper apologetic words and ask for the removal of the bad luck of illness and injury from the victim. After this, a piece of chicken flesh is soaked in the wine and given to the victim to eat. The *Kanong* or *Kha Pleuy* is responsible for organising this ceremony.

Phka Pleuy

This is the largest sacrificing ceremony to reject bad luck and danger from the village. It is performed for people who are injured or sick, families of anyone who has recently died and those who are in danger. Persons who often are considered to be in danger include: *Me Arak*, pregnant women, those afflicted with illness, families of those who have recently died, people who own traditional gongs or jars and *Kha Pleuy*. This sacrifice is also held when a woman who has never been married becomes pregnant before being wed or engaged.

This ceremony is conducted for those deemed guilty of something. They are required to go from house to house in the village to apologise and purge bad luck from the affected households. The guilty individuals must take pig's blood and paint the steps of the respective houses of the people in danger. This serves to reject any bad luck. A piece of pork is also offered to each of the 'victims'. In cases where the guilty persons are considered too young or timid, their parents can perform the offering by proxy.

Char Brieng

The villagers perform this sacrifice when someone has died as a result of an accident. It is conducted in order to praise the spirits and to reject bad luck while simultaneously recovering good luck. In this sacrificing, at least one buffalo or cow, one pig and a chicken and jar of wine are offered. The *Kha Pleuy* and other elders will take pig's blood and paint the toes of all attending the funeral to ensure that the bad luck will not spread to others.

A bet-swear test

A *bet-swear test* is a type of truth test where both parties must bet some personal wealth to participate. To identify who is the winner of the bet, the parties need to complete a 'magical test'. This involves a ceremony for the spirits before the test. It is believed that if the person is honest, the spirits will allow him/her to win. If not, the spirits will cause him/her to lose the bet. The spirit will protect the most honest party in the *swear-bet test*.

Traditionally, villagers use a *bet-swear test* to end disputes and uncover the truth when both parties claim innocence or refuse to confess. Betting is important in maintaining one's honesty and reputation. The loser is penalised in accordance to what is agreed before the test. To maintain credibility there is a swearing of an oath to the spirits before the test, affirming that only the honest party will win. *Bet-swear tests* can include:

Pouring boiling liquid lead onto the palm

Before this proceeding, the *Kha Pleuy* sacrifices a chicken and a jar of wine to praise the spirits. Then, the *Kha Pleuy* proceeds to pour boiling liquid-lead onto the palms of the two parties. People believe that the palm of the honest person will be able to withstand the heat and pour the lead off without getting burned, while that of the culprit or thief will get burned by the lead often burning a hole straight through the palm. This person is considered the loser of the *bet-swear test*. Villagers claim that they have heard of this type of test from their elders but have never witnessed it themselves, as it is not practiced today.

Submerging in water

Before the test, a chicken and a jar of wine are sacrificed to praise the spirits. The *Kha Pleuy* is the key organiser. The *Kha Pleuy* orders the two parties to submerge themselves in the river at the same time. The loser is the person who emerges from the water first to get air. Elders in the village affirmed that this practice is still conducted today.

4.7.3 Beliefs

Sacred ground

Villagers in Pa Dol village have four areas which they consider highly spiritual or sacred forests. These areas are called: Thmar Tam Tuor (mountain of the two boys), Tith Char Loam, Chray Kous (Kous waterfall) and Char Korm. Insulting or cursing at these places will not be considered an offence according to village traditional rules, but is considered disrespectful to the spirits. There are no signs identifying the sacred or spiritual areas; through word of mouth all villagers are aware of where they areas are located.

Cemetery

The Pa Dol village cemetery is located close to the village itself, approximately 200 meters away. This close proximity signifies that the villagers don't want their relatives to be far from them. It is also easier for villagers to carry the body to the site for burial, as well as during sacrificing ceremonies.

The cemetery is not considered a forbidden area. However the villagers believe that those who enter the cemetery should not perform any acts of disrespect to the dead, such as shouting or disturbing the environment. If they fail to adhere to these rules, villagers believe that ghosts will cause them to become ill. The cemetery is traditionally separated into two areas of burial - one for what is considered normal deaths and the other for accidental deaths.



Charay cemetery and tomb. (Photo: UNDP/Yin Sopheap)

Sorcery

The villagers believe in sorcerers ('*Arb*' or '*Thmub*') and magical individuals who have the power to make others sick. An *Arb* is said to wander looking for food at night without a body, after pulling its head off its body, which continues to sleep. Unlike the *Arb*, a *Thmub* only wanders with its soul. In cases when a sorcerer enters a person's soul, it is believed that the individual will die. Villagers also experience sorcery through dreams such as being strangled, stabbed with a knife or falling gravely ill. To identify a sorcerer, people perform tests through a *Me Arak* by calling a name while trying to break an egg. If the egg is broken when someone's name is called, the person is considered a sorcerer. There is no real punishment for being a sorcerer; however, the family of a victim of sorcery may attempt to kill the sorcerer.

Arb: Evil witch

Bet-swear test: A test to find who the guilty party is

Chap: A traditional scale of measurement for a pig. This is done by measuring the diameter of a pig's stomach using a piece of string. Measurements are then taken by folding this string in half (i.e. the length is half the diameter of the string) and counting the number of hand widths from the top to the bottom. The amount of *chap* corresponds to the number of hand widths in the length of the halved string from top to bottom. This indicates the size of the pig, and thereby its worth

Kamal: A sacrifice to cure a wound

Kanong: A mediator; a person who assists in resolving conflict

Kha Phoang: Clan leader

Kha Pleuy: A traditional village/community leader

Khna: Trap

Me Arak: A woman who can be asked by the spirit to borrow her body to communicate with human beings

Pees: A sacrifice asking the spirits for forgiveness and to rid the village of bad luck

Phak: Compensation, in both wealth and spirit

Phka Pleuy: A sacrifice performed after any woman has gotten pregnant before marriage or when a couple that are related in a way that traditionally prohibits marriage wish to get married

Phoang: Ancestry

Rong house: Communal house in the village

Tang Ay: A sacrifice asking for the soul of a person to return to the body

Ty hong: Accidental death

Thmub: Evil witch

Elders in Pa Dol village



Romam Chhoung Chea
Chief Elder



Sev Theunh
Village Chief and Elder



Sev Tveun
Sesan Commune
Chief and
Community member



Klan Heuch
Elder



Sal Hnoun
Community member



Klan Tougn
Community member



Ropuy Khet
Member of women's group



Romam H-Art
Member of women's group



Sev San
Member of women's group



Sal Chon
Elder



Klan Gnuhn
Member of women's group



Sev Myeung
Community member



Sev Pel
Community member

Members of the Cambodian Indigenous Youth Association (CIYA)

Mr. Leang Sokcheun	CIYA member
Miss. Yun Ravy	CIYA member
Mr. Yen Bunthan	CIYA member
Ms. Latt Samneang	Cook, Khmer Leu Association

Access to Justice Project staff

Mr. Bun Yay Narin	Chief of the Cabinet of the Ministry of Justice and Deputy Project Manger of the Access to Justice project for the Ministry of Justice
Mr. Koy Neam	Former Project Manager of the Access to Justice project for UNDP Cambodia
Mr. Yin Sopheap	Regional Legal Specialist for the Access to Justice Project, UNDP Cambodia
Mr. Da Raseng	Driver for the Access to Justice Project, UNDP Cambodia

Access to Justice Project Group

H.E Phov Samphy	General Director of Judicial Research and Development and National Focal Person of the Access to Justice Project in the Ministry of Justice
H.E Phon Bunthal	Director of Legislative Council and National Focal Person of the Access to Justice Project in the Ministry of Interior
Mr. Sok Bora	Deputy Chief of Department of Legal Education and Dissemination and Project Manager of the Access to Justice Project in the Ministry of Justice
Mr. Mony Virak	Member of Legislative Council and Project Manager of the Access to Justice Project in the Ministry of Interior
Mr. Keth Sineth	Chief of Department of Training and Research and Project Officer of the Access to Justice Project (Indigenous Peoples component) in the Ministry of Justice
Mr. So Sophanna	Former Deputy Chief of Department of Inspection and Project Officer of the Access to Justice Project (Indigenous Peoples component) in the Ministry of Interior



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