



Ministry of Justice



Ministry of Interior



Brao Ethnicity

Documentation of Customary Rules

Indigenous People in Tumpoun Reung Thom village

Taveng Kroam commune, Taveng district, Rattanakiri province

Copyright UNDP Cambodia 2010

ISBN: 978-9995-63-09-2

Produced by UNDP Cambodia in collaboration with the Ministry of Justice and the Ministry of Interior

Published by UNDP Cambodia and the Agencia Española de Cooperación Internacional para el Desarrollo

Brao Ethnicity

Documentation of Customary Rules

Indigenous People in Tumpoun Reung Thom village

Taveng Kroam commune, Taveng district, Rattanakiri province

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

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.

Contents

1. Village background.....	3
2. Traditional Authority.....	5
2.1 <i>Krak Shrok</i>	5
2.2 <i>Teungkang Krak</i>	6
2.3 <i>Yak Veu</i>	6
2.4 Village chief.....	7
3. Dispute resolution procedure.....	8
3.1 Solving conflict by the parties themselves.....	8
3.2 Mediation through a <i>Yak Veu</i>	9
3.3 Arbitration by a <i>Krak Shrok</i>	9
3.3.1 Storytelling.....	9
3.3.2 Compensation bargaining.....	10
3.3.3 Post agreement.....	11
4. Customary rules dealing with disputes.....	12
4.1 Physical abuses.....	12
4.1.1 Murder.....	12
4.1.2 Manslaughter.....	14
4.1.3 Rape.....	15
4.1.4 Molestation.....	15
4.1.5 Disputes causing physical injury.....	16
4.1.6 Threats to kill or cause injury.....	17
4.1.7 Arrest or detention.....	18
4.1.8 Injury to villagers caused by domestic animals.....	18
4.2 Offences over property and animals.....	20
4.2.1 Theft (stealing and robbery).....	20
4.2.2 Fraud and forgery.....	22
4.2.3 Fire (arson).....	23

4.2.4. Causing damage to people's property.....	26
4.2.5 Cattle grazing on someone else's rice farm.....	27
4.2.6 Killing or causing injury to someone's animal.....	28
4.3 Offences over honour and reputation.....	29
4.3.1 Curses and verbal assault.....	29
4.3.2 Defamation.....	29
4.4 Relationships in the community.....	30
4.4.1 Borrowing, renting and contract care taking.....	30
4.4.2 Helping each other.....	31
4.5 Farming systems (shifting cultivation).....	31
4.6 Marriage and family.....	32
4.6.1 Marriage.....	32
4.6.2 Divorce.....	34
4.6.3 Sexual intercourse 'against culture'	36
4.6.4 Abduction and consensual running away.....	38
4.7 Taboos, major ceremonies and beliefs.....	38
4.7.1 Taboos.....	38
4.7.2 Major sacrifices and ceremonies.....	39
4.7.3 Beliefs.....	47
4.7.4 Sorcery (<i>Arb</i> or <i>Thmub</i>).....	50
Annex I	
Glossary.....	51
Annex II	
Contributions to the documentation of the customary rules.....	53

1. Village background

Tumpoun Reung Thom village is an old *Brao* indigenous village located in the Rattanakiri basal highland. It is home to 426 villagers comprising 98 *Kreung* ethnic families. In the past the village was in many different locations; they settling along the west bank of Sesan River in Taveng Kroam commune, Taveng district in 1984. The villagers live as a small community and maintain their own ancient traditions, identity, culture and belief systems. The villagers subsist on crop cultivation, collection of non-timber forest products and hunting. For a long time the villagers have lived peacefully together in a spirit of love, understanding and tolerance and with strong solidarity among the community.

Through generations, villagers recalled that when the area was under Thai occupation in the late 18th and early 19th century an elder named Tumpoun Reung was fishing in the Sesan River and came ashore at a particular spot on the riverbank. He found that the neighbourhood had good and fertile land and lots of fish in the river, so he and his family decided to move to live in this area. Soon after that, more people followed and moved to the area with them.

Villagers recalled that they lived in fear of Thai soldiers who came to collect taxes, usually demanded in the form of rice, fish and livestock. Sometimes the soldiers would take girls from the village or force people to work for them. But Tumpoun Reung was known to be a clever man who could persuade the Thai soldiers to reduce the amount of the taxes that the Thai soldiers required that villagers pay.

Tumpoun Reung was gentle and smart. He knew well the village's traditions and culture and he passed these on to younger people through education. He was also able to easily solve problems in the community. Because the land and water were so rich, the village soon became very populated. The villagers named the village Tumpoun Reung. Being the most respected and trusted person in the village, he was appointed *Krak Shrok* (see below) and served until his death. After his death, his grandsons Yak Nhak and Yak Nhay successively became *Krak Shrok*. Then Yak Nhay's son Yak Thou became *Krak Shrok*. Under

the Khmer Rouge regime, a great majority of the Tumpoun Reung village took refuge in Vietnam as well as in Laos. After the fall of the regime, people returned to the village. Those who took refuge in Vietnam had appointed Yak Thou to be *Krak Shrok*. That was when the village was temporarily near to O'Trav stream and where Yak Thou passed away. In 1984, the villagers moved the village to the current location. Today Mr. Mang Vy was appointed village chief by the commune authority and the *Krak Shrok* are Yak Chang, Yak Dam and Yak Nhat.



Dried-out Sesan River. (Photo: UNDP/Yin Sopheap)



The Rong house in Tumpoun Reung Thom village.

(Photo: UNDP/Yin Sopheap)

Case study 1: Relations between Brao, Kreung and Kaveth: a similar culture and language

The *Brao* in Tumpoun Reung Thom village use this allegory to explain the similarities between the three ethnicities – *Brao*, *Kreung* and *Kaveth*. There lived a family with a son. The father was *Brao*. Later, the son got married and moved out. Then another son got married and also moved away. The last son was born when the man and his wife were very ill. They passed away when the son was very small. The eldest son continued to live as *Brao* because they were raised in true *Brao* culture and tradition. The second son lived as a *Kreung* because his aged parents were not able to fully pass on the *Brao* culture and tradition to him. The youngest son lived as a *Kaveth* because when his dying parents raised him they could not speak *Brao* clearly and were unable to teach him the *Brao* culture and traditions. However, the three ethnic groups are related thus their languages and culture are similar.

2. Traditional Authority

The Traditional Authority in the village is made up of a group of elders, including the *Krak Shrok*, *Teungkrang Krak* and *Yak Veu*, who play key roles in governing the community, settling issues, organising sacrifices to the spirits, ridding the village of bad luck, resolving disputes and maintaining solidarity and happiness within the community.



Krak Shrok in Tumpoun Reung Thom village. (Photo: UNDP/Yin Sopheap)

2.1 *Krak Shrok*

A *Krak Shrok* is a respected person, usually a man, recognised by villagers as magical or spiritual and one able to make requests to the spirits for peace, happiness and forgiveness using sacrificial ceremonies. Such people are knowledgeable in culture, beliefs and traditional sacrifices. They are related to previous *Krak Shrok* who were born and raised in the village. At present there are four *Krak Shrok* who play important roles in Tumpoun Reung Thom village. They have two distinct tasks: organising sacrificing ceremonies and resolving disputes.

Sacrificing ceremonies

The *Krak Shrok* is responsible for mobilising villagers to participate in sacrificial rituals including village sacrificial ceremonies, funerals and other traditional ceremonies. He also is responsible for mobilising villagers to contribute buffaloes, cows, pigs, chicken and wine for major rituals in the village. Until the era of French colonisation, *Krak Shrok* played key roles in governing the community, including the maintenance of peace and happiness within the community against possible enemies.

Dispute resolution

Krak Shrok are knowledgeable in customary rules and are imbued with a spirit of fairness. Villagers trust them to resolve disputes in their community.

2.2 Teung kang Krak

This is the name given to elderly married men or those who are elders. They play the role of supporters of or assistants to the *Krak Shrok* in organising sacrificing ceremonies and meetings related to problem solving within the community. They provide ideas and suggestions to the *Krak Shrok*, as well as to the villagers. There can be many *Teung kang Krak*, but there are only a select number who have important roles and are trusted by villagers to be their *Yak Veu* (or spokesperson) in dispute resolutions.

2.3 Yak Veu

A *Yak Veu* can be a *Teung kang Krak* whom the villagers trust and request to be their spokesperson in seeking resolutions to conflicts and requesting compensation. *Yak Veu* are not only used as mediators during conflict resolution, but also as matchmakers in the engagement process. A *Yak Veu* can either be male or female. The villagers use *Yak Veu* in most of their dispute resolution activities. A *Yak Veu* must be an honest person and serves as an impartial and effective intermediary. A *Yak Veu* whom villagers have chosen to be their spokesperson and is believed to be skilled in conflict resolution will likely become a *Krak Shrok* when he becomes older.

2.4 Village chief

The village chief is nominated by the commune authority and plays the role of village coordinator and facilitator. Typically the village chief is involved in all interactions with different levels of the government structure, as well as aid organisations and institutions from outside the village. The village chief, for example, can call on villagers to participate in meetings or training workshops. In addition, he supports the *Krak Shrok* in organising ceremonies in the community such as weddings or funerals. In conflict resolution, he is sometimes asked to be the *Yak Veu* or to join a hearing conducted by a *Krak Shrok* to share his opinions as other elders do. In cases where a disputing party does not agree with a resolution proposed by the *Krak Shrok*, the village chief can refer the case to the commune authorities to facilitate solving the particular conflict. On occasion he is asked by villagers to be the *Yak Veu* for a wedding or a divorce. However, in general he listens to the group of elders, especially decisions made by the *Krak Shrok*. If the *Krak Shrok* decides to organise a sacrificing ceremony or move the village, the village chief will never refuse as it is thought that the *Krak Shrok* is the most knowledgeable individual on matters of custom and tradition.

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

‘It is not considered a good settlement if any party involved is not happy to accept it. However, since the establishment of this village, there has never been any case that could not be solved by our Krak Shrok’.

In general, the conflict is resolved in one of three way.

3.1 Solving conflict by the parties themselves

In the case where the dispute is not serious, the aggrieved party may meet with the opposing party to discuss and negotiate a solution themselves. In such a case often the party who admits 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* (compensation paid to the victim by the party at fault) or hosting a party requiring chicken and wine served as a symbol of 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 *Yak Veu*

When a dispute occurs, the claimant (victim or aggrieved party) will find a *Yak Veu* to report the dispute to, recount the events that took place and request compensation. The respondent must provide reasons for the alleged wrongdoing against the claimant, and does so through the *Yak Veu*. If the claimant agrees with the respondent's reasons, the *Yak Veu* will ask the two parties to bring a chicken and a jar of wine to share together to signify the end of the dispute and the continuation of friendship. However, if the claimant does not agree with the respondent's rationale, s/he will then take their case to the *Krak Shrok*. On the other hand, if the respondent agrees to confess, apologise and provide *phak* to the claimant, s/he can request the *Yak Veu* to try to persuade the claimant to reduce the *phak* amount requested. The *Yak Veu* goes back and forth from the claimant to the respondent until an agreed claim 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 *Yak Veu* may end his involvement in the negotiations. He would then refer the parties to the *Krak Shrok*. Any party also can suspend negotiations by telling the *Yak Veu* that s/he will take the dispute to *Krak Shrok*.

3.3 Arbitration by a *Krak Shrok*

Conciliation through a *Krak Shrok* is different to the steps taken by a *Yak Veu*. A *Krak Shrok* will not go back and forth serving as an intermediary between one party and another. Instead, he first listens to both parties, then balances the *phak* price and makes the final decision to order a party to pay compensation. In addition, he will also provide advice to both parties on how to live peacefully with each other. Conflict resolution through a *Krak Shrok* generally involves three steps.

3.3.1 Storytelling

When villagers seek help to resolve their conflict, the *Krak Shrok* organises a meeting in the *Rong* house² calling the disputing parties to sit on either side of him or her. The *Krak Shrok* typically invites village elders, *Yak Veu*, other

² 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. The *Brao* call it *Hnam Rong* or *Rong*

Krak Shrok, *Teung kang Krak* and other interested villagers, including relatives of the disputing parties, to join. During this hearing, everybody present is free to participate and share his or her ideas. First, the *Krak Shrok* listens to both sides of the dispute. Both parties are asked to speak the truth, providing clear and reliable evidence and/or witnesses to support their claim. Any participant at the hearing can offer information that s/he is privy to relating to the case. The *Krak Shrok* allows time for 'storytelling' until s/he fully understands the case or finds the truth. She 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 *Krak Shrok* may ask them to undertake a *bet-swear test* (see section 4.7.3).



Rong house and buffalo sacrificing pole which is used during the construction of the Rong house.

(Photo: UNDP/Yin Sopheap)

3.3.2 Compensation bargaining

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

3.3.3 Post agreement

After the two disputing parties come to an agreement of paying and accepting the compensation, the *Krak Shrok* will ask all involved in the conflict resolution, as well as other villagers, to join in a party celebrating the end of the dispute. In doing so, the participants bear witness to the promise for a continued friendship without revenge. If the case is minor, the party will include sacrificing a chicken and a jar of wine, rather than a buffalo, cow, pig and chicken. During this sacrificial ceremony everyone eats and drinks together signifying that the ill will between parties is healed. In cases where the conflict is resolved using a *bet-swear test*, the losing party is responsible for paying more for the ceremony and sacrifices to the spirits.



A party celebrating the end of a dispute. (Photo: UNDP/Yin Sopheap)

4.1 Physical abuses

4.1.1 Murder³

Harming and killing people is prohibited by Tumpoun Reung Thom village's customary rules as it violates the *Brao* traditional values of peace and tranquillity in the village. From generation to generation, *Brao* ancestors have passed on the belief that human beings must not be deprived of their right to live or be harmed in any way. Ancestors have warned that the punishment for a murderer is to be buried alive. However, the villagers maintain that they have been living peacefully in their community and there have been few cases of murder since the establishment of the village by Yak Tumpoun Reung at the time of the Thai occupation in the late 18th and early 19th century.

Although there have been very few murder cases in the village, the villagers affirmed that if it were to happen, capital punishment would be imposed by either being instantly killed or buried alive were the murderer caught in action. Alternatively s/he would be forced to pay *phak* in accordance with the compensation claim from the victim's family. The total claim could not exceed 16 buffalos. The *phak* could be paid using a classical gong and pigs, cows and wine not exceeding the value of 16 buffaloes. In cases in which an accused murderer is unable to pay the entire *phak* amount, s/he would become indebted to the victim's family and work for them until they agree to release him/her, or until the debt has been paid in full.

Case study 2: A case occurring in the village

A dog attacked and injured a man. Angry, the victim pulled out his sword to kill the dog. Before he could do so, the dog's owner angrily responded and the two men engaged in an escalating argument, which ended when the dog owner stabbed and killed the other man. The victim's family

³ According to the Criminal Code Article 199, murder is punishable with a sentence of ten to 15 years in jail.

bought the murderer to the *Krak Shrok* to seek justice. *Krak Shrok* told the murderer to pay compensation in property to the value of 16 buffaloes. As the man was unable to pay, he was indebted to work for the victim's family for the remainder of his life.

Due to the fact that one convicted of murder will be condemned by the court and put in jail, villagers will not force the perpetrator to pay the entire compensation according to tradition. Instead s/he must pay half, which is the equivalent of eight buffaloes. If the perpetrator cannot afford the required amount of debt, his family (including parents, children or extended family relatives) may pay the remaining debt according to their resources. However, in such situations, relatives can neither be forced to pay, nor have their resources confiscated; their contribution remains a symbol of charity to either the perpetrator or the victim.

Compensation in such cases is divided into two parts. The first part includes one buffalo, a pig, a chicken and a jar of wine for the funeral ceremony. This ceremony includes a sacrifice to the spirits to ask for forgiveness, cleanse the village and villagers of bad luck and reap future happiness and fortune. The *Brao* people call this ceremony *Char Brieng*. Other villagers bring their own jars of wine as their contribution to the ceremony. The second part of the compensation, given to the victim's family, is called the *Sang Char-oeng*, which means compensation for the loss of the victim to his/her family members.



Traditional gongs and wine jars in Tumpoun Reung Thom village. (Photo: UNDP/Yin Sopheap)

4.1.2 Manslaughter⁴

According to village tradition, manslaughter does entitle the victim's family to *phak* from the perpetrator. The *phak* is, however, moderate as manslaughter is not considered to be as grievous a crime as murder given that there was no intention to kill the victim. Elders usually settle such cases by ordering the perpetrator to compensate the victim's family with assets equal to eight buffaloes. However, the compensation is negotiable in accordance with the agreement between both parties.

Similar to murder, the *phak* for an unintentional killing is divided into two parts. The first part includes one buffalo, a pig, a chicken and a jar of wine for the funeral ceremony, which includes a sacrifice to the spirits asking for forgiveness and to dispel the village of bad luck. Villagers will contribute a jar wine for the funeral ceremony. The rest is for *Sang Char-oeng* to the victim's family.

In such case, the *Krak Shrok* needs to find evidence to determine whether the case was murder or manslaughter. Evidence that could determine the verdict can include the actual act of killing (and witness) or the previous relationship between the parties in the village; that is, if the parties had not been on good terms with each other, always quarrelled, or were plotting against each other.

Case Study 3: A case occurring in a neighbouring village

In 1984, two friends went hunting together. One man carried a shotgun and the other did not. The man without a gun went to take a toilet break in the woods, while the man with the gun continued hunting for wild animals in nearby forests. Suddenly a wild pig ran past him. The man with the gun chased the pig into the forest. He thought he saw the pig moving in a bush near a big forest tree and proceeded to shoot at it. Upon going to retrieve the pig, he discovered that he had accidentally shot and killed his friend instead. The victim's family demanded a *phak* of one live buffalo along with other property that was the equivalent of two additional buffalo. The perpetrator was arrested by the local authorities and imprisoned for three years.

⁴ 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.

4.1.3 Rape⁵

In the *Brao* language, rape is referred to as *rab antrok*, defined as a violation where a man forces a woman for sexual intercourse with him without her consent.

Villagers reported that there have been few cases of rape in this village, but there have been cases of sex outside marriage. However, they explained that there was one attempted rape case in 2003, committed by an outsider, which constituted a violation of the peace and happiness of the *Brao* people.

Case study 4: A case occurring in the village

In 2003, a man from the low lands came to earn his living in *Tumpoun Reung Thom* village. One day he attempted to rape a woman from the village. She cried for help and other villagers intervened. They apprehended the perpetrator and brought the man to the *Krak Shrok*. The victim demanded *phak* of a pig, a jar of wine and 300,000 riel in cash from the perpetrator.

Case study 5: A case occurring in the village

Ten years ago, a man slept with his sister-in-law. The victim and her family demanded *phak* of property valued at the price of a buffalo. Unable to pay the required amount, the man went to work in the provincial city until he had earned enough money to pay the *phak*, and then returned to live with his wife.

When a rape occurs, the *phak* required is usually a buffalo, traditional gongs, wine and money.

4.1.4 Molestation

In this village men usually respect women and generally do not touch them without their consent. In rare cases when a man misbehaves by touching a woman's breast, kissing her or touching her bottom against her will, she can bring the case to the *Yak Veu* or *Krak Shrok*.

⁵ According to the Criminal Code Article 239, rape is punishable with a sentence of five to ten years in jail.

Villagers did confirm a number of incidences of molestation but most were resolved through mutual agreement. In some cases, the perpetrator paid with a pig or a chicken and wine for a reconciliation party. There have been no cases for which *phak* of equivalent value to a buffalo was demanded. Generally, the *Yak Veu* or *Krak Shrok* will give the perpetrator advice on how to better behave and respect women.

Case study 6: A case occurring in the village

During one buffalo-sacrificing season, villagers gathered for a ceremony where young men and women ate, drank, sang and danced happily together. Being drunk a young man approached a young woman and touched her breasts and her backside. Embarrassed and upset, the woman complained to the *Yak Veu*. In the end, the families of both parties agreed that the perpetrator should provide a pig and wine for a party to celebrate reconciliation.

4.1.5 Disputes causing physical injury⁶

Villagers explained that their ancestors taught them to avoid disputes or fights with each other as it is considered an abuse to their culture. However such cases quite frequently happen in the village, especially when villagers are intoxicated. If a victim sustains an injury caused by another person fighting with them, the case will come to the *Yak Veu* who will mediate the dispute. If the mediation through the *Yak Veu* is unsuccessful, it can then be taken to the *Krak Shrok*.

The person responsible for the injury must pay *phak* to the victim according to the severity of the injury. If the injury is serious, the *phak* will be cash, a pig, a jar of wine and a chicken to signify an end to the dispute. In addition, the perpetrator shall organise a *Char Brieng* or *Chrolab Chreh* ceremony offering apologies to resume friendship and to rid the victim of bad luck (see details in section 4.7).

⁶ 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.

Case study 7: A case occurring in the village

Under severe intoxication, a man hit another man and caused him to bleed. The victim went to see the *Yak Veu* for help. At the end, the perpetrator agreed to pay *phak* to the victim with a jar of wine, a chicken and 30,000 riel in cash. The wine and the chicken were for the reconciliation party. Since this mediation by the *Yak Veu* and *Krak Shrok* was not acceptable to the victim, the village chief submitted this case to the commune chief. With the commune chief, the victim demanded two buffaloes. The perpetrator had to agree to the demand or he could face imprisonment because the commune chief could send the case to court.

4.1.6 Threats to kill or cause injury

Villagers confirmed that threats to kill or cause injury to others do occur. They explained that people do not respond well to threats as it causes the victim to become anxious and can lead to illness. A threat to kill is considered an offence and the perpetrator shall pay *phak* of a buffalo, a cow, a gong or a traditional jar depending on the seriousness of the threat. In cases when the perpetrator cannot afford to pay the *phak*, his/her parents have to help pay the amount or he/she will have to work for the victim for a certain length of time until the debt is paid.

Case study 8: A case occurring in the village

One day, after returning from a party, a very drunk man began to argue with his wife. After a series of heated verbal exchanges, the argument escalated and the man threatened to kill his wife with a knife. The wife's family witnessed his threats, apprehended the husband and took him to the *Yak Veu*. They all agreed that the perpetrator should pay *phak* to his wife of a pig, a chicken and a jar of wine.

After an agreement is reached as a result of a *Krak Shrok's* intervention, the promises to pay debt have to be honoured or the guilty party's property can be confiscated.

4.1.7 Arrest or detention⁷

Arresting or detaining a 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 dares to arrest or detain another person without reasonable grounds will have to pay *phak* to the victim. The level of *phak* is dependent upon the severity of the act, weighed against the causes of detention/arrest. The *Yak Veu* or *Krak Shrok* will solve this dispute upon request of the victim, balancing the rationale for detaining the person against the level of *phak* requested by the victim.

In cases where the *Krak Shrok* determines that the act was reasonable (that is, taken to protect or prevent danger) the perpetrator is deemed not guilty and is responsible for any *phak*. Wine and chicken from both parties are brought for a celebration signifying the end of the dispute and resumption of friendship. However if the *Krak Shrok* finds that the act constituted an abuse by the perpetrator, he will ask the perpetrator to pay *phak*, such as a pig or chicken and wine.

Case study 9: A case occurring in the village

One day after returning from a party, a drunken man started causing destruction to his neighbour's house. Despite the neighbour's efforts to stop the act, the man continued to inflict damage on the house. With assistance from other villagers, the neighbour apprehended the man. After recovering from intoxication, the man realised his wrongdoing and, concerned that his neighbour might demand *phak* for the damages, brought a jar of wine to apologise to him. They drank the wine together to symbolise reconciliation.

4.1.8 Injury to villagers caused by domestic animals

Each family raises animals such as dogs, cats, buffaloes, cows, pigs and chickens. In this village, the only animals that have caused injuries to people are dogs and buffaloes. Thus far, there have been frequent incidences of injury but none have been fatal.

⁷ According to the Criminal Code Article 253, detention or arrest is punishable with a sentence of one to ten years in jail.

In cases where someone's animal injures another person, the owner must pay for the victim's medical treatment and pay *phak* of a jar of wine and a chicken. In cases where the animal causes an injury twice, the victim has the right to kill the animal. The meat is then shared with its owner (however, in the old days dog meat was not eaten). In addition, the animal owner is required to arrange a *Chrolab Chreh* for the victim, which is a ceremony asking that the soul of the injured person return to the body. A chicken and a jar of wine are brought for a party to celebrate reconciliation.

If the victim dies from the injuries s/he sustains, the animal's owner must pay *phak* to the victim's family, which includes resources for the funeral and *Sang Char-oeng* (compensation for the victim's family). However, the level of *phak* is not as great as that attributed to murder and is often dependent on the ability of the animal's owner to compensate the victim. The *phak* can be as large as one buffalo, a pig, a chicken and a jar of wine in accordance with tradition. In this case, the animal's owner has to conduct a *Char Brieng* ceremony to reject bad luck and bring happiness back to the village.

Case study 10: A case occurring in the village

In the 1990's, a dog bit a man in the village. The man was very angry and killed the dog, then brought the case to the *Yak Veu* for assistance. The owner of the dog agreed to pay for the cost of treatment and a chicken and a jar of wine for *Chrolab Chreh* and held a party to end the dispute. The victim paid compensation in cash of 5,000 riel to the owner for the loss of the dog. The dog meat was shared at the party.

Case study 11: A case occurring in the village

A man walking on his rice farm came across a buffalo. The buffalo immediately began to chase him. Unable to escape, the man was trampled upon and stabbed in his chest by the buffalo's horn. Fortunately some villagers came by and helped chase the buffalo away. Nobody knew who the buffalo belonged to and the buffalo could not be found either. Therefore the man could not file any complaint.

4.2 Offences over property and animals

4.2.1 Theft (stealing and robbery)

*Theft*⁸

The villagers define stealing as taking away someone's wealth when the owner does not know. Stealing is punishable by *phak* of twice the amount of the stolen property. In cases when the thief does not confess, a *bet-swear test* is applied in order to find out the truth. In the past, the villagers said there were no cases of theft. Today it happens occasionally. If the perpetrator is from the same or a neighbouring village, the problem is solved in accordance with tradition. However if an outsider is involved in stealing, particularly if s/he is from the provincial town, the case is brought to the provincial authorities.

Case study 12: A case occurring in the village

One day a woman lost her ivory earrings. She saw another woman in the village wearing them and asked the *Yak Veu* for assistance in the matter. The claimant demanded the woman return the earrings to her along with a jar of wine and a chicken; however the woman refused to confess. The victim then went to the *Krak Shrok*. The *Krak Shrok* decided to perform a *bet-swear test* by pouring boiling liquid lead onto the palm. The suspect still did not confess and began preparing for the test. The claimant called her nephew who possessed a magical object, a traditional gong that is worth the price of six buffaloes and three ancient jars, to be used in the rituals for the *bet-swear test*. Having seen the ritual process would involve such a magical object (the gong), the suspect refused to participate in the test and agreed to pay *phak* of a gong and five jars, two of which were worth the price of a buffalo, and returned the earrings to the owner.

⁸ 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.

Case study 13: Cases of theft occurring in the village

In 2002, a man stole rice from a collective communal rice storage belonging to a village development program. He was apprehended by the villagers and forced to perform community services including weeding the area around the storage building.

Recently, a man lost his gill net. After investigation, he identified the man who stole it. He asked the *Yak Veu* for help in the matter. The perpetrator confessed and agreed to pay *phak* of 30,000 riel in cash, a chicken and a jar of wine. The chicken and wine were for the party with the *Yak Veu* to celebrate reconciliation.

Recently, a man lost his bicycle. After investigation he found out the identity of the person who stole his bicycle. He went to the *Yak Veu* for help. The perpetrator confessed and agreed to pay *phak* of 300,000 riel in cash, a chicken and a jar of wine. The chicken and wine were used for the party with the *Yak Veu* to mark the end of the dispute and symbolise reconciliation.

Recipient of stolen property

A person who has unknowingly bought, received or consumed stolen property/ animals is generally not held accountable. However, if s/he was aware of the theft and still committed the offence, s/he must pay *phak* together with the perpetrator. The *phak* could be a pig, a chicken and wine.

Case study 14: A case occurring in the village

A man from a neighbouring village stole a buffalo from a villager and sold it to another villager. The owner found out and went to the *Yak Veu* for help. The buyer confessed that he bought the buffalo from a thief. The buffalo owner demanded the perpetrator to pay *phak* of one buffalo, a pig, a chicken and a jar of wine. The buyer paid 50 percent of the agreed *phak* because he knowingly purchased the stolen buffalo.

Robbery⁹

With regards to robbery, villagers said they have never experienced it. However, if it were to happen in their village they would settle the matter in accordance with tradition. For outsiders committing such crimes, the case must be sent to the authorities. The settlement on the issue is somewhat similar to that of theft, except that the level of *phak* for robbery is relatively higher than that of theft.

4.2.2 Fraud and forgery

Fraudulent property must be returned to its rightful owner. For minor belongings, such as chickens or ducks, there is no *phak* incurred on top of the return of the item. However if the property has a higher value, such as a pig, not only must the belonging must be returned, *phak* of an additional belonging of equal value is required. For example, if a person fraudulently takes another person's pig, upon getting caught, the perpetrator must return the pig plus pay *phak* of another pig. The second pig shall be cut up into three equal parts; one part is for the *Krak Shrok* or the *Yak Veu* and the remaining two parts are for the parties in dispute. The perpetrator must also bring one chicken and a jar of wine to celebrate the resumption of friendship between the parties.

Case study 15: A case occurring in the village

A man fraudulently took a buffalo of another man because it was larger than his own. Its rightful owner recognised that he did this and asked the *Krak Shrok* to help mediate. Villagers, who had borrowed the buffalo in the past, had testified in favour of the complainant pointing to specific marks identifying the buffalo. Nevertheless the defendant still insisted that the buffalo belonged to him. In this particular arbitration, the *Krak Shrok* managed to get the agreement of both parties to put the two buffaloes to a test. Villagers knew that the defendant's buffalo was small and had never been put to work on the land, thus it was unable to pull a plough,

⁹ 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.

while that of the rightful owner was bigger and had been ploughing land for a long time. The defendant bet that if the bigger buffalo could plough and the smaller one could not, he would agree to give the bigger one back plus an additional one million riel in cash. On the day of the test, the two buffaloes were put to the test in front of the commune office in the presence of the *Krak Shrok*. The result of the test proved that the bigger buffalo could plough and the smaller one could not. The defendant then exchanged the bigger buffalo for the smaller one and paid a sum of 300,000 riel cash to the farmer. The complainant pardoned the remaining 700,000 riel.

4.2.3 Fire (arson)

Traditionally, fire represents an important element of the 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. Care is taken to prevent fires spreading and harming residents, villages and farms. Nevertheless, Tumpoun Reung Thom village does have a history of problems with fires destroying some houses and farms.

Residential fire

Any person causing a fire that damages the house and property of others must rebuild the damaged house and pay *phak* to the victim in accordance with the total damages incurred. The *Krak Shrok* will determine the cause of the fire. If the fire is accidental, the suspect does not have to pay *phak*, s/he must only cover the cost of the damaged property. If a person were found to have intentionally started a fire, the *phak* would be doubled. In cases when the accused cannot afford to pay the damages, his/her relatives can contribute towards the *phak* as an act of charity. In addition, there must be a *Tatasrast* ceremony to get rid of bad luck (see details in section 4.7.2).

Case study 16: A case occurring in the village

One day, a man went to ask for a piece of amber from another man's house and accidentally dropped a smaller piece of amber onto the bamboo floor, causing the house to burn to the ground. With arbitration by a *Krak Shrok*, an agreement was reached. The perpetrator built a new house for the victim and little by little repaid the damaged property. The perpetrator was also responsible for a *Tatasrast* ceremony for the victim to make a sacrifice to the spirits in order to rid themselves of bad luck and ask for health and happiness. They believed that the accused person, who encountered such bad luck, should also be considered a victim. He also offered a chicken and a jar of wine for a party to mark the resumption of friendship and reconciliation.

Case study 17: A case occurring in the village

At times of farm bush burning, the majority of villagers go to their farms to work. One day the wind happened to blow so strongly that it brought many small particles of amber in the air to other farms. Accidentally, a piece of amber fell onto the rooftop of a hut located at another person's farm and burned it down. The victim's family could not imagine where the fire originated from and could not complain to the *Krak Shrok*. Thus, the family could only organise a *Char Brieng* ceremony to get rid of bad luck.

Farm fires

Fire caused by an inability to control the burn

Before burning the bushes in a farm, the farmer usually slashes and clears a perimeter buffer area to prevent the spread of fire to neighbouring farms. All the neighbouring farmers are asked to witness the setting of the fire to ensure protection of their land.

If, despite careful preparation, the fire spreads to the neighbouring properties due to strong winds for instance, the burner is required only to help in cleaning the affected farms. If crops in the farm are damaged, the burner must

compensate the farmer for half the value of the damaged crop. However, the *phak* amount is dependent upon the tolerance and understanding of the victim. In cases where the burner refuses to help clean up the farm, s/he must pay *phak* of a buffalo, a pig, a chicken and a jar of wine.

Case study 18: A case occurring in the village

In preparation for burning his farm, a farmer followed all traditional protocol. However, due to strong winds, the fire spread to neighbouring farms. The neighbouring farmers demanded him to help clean up their affected farms, but the farmer refused citing the reason that it was not his fault. The other farmers tried in vain to get the *Yak Veu* to intervene and so went to the *Krak Shrok*. With persuasive advice from the *Krak Shrok*, the burner agreed to pay compensation in rice (an amount equal to the value of half a buffalo). The farmer also provided a chicken and a jar of wine for a party to celebrate reconciliation.

In the event that the neighbouring farmers are informed of the plans to slash and burn the land, but choose not to attend the fire setting, they become ineligible to claim *phak*, even if the fire subsequently damages their farms. Villagers explained that in such cases, it is the fault of the neighbouring farmer, as they did not take the appropriate measures to protect their land.

Fire caused by carelessness of the burner

In the event that the burner does not inform his/her fellow farmers of plans to slash and burn their land as described above, and the fire spreads to neighbouring farms, s/he is responsible to pay *phak* according to the total damage incurred plus a pig, a chicken and a jar of wine to signify reconciliation.

Today, disputes over farm fires usually occur on cashew farms. A solution to such disputes is usually found with the aid of the *Yak Veu* or *Krak Shrok* and those responsible are required to pay compensation in cash or with a pig, a chicken and wine.

Case study 19: A case occurring in the village

One day a brother and sister tried to catch a squirrel which escaped into a bush. They decided to burn the bushes in order to catch the squirrel. The fire spread to a neighbouring cashew farm and destroyed twenty cashew trees. The cashew farm owner asked the *Yak Veu* to mediate the matter. In the end the brother and sister agreed to pay compensation to cover the damages in the sum of 400,000 riel (20,000 riel per cashew tree).

Fire on village-protecting proteal

Proteal is a type of herb that is planted by the *Krak Shrok* during village rituals. Starting a fire on such is punishable in accordance to the *Krak Shrok* who in turn consults the spirits in his dreams. However, the *phak* can be no more than a pig, a chicken and a jar of wine, which is used by the village elders to perform rituals to pray to the village spirits.

4.2.4. Causing damage to people's property

Intentionally causing damage to people's property requires a reparation payment or the replacement of the damaged property plus *phak* in the form of a chicken and a jar of wine. Perpetrators who are considered insane are not held responsible. However, these cases tend to occur mostly when people are intoxicated. If the perpetrator realises their wrongdoing and asks for forgiveness with an offer to pay reparations prior to the victim taking the case to the *Yak Veu* or *Krak Shrok*, there will be no *phak*.

Case study 20: A case occurring in the village

Ten years ago, a group of youths went into someone's rice farm and caused damage to rice that was just beginning to bear flowers. Upon discovering the damaged rice, the farm owner was furious, however could not file a complaint with the *Yak Veu* due to his inability to identify the perpetrators. Instead he put death curses on the unknown perpetrators. Subsequently, the man himself died on his own fate. Villagers believe that even though the group of youths had misbehaved and caused damage to his property, the farm owner should never have put death curses on them. They see the death of the man as a direct result of him casting this improper curse.

Case study 21: A case occurring in the village

On his way home from a party, a drunken man stopped by a house in the village, started cursing and causing disruption, and as a result broke a traditional wine jar in the house. He then continued on to another house, fell down on another wine jar and also broke it. His children eventually brought him home. The next morning, after recovering from intoxication, the man realised the error of his ways and paid a reparation fee of 15,000 riel to the owner of the first jar and gave one of his own jars to the other owner to replace the one he broke.

4.2.5 Cattle grazing on someone else's rice farm

Traditionally, the villagers cultivate rice once a year during the rainy season between July and December. During the cultivation seasons all cattle are required to be tied up to avoid them consuming other's rice. In cases where a cow/ox eats someone else's rice, the owner of the animal is held responsible for paying reparation for the damages. If a dispute occurs, it is typically settled with *phak*. The *phak* can be rice or livestock and wine. After an agreement is reached, a chicken and a jar of wine are brought for the celebration of the resumption of friendship and reconciliation.

In the event that one's cattle has strayed onto someone else's rice farm and grazed on the rice, that farm owner is not allowed to kill the cattle lest s/he will be faced with *phak* imposed by the cattle owner (see case study 23).

During the dry season, cattle are able to wander freely without fear of reprisal for grazing on other people's land.

Case study 22: A case occurring in the village

One day a buffalo strayed and grazed in a rice farm. The farm owner caught it and asked the *Yak Veu* to mediate with the cattle owner for *phak*. They came to an agreement to pay reparations for the damage to the rice with a replacement of several baskets of rice and *phak* of a chicken and jar of wine to signify the end of dispute and resumption of friendship.

4.2.6 Killing or causing injury to someone's animal

Killing someone's animal without permission is generally considered culturally immoral. In such cases, the guilty party is required to replace the animal or offer another animal or object of equal value as a replacement. The meat of the killed animal must be shared with villagers during a healing celebration. However, determining *phak* is also dependent on negotiations between both parties factoring in the reasons for why the animal was killed.

As killing other people's animals for food is considered a serious offence, the guilty party must pay *phak* equal to twice the price of the animal. If the case, for example, involves a buffalo, the required *phak* is two buffaloes, of which one is for the owner as a replacement and the other is for collective village consumption to celebrate the end of the dispute. Those who participated in eating the stolen buffalo are not considered responsible for *phak*, regardless of whether they were aware that the buffalo was stolen.

In cases where an animal was killed in anger due to repeatedly destroying someone else's crops, the party who kills the buffalo is not held responsible. The party can take half the meat from the killed animal and the rest is returned to the owner. However, if this is the first time that the animal has strayed and grazed in the farm, nobody has the right to kill or injure it. If the animal is injured, the perpetrator must pay for the damage or treatment of the injury. If the animal dies, the responsible party must replace the animal with another of equivalent value.

If a trap kills an animal, the trap owner is considered not guilty as the trap was intended for wild animals. There is no *phak* and the animal's owner gets the meat of his/her animal for food. Traps are used to protect plants or farms, and before placing traps, typically owners announce the location of the traps to all the villagers.

Case study 23: A case occurring in the village

Ten years ago, a buffalo strayed and grazed in another rice farm. Enraged at the damage it was causing to his property, the farm owner shot and killed the buffalo with a rifle. The buffalo owner asked the *Yak Veu* to help mediate the dispute. In the end, the farm owner admitted his mistake and agreed to pay reparation of a new buffalo as a replacement. The buffalo meat was then divided in halves one of which was for the farm owner and other half was, again, cut in two equal pieces, one for the buffalo owner and the other for collective consumption to signify the end of the dispute and resumption of friendship.

4.3 Offences over honour and reputation

4.3.1 Curses and verbal assault

When someone casts spells or curses on others, the perpetrator shall be penalised in accordance with tradition. The victim can require a *phak* of a chicken and a jar of wine for the party to end the dispute and facilitate healing.

In some instances, serious curses or spells are cast on others, including asking spirits to kill others, which villagers believe can cause death or other accidents. Subsequently, if anyone dies or has an accident after someone has cast a spell or curse on them, the *Krak Shrok* requires the parties responsible to pay *phak*, for example of a jar of wine, a chicken and 140,000 riel in cash for the victim's family.

4.3.2 Defamation

In the *Brao* language, gossip is termed *pronhuk prochuk*. Traditionally, it is considered a cultural guilt against an individual's honour and the perpetrator is considered guilty. Village elders or parents typically try to educate their children not to speak ill of or falsely accuse other people.

Villagers asserted that there have been frequent disputes relating to gossiping or speaking untruths about someone in their village, however generally such disputes were minor and did not incur payment of *phak*. In general, the dispute settlement involves talking face to face between the two parties without the help of a *Yak Veu*. Either the victim, or his/her parents or village

elders often try to help by explaining, educating and/or correcting them from further committing such acts. In the case where the perpetrator keeps on committing the same act more than two times, the victim may lose patience and go to the *Yak Veu* or *Krak Shrok* to ask him to impose *phak* of a chicken and a jar of wine to use in a celebration to signify the resumption of friendship and end of the dispute.

4.4 Relationships in the community

4.4.1 Borrowing, renting and contract care taking

If a person borrows something from someone, s/he must return it to its owner by the promised date. If the borrower damages or loses the object, s/he must get it fixed or replace it with another object of equal value. In the past, if the borrower cannot afford to pay, s/he must work for the owner until the debt is paid off. Today, such a practice is no longer applied.

In the case where the debtor dies, his/her children must pay half the debt on his/her behalf. In such a case the lender must have adequate proof and witnesses to testify that the deceased person is truly the debtor.

If the loan is in the form of cattle (buffaloes or cows) for ploughing purposes and the cattle die, the settlement is based on realistic circumstances, factoring in tolerance and understanding. If the cattle die as a result of mistreatment, then the cattle owner is entitled to a new buffalo or cow from the borrower. However, if the cattle die of natural causes then the borrower is not held responsible. The buffalo meat is then shared in equal halves between the owner and the borrower.

If the borrowed cattle are used for purposes other than what has been agreed with the owner, for example if the cattle is borrowed for ploughing land but it is used for pulling a timber cart instead, no matter what the cause of the death, the borrower must pay to the cattle owner the full value of the cattle. In cases involving renting cattle or objects for a particular purpose, the rental fee is doubled if the cattle or object is not used as agreed with the owner, such as if the cattle or object is put to much more strenuous use than has previously been agreed.

In the case of contract cattle caretaking, if the caretaker does not abide by the agreement, the cattle owner can take back the cattle plus any share that belongs to the caretaker.

In Tumpoun Reung Thom village, villagers have always engaged in contracting rice-farming work to each other whereby the rice yield is shared between the owner and the worker. Generally, an agreement of who gets what amount must be reached before hand. Villagers do not have a set rule on how much of the crop should be shared; instead they rely on promises made acceptable to both parties. Villagers affirm that there have not been any problems relating to contract farming thus far. However, if any contract worker does not abide by the agreed promises, the farm owner will no longer enter into a contract with him/her and will inform other villagers about the individual's questionable credibility.

4.4.2 Helping each other

Helping each other is a strong aspect of solidarity in Tumpoun Reung Thom village. The villagers help each other particularly during farming season. They help each other in slashing and burning forests to clear the land and in planting and harvesting rice. The villagers rotate their assistance for each other and if a person is absent for his/her turn, there will not be any dispute. If one fails more than once to help during his/her allocated turn, it would not be considered a reason for dispute. Nevertheless, that individual would lose the respect of the community and there would be reluctance to help him/her the next time around. However, this has not happened in the village. If a person is unable to help one day, it is likely that they will offer their assistance the following day.

4.5 Farming systems (shifting cultivation)

Prior to 1975, all the *Brao* villagers in Tumpoun Reung Thom village practiced shifting cultivation or crop rotation the same way as that of other *Kreung* high-landers. Under the Khmer Rouge period, villagers learned how to farm paddy rice. In 1979, the Tumpoun Reung Thom villagers relocated to along the riverbank and started farming rice in paddy fields. However, they have still not

abandoned their traditional farming methods. Today, these farms are no longer shifting cultivation farms but instead are used for growing fruit trees, vegetables and cashews.

Case study 24: A case occurring in the village

Recently a man sold his rice field to another man. However, having not seen the buyer actually start using the land, the seller continued farming rice in the field. The buyer brought the case to the *Yak Veu* who was not successful in settling the dispute. The case was then referred to the *Krak Shrok* to arbitrate; it is still pending.

4.6 Marriage and family

4.6.1 Marriage

The *Brao* ethnic group in Tumpoun Reung Thom village are free to marry whomever they want to. Villagers emphasised that living together depends on commitment and true love, not on race or ethnic group. Villagers are free to choose their partner as they see fit. However, marrying one's own relatives is strictly prohibited. Relatives who cannot marry are siblings, cousins (including distant cousins), uncles and nieces, and aunts and nephews. The *Brao* people practice monogamy.

Pre-wedding

Parents are often involved in matching their sons and daughters to a suitable spouse even before they reach marrying age. After a preliminary agreement, the young man's parents ask a female *Yak Veu* to ask the young woman whether or not she loves the young man. In the same way, the young woman's parents ask a male *Yak Veu* to ask the young man if the feelings are mutual. Without their mutual agreement, a wedding is not possible, because the villagers believe that the couple cannot live together if they do not love each other. If they are in love, their parents together with the two *Yak Veu* discuss the arrangement for the wedding in accordance to tradition, including the selection of an appropriate day for the wedding.

An engagement ceremony is organised with the participation of friends, relatives and village elders including the village *Krak Shrok* and the *Yak Veu* who were involved in making the match. Typically the ceremony is a small ritual performed to pray to the spirits. After this engagement ceremony, the couple can live together and have children.

In the engagement ceremony, the couple establishes conditions that they will be faithful to each other and agree that if either one betrays the other s/he shall pay *phak* to the other party. Betrayal in this case refers to having sex with another person, terminating the engagement without proper grounds, or getting married before ending a current marriage in accordance to tradition (including after the death of a spouse). The *phak* may be a buffalo or a pig, a chicken and a jar of wine. Generally, the *phak* is worth more than what has been spent for the wedding, for example if a cow was sacrificed for the wedding, they then agree that a buffalo would be as *phak* if required.

Wedding

On the day of the wedding the groom, bride, their parents, the *Krak Shrok* and the *Yak Veu* together with friends and relatives from both sides gather together in the village. On the afternoon of the first day, a party with a sacrifice of a jar of wine as well as three chickens from the groom and three chickens from the bride is held to celebrate the groom's entry into the bride's family. In this celebration the *Krak Shrok* uses a bowl of rice and a whole boiled chicken to pray to the spirits. Then the *Yak Veu* from both sides light candles, make two balls of rice with chicken inside and offer this to the spirits while asking them to grant the couple happiness and prosperity. The *Yak Veu* hold the rice balls, one in each hand, and cross their arms, putting their left arm over their right. Then they open their hand and ask the couple to each take a rice ball and put them into the *Yak Veu's* mouth.

All participants must spend the night together at the groom's house. The next morning, they ask each other if anyone had any dreams during the night. If they had good dreams (such as dreaming of the spirits pouring water on their heads, or seeing rambutan fruits or dreaming that their rice crop would

be plentiful) they will continue the process of the wedding. If the dreams reported turn out to be bad (such as eating chicken or pig), the *Krak Shrok*, *Yak Veu* and other *Teungkang Krak* ask the couple how they feel about these dreams. If they decide to discontinue the process, the remaining chickens must not be slaughtered and the wedding process ends there. However, if the couple does not care about the dreams and commits to living together for good and for bad, the process can continue. The *Krak Shrok* and *Yak Veu* from both sides advise the bride and groom to stay faithful to each other and to live together for the rest of their lives or they will be required to pay *phak* as agreed pre-wedding.

Post-wedding

Three days after the wedding, there is another ceremony to celebrate the new couple moving to live in the house of the husband's family. The morning of that day, the couple must get up before the wild animals make their first cries. The couple must stay in the husband's family home for five days. At the end of the five-day period, they celebrate another ceremony for the new couple to stay with the wife's family. After living with the wife's family for five years, if the husband's family wants to bring the couple to live with them, they will celebrate the occasion with a sacrifice of a pig the size of four or five *chap*¹⁰ and a jar of wine for a party. The party is attended by the parents of both sides, *Krak Shrok*, *Yak Veu* and all the *Teungkang Krak* together with friends and relatives and typically lasts for a whole day and night. The next morning, the couple and their children are brought to live with the husband's family for another five years. After the five years period, the couple is free to live wherever they choose.

4.6.2 Divorce

Traditionally, divorce is considered a major dispute that must be solved by enlisting the help of a *Yak Veu*. There can be many reasons for requesting a divorce, including the death of a spouse. When getting divorced, the *Yak Veu*

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

must find out the conditions determined during the engagement or the wedding regarding conflict resolution. In addition, the *Yak Veu* or *Krak Shrok* must discuss why the couple want a divorce. They must balance and consider the reasons for the divorce with the request for divorce by each party. Property, resources and children must be divided in accordance with the agreement of both parties. The party who is considered guilty is required to pay *phak* to the other according to conditions determined during the wedding or engagement. Traditionally, after agreement on *phak*, at least one chicken and a jar of wine will be brought for the party to heal the friendship.

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

- If the wife becomes pregnant by another man
- If the wife has sexual 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 commits more than two cases of physical abuse against his wife
- If he has intercourse with another woman more than twice

Any villager seeking a divorce for reasons other than the above must pay *phak* to his/her spouse as promised during the wedding or engagement.

In cases where a wife or husband dies, the living partner cannot remarry unless their partner has been dead for over a year. Before remarrying, the living partner must participate in a sacrificial ceremony, called *Char Antrao*, for their dead partner 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 partner marries or conceives a child with someone else without performing such a ceremony, s/he is responsible for paying *phak* to the ex-partner's family as it is considered a cultural guilt.



A woman taking care of her child. (Photo: UNDP/Yin Sopheap) A man taking care of his child. (Photo: UNDP/Yin Sopheap)

4.6.3 Sexual intercourse 'against culture'

In accordance to the *Brao* of Tumpoun Reung Thom village, 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.

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

It is expected that the young woman tell her parents and elders that she is pregnant and by whom. The young man must find evidence or a witness to prove that he did not make her pregnant, otherwise he is presumed responsible. Typically the parties involved will tell the truth. With their parents, both parties must offer at least a pig, a chicken and a jar of wine for a sacrificial ceremony called *Char Kamliat*. This is a sacrificial ceremony to the spirits to ask for forgiveness and wish for happiness and health. The *Char Kamliat* ceremony requires the two 'guilty' individuals together with their parents to use pig or chicken blood to paint the ladders of the houses of the *Me Arak*¹¹, *Krak Shrok*, pregnant women, people who own traditional objects such as gongs and

¹¹ A woman who can be asked by the spirit to borrow her body to communicate with human beings.

clay jars, people who are suffering injuries, people who are ill and families of those who have recently died, to ask them for forgiveness and wish for their happiness and health. Then the meat from the sacrifice is cut into portions to be shared among the villagers attending the ceremony. In the case where both individuals want to marry each other, their parents will organise the wedding for them according to tradition. In the case where the young man does not want to marry the young woman, he must pay *phak* to her of at least 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 an unmarried woman and then refuses to marry her, he is deemed guilty of breaking customary rules and must pay *phak* to her according to the situation and claim from her family. In cases where an unmarried man has sex with another man's wife, he will be responsible to pay *phak*. If her husband is willing to divorce his wife so she can live with the other man, the new couple can live together, but they must pay *phak* including compensation according to the wedding/engagement promise as well as for a sacrificial ceremony to signify the breaking of marital relations. This *phak* must be at least a buffalo, a traditional jar and cash together with a pig, a chicken and a jar of wine. A pig the size of three *chap*, a chicken and wine are brought for a *Char Kamliat* ceremony sacrificing to the spirits and asking them to get rid of bad luck and bring happiness. They then have a party together to signify the healing of the dispute. The cow however, is not sacrificed and is instead given to the husband.

If the unmarried man and the husband both refuse to accept the woman to be his wife, then the unmarried man must pay separate *phak* to the husband according to his claim, and the woman must also pay *phak* to her husband according to the wedding/engagement promise. If the husband agrees to keep his wife, the unmarried man must pay *phak* to the husband and the wife also must pay *phak* to her husband. The amount of *phak* is negotiable depending upon the circumstances.

In cases where a married man has sex with an unmarried woman, both are considered to have committed 'cultural guilt'. If the wife is willing to divorce her husband and her husband agrees, the new couple can live with each other. However they must pay *phak* as promised during the wedding/engagement plus additional compensation to the wife. If the husband refuses to divorce his wife, she cannot divorce her husband. However she can demand *phak* from the unmarried woman. Likewise the unmarried woman's parents can demand *phak* from the married man. If the wife still insists on the divorce, she must pay *phak* to her husband. If the married man betrays his wife more than twice, she has the right to divorce her husband who must pay *phak* in accordance to the promises made during the wedding/engagement ceremony.

If a married man has sexual intercourse with someone's wife, both are considered to have committed 'cultural guilt'. This matter requires multiple *phak*. The innocent husband can demand *phak* from both his wife and her lover. The innocent woman can demand *phak* from her husband's lover and her husband.

4.6.4 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 to tradition. If the young woman is pregnant, a *Char Kamliat* is necessary (see details in section 4.7.2).

4.7 Taboos, major ceremonies and beliefs

4.7.1 Taboos

Tumpoun Reung Thom villagers maintain strict taboos on certain items, which are not to be eaten, touched or brought into their village. These items include wild banana, pumpkin, water taro, cobra and python. If someone inside or outside the village breaks this rule by bringing such taboo items into the village, s/he would be obligated to pay *phak* according to the demand of the village spirits, for a sacrificing ceremony. The *Krak Shrok* would determine the amount

of *phak* based on his dreams. For example, if he dreams that the village spirits want to eat a buffalo, the perpetrator must bring a buffalo to sacrifice to the spirits to reap happiness and be immune from illnesses and accidents. In the case when the perpetrator refuses to pay the *phak* according to the demand of the spirits, and if anyone in the village falls ill or has an accident, the perpetrator must spend his resources for medical treatment and taking care of the sick and/or injured.

4.7.2 Major sacrifices and ceremonies

Village sacrificing

Every year during the season when farmland is cleared, all the villagers celebrate a ceremony where they offer sacrifices to the spirits for fortune and happiness. This also takes place when many people in the village get sick or injured, or when a *Krak Shrok* has particular dreams. This ceremony is organised and conducted by the *Krak Shrok*. The *Krak Shrok* will hold such ceremonies in accordance with his dreams (during which the spirits communicate their sacrificial requests). Often he will experience an increase in dreams when there is any illness in the village and subsequently call for a ceremony to be held. It is believed that the spirits tell the *Krak Shrok* what they want to eat, such as a buffalo, cow, pig or chicken, and with the assistance of village elders, he will then organise the villagers to collect the resources needed for the ceremony. In the ceremony, for example, if a pig the size of five *chap* is sacrificed, the village will be closed for three days. If a buffalo is sacrificed, the village must be closed for seven days, during which time no one is allowed to enter or leave the village unless they are involved in the celebration. Prior to the celebration, to prohibit travellers from entering or going through the village, villagers create a detour around the village. In preparation for this ceremony, villagers must store water for drinking and bathing and other necessities. On the third or seventh day, a final ceremony, the *Pa Pay Chrav* celebrating the re-opening of the village is held, and chicken blood is poured at the village entrance to protect the *proteal* planted there. After the *Pa Pay Chrav*, travellers and villagers can resume their activities as usual.

If someone without the right to enter the village does enter during this time, s/he is considered to be breaking this village taboo and must pay *phak* in the amount equal to the resources spent for the initial ceremony. To avoid bad fortune caused by this breaking this taboo, the villagers are required to hold a re-sacrificing ceremony using the same amount of resources as in the initial sacrifice.

Case study 25: A tale involving a sacrificing ceremony and the planting of protective proteal in the village

Once there was a *Brao* man suffering from a tumour in his buttocks. As a result, the man was in poor physical health and unable to work. The tumour kept growing until the man became handicapped. One day, villagers ask him to join them and travel down the Sesan River to purchase salt in Veun Say district. On their way back home, being considered useless by other travellers in the boat, the man was unloaded onto an isolated sandy island in the middle of the river.

Later in the afternoon the man saw a boat from his island with nearly ten people passing by. He managed to negotiate a ride with them. When he stepped onto the boat, he immediately saw an eight-headed naga. Although fearful of the naga, he tried to stay calm. A while later, the people in the boat started asking each other what they wanted to eat; they all responded 'chicken'. This made the man believe that these people were not human but spirits of some sort.

He thought to himself, if he said he wanted to eat chicken too, he might risk danger, injury or even death. He therefore said 'No I cannot eat chicken for fear of my tumour. I would rather eat fish instead'. Then he saw the men pull a dead body from the river and started to eat the meat, which made him even more fearful. A little while later, he saw a group of people weeping on the riverbank because somebody had just died from drowning.

Later the people on the boat started asking each other again what they wanted to eat. They said they wanted ox beef. They then disembarked near a village in order to ask for an ox from a friend's house. The house that those men referred to was instead a bush of *proteal* plants near the riverbank. The man then saw those men eat a dead Buddhist monk. After eating, they continued on their journey. Only a short while later in the trip, they came to a small village in which people were crying over the loss of a Buddhist monk who had just died.

At this point people in the boat began to want to eat chicken, ox meat and buffalo meat and disembarked at the village entrance near a bush of *proteal* plants. The village however was closed due to a village sacrificing ceremony. Having asked for chicken, ox meat and buffalo meat, the magic *proteal* plants answered 'sorry that there is no such meat here for you because the villagers have just sacrificed chicken blood, buffalo blood and wine to the spirits to protect the village to make sure nobody unwanted enters'. So the boat people said goodbye to the magic *proteal* plants and continued on their journey.

Arriving at the man's village, the people in the boat disembarked on the riverbank and continued on their way. To his surprise, the man discovered that his tumour had disappeared and his physical strength had returned. He found he could even carry a heavy bag of salt into his village without any difficulty. All the villagers were astonished at his improved health condition. When he told the villagers of his recent experience, they started organising a sacrificing ceremony planting magic *proteal* plants and pouring chicken, ox and buffalo blood on the plants asking the spirits to protect the village from then on.

Funerals

When someone dies, the family traditionally organises a funeral ceremony with participation from other villagers. The *Krak Shrok* and *Teungkang Krak* help coordinate the duties of funeral participants. Typically women are in charge of food preparation and men go to the woods to look for a tree trunk that is suitable for making a casket. The timber is cut two meters long, split in half and carved with a hole large enough to fit a dead body. Then the body is placed inside one half of the trunk, which is covered up by the other half and sealed with resin to preserve it. To comfort the family of the dead, villagers play gong music, dance, eat and drink day and night for the duration of the funeral ceremony, which may take three, five, or seven days depending on resources available to the family. It is prohibited to keep the dead body for two, four or six days based on the belief that even numbers of days after the death are days when the dead can take someone with him/her for a partner. On the day of the burial, the body is buried in the forest burial ground near the village. For a period of time at mealtime, family members must set aside some food for the dead. On the seventh day, they prepare food (typically fish soup and rice) and bring this to the tomb to conclude the funeral ceremony.

Accidental death

The villagers consider accidental deaths to include a fatal fall from a tree, suicide and death during childbirth. In *Brao* language this is known as *get brieng*.

If a villager is killed or dies outside the village in an accident, the body cannot be brought into the village for a funeral ceremony. This is due to a strong belief that bad fortune will befall other people in the village. Therefore this type of funeral has to take place outside the village. If the accidental death occurs inside the village, the funeral will be held at the place where the dead body is found. The family cannot hold a ceremony longer than three days; therefore the body must be taken into the forest to be buried as soon as a casket is available. Furthermore, the body cannot be buried close to the graves of those who experienced natural death, but must be placed at the edge of the cemetery. This tradition has been followed for many generations without exception.

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

Ceremonies related to farming system

Nowadays the Tumpoun Reung Thom villagers prefer to plant their rice in paddy fields. In Tumpoun Reung village, the below ceremonies were commonly performed in the past but are no longer performed because of the change in farming system. In other *Brao* villages these ceremonies are still performed, as shifting cultivation is still a commonly used system for growing rice.

Sorsouy

This ceremony is performed to aid the search for fertile farmland. It is the first step in the traditional farming system. When a villager finds any forest that represents good land, s/he cut trees or some bark from the area, a sign to others that s/he is going to clear this section of forest for farming. The villager must first find out whether the spirits will allow him/her to farm in this location. Before going to bed, s/he asks the spirits to allow dreams that indicate whether or not farming should take place. If the dream is good, it is a sign that s/he can farm on the land that has been marked off, but if the dream is bad, then s/he will not farm in that area and will continue searching for another location.

Seak Bri

This is a ceremony to ensure that the spirits will look after the villagers whilst they farm. After the *Sorsouy*, the villager will clear a few square meters of forest, then plant banana trees, sugar cane, lemon grass and *proteal*. Before planting, the villager throws some *proteal* into the air and watches it as it falls to the ground. If the *proteal* lands face side up, it signifies that the area is fit to farm on; if it lands face side down, the area is considered unfit. Then crops are

planted and sprinkled with rice-husks used to make wine mixed with chicken blood, which is used to ask the spirits to look after the plants and the farm. Then the area is left for two days. Upon returning, if the plants are uprooted and strewn on the ground, it is considered a sign from the spirits that they do not allow farming there. If a trace of cow or buffalo is found in the area, it means that the plants will get sick and die unless a cow or a buffalo is sacrificed. If the plants remain in the same position, it signifies farming in this location is welcome and that the spirits will look after the farmer and his/her crop.

Sen Bri (forest sacrificing)

Highlanders typically cut down trees and clear land for plantations such as rice. After clearing small trees and bushes, they will wait before cutting down the bigger trees, as they need to make a sacrifice to the spirits for safety, lest a falling tree might injure or kill them. This sacrifice can be wine or a chicken according to the resources of the farm owner.

Sen Preh Unh (fire sacrificing)

After clearing all the bushes and trees, villagers burn the area and collect all the remaining unburned wood. Any small burnt wood pieces are used in a sacrifice called Sen Preh Unh to ask for the healthy growth of their plants. As in other ceremonies, the sacrifice is a chicken and wine. Historically, all villagers would gather to perform this sacrifice together. Today, most villagers perform this ceremony individually.

Sroch Chateu

As farmers prepare seeds for plantation, they perform a sacrificing ceremony asking the spirits to ensure that their seeds grow and reap a good harvest. As in other ceremonies they do this using chicken and wine.

Banh Cheh Teuk

In the middle of the rice production period, the farmer holds another sacrifice to request that the rice continues to grow free from any destruction by termites or rats. As in other ceremonies this is done using chicken and wine.

Banh Cheh Tum

When the rice is ready for harvesting, the farmer sacrifices a rooster and a hen with a jar of wine to the spirits asking for a good harvest.

Banh Pateuk Pateus

This is the last ceremony of the rice plantation calendar and is held at the time when all harvested rice is brought into storage.

Sacrificing ceremony for healing illnesses

Traditionally, when someone in the village is sick, natural medicine such as tree leaves, roots, barks, tubers, vines, plants and herbs are used as traditional remedies. Villagers believe that many illnesses are caused by angry spirits. Villagers enlist the help of a *Me Arak* to ascertain the reason the spirit is angry and the sacrifice needed to be cured of the illness. At first, only a chicken and a jar of wine are sacrificed. If this does not work, a pig is sacrificed. If this still does not work, a buffalo will be sacrificed. After this, if the illness persists, villagers do not believe the illness can be cured.

In addition to the sacrifices, the sick person must abstain from working, doing chores or leaving his/her home for three days after the sacrifice of a chicken and wine, five days for a pig and seven days for a buffalo. People other than members of the family are strictly prohibited from entering the house. A warning sign such as a string or a long stick with tree leaves is hung across the walkway to inform the public of this isolation period. Any person entering the perimeter of the house during the isolation period must pay *phak* of wine and a buffalo, pig or chicken depending on what was used in the previous sacrifice. At the end of the isolation period, the string is removed.



Prohibition sign at a house after a sacrificing ceremony to heal illness. (Photo: UNDP/Yin Sopheap)

Other smaller ceremonies

Tatasrast

Villagers conduct this ceremony with the purpose of rejecting all bad luck and ill fortune for rice crops and owners whose rice has been damaged by fire or animals. As in other ceremonies, they do this using chicken and wine. Chicken blood is mixed with rice-husks for making wine and sprinkled over the site of the fire or the location where the cattle grazed. This sacrifice is performed and paid for by those responsible for the fire or the owners of the cattle that ate the rice.

Chrolab Chreh

Villagers conduct this sacrifice to allow the guilty person to apologise and the victim to recover their soul and regain their health. This sacrificing ceremony is conducted whenever physical violence occurs that results in bleeding or broken bones. It is also performed when a villager's general health is bad or a specific wound cannot be cured, or if it is thought that the patient has *chreh* (temporary separation of the soul from the body). In some cases when parents have severely reprimanded a children and the children has since become emaciated and sickly, villagers believe that the child is afflicted with *chreh*. In such cases, villagers will perform this sacrifice with the purpose of calling back the soul of the patient, allowing the individual to be cured.

In the case of physical violence, the perpetrator must bring a chicken and a jar of wine for this sacrifice. The perpetrator must dip his/her finger into 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 dipped into the wine and given to the victim to eat. The *Yak Veu* or *Krak Shrok* is responsible for organising this ceremony.

If parents suspect that their children have *chreh*, they are responsible for performing the *Chrolab Chreh*. If this suspicion is relayed by *Me Arak*, then the *Me Arak* is the one who conducts the sacrifice.

Char Kamliat

This is an important sacrificing ceremony to reject bad luck from the village, particularly for villagers who are facing danger or who are sick or injured. Villagers considered to be in danger include those who are pregnant, *Me Arak*, *Krak Shrok*, and people who have traditional gongs or jars. This sacrifice is also held when a woman who has never been married becomes pregnant before getting married or engaged.

Char Brieng

The villagers conduct 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 recovering good luck. In this sacrifice, at least one cow or buffalo is sacrificed as well as a chicken and a jar of wine. The *Krak Shrok* and *Teung kang Krak* will take animal blood and paint the toes of those attending the funeral so that bad luck will not spread to others.

4.7.3 Beliefs

Sacred ground

Areas that villagers believe are sacred are named spiritual forests or mountains. These are places the spirits guard and do not allow anyone to enter or destroy in any way. These include the *proteal* plant, which is believed to protect the village entrance, Pong Poun Mount, Karang Mount, Lao Mount and Kra Am Mount. Anyone who disrespects or enters the sacred forest areas risks becoming sick, wounded or prone to accidents. If anyone does enter these

areas, to ensure there will be no problems in the village the *Krak Shrok* performs a sacrifice ceremony to beg forgiveness from the spirits using a pig, a chicken and wine from the perpetrator's *phak*.

Case study 26: A case occurring in the village

Two years ago, a man went into the sacred forest in Kra Am Mount to cut down a tree. At night, a villager dreamt of a spirit telling him to stop cutting the tree or villagers will get sick or die. However the woodcutter continued with cutting the tree. Later on some villagers died while others developed mental illnesses. The villagers and the woodcutter thus performed a sacrifice to the spirits in order to rid the village of all bad luck.



A *Krak Shrok* and the village chief protecting a proteal planting spot near the village entrance.

(Photo: UNDP/Y in Sopheap)

Cemetery

The Tumpoun Reung Thom village cemetery lies 800 meters from the village. The cemetery is located close to the village because villagers do not want their relatives who have passed away to be far from them. The close proximity also makes it easier for villagers to carry the body for burial and conduct ceremonies to pray to the spirits of the dead. All objects such as knives, clothes, blankets, pillows, *Kapha*¹² and wine jars that were used by the person while s/he was still alive are placed at his/her tomb, which is surrounded by a fence and a tin roof or *khanma* leaves.

¹² '*Kapha*' is a word used by highlanders in Rattanakiri to refer to a basket made of bamboo to carry things on one's back. It is used to carry a variety of things such as rice, water, firewood and vegetables.

The cemetery is not a forbidden area. Nevertheless, villagers believe that those who enter the cemetery should not perform any acts of disrespect to the dead, such as shouting, cursing the dead or destroying the surrounding environment. Failing to follow such rules, a perpetrator will be penalised by the *Krak Shrok* with *phak* of a pig of three *chap* in size, a chicken and a jar of wine. Photographing the cemetery is allowed, however at times the photographer may be asked by the village elders for a cash donation of 10-20,000 riel to assist in taking care of the cemetery.

A bet-swear test

Traditionally, villagers use a *bet-swear test* to end disputes and uncover the truth when either parties claim innocence or refuse to confess. Betting is important in maintaining one's honesty and reputation. The loser is penalised in accordance to the bet 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 *Krak Shrok* sacrifices a chicken and a jar of wine to praise the spirits. Then, the *Krak Shrok* proceeds to pour boiling liquid-lead onto the palms of the two parties. 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, as it is not practiced today.
- *Breaking a bamboo water container:* Prior to proceeding with the test, a sacrifice of a chicken and wine to the spirits is performed by the *Krak Shrok*. A segment of bamboo cylinder filled with water is placed between the two contestants. After praying to the spirits, the *Krak Shrok* uses a wooden stick to pierce the cylinder causing the water inside the bamboo to flow out. The contestant who causes the most water to flow out is deemed the loser. This test continues to be practiced until the present day.

- *Submerging oneself in water:* Before the test, a chicken and a jar of wine are sacrificed to praise the spirits. The *Krak Shrok* tells the two parties to submerge themselves at the same time under water in the river. The loser is the party that emerges first from the water to get air. Elders in the village affirm that they continue to practice this test today.

4.7.4 Sorcery (*Arb* or *Thmub*)

Villagers believe in sorcerers (*Arb* or *Thmub*). A victim of sorcery usually dreams of a magical individual with a knife in one hand and a container in the other, flying up to him/her, cutting his/her body open, filling the container with their internal organs and flying away. As a result, the sick person dies. Villagers believe that those whose souls are strong are protected from sorcerers. Sorcerers are known for casting spells on others, often causing death. Few villagers would dare touch a sorcerer for fear of personal retribution. However, people believe that sorcerers themselves will eventually be punished by their own acts of evil.

Arb: Evil witch

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

Char Antrao: A sacrifice to the dead spouse to represent divorce

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

Char Brieng: A sacrifice performed when there has been an accidental death

Char Kamliat: A sacrifice performed after any woman has gotten pregnant before marriage or when a couple who are related in a way that traditionally prohibits marriage wish to get married (for example close relatives such as uncles and nieces)

Chreh: A condition when one's soul is said to separate from the body temporarily, often during times of fear or trauma. It is said that the soul will then try to find its way back to the body.

Chrolab Chreh: A sacrifice for asking the soul of a person to return to the body

Hua nam: Monetary unit

Get brieng: Accidental death

Khan ma: A kind of tropical bush

Krak Shrok: Traditional village leader who mediates and conciliates disputes within the village

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

Naga: A mythical dragon or snake

Pa Pay Chrav: A sacrifice to stop the effects of outsiders entering the village when they are not permitted to do so

Phak: Compensation, in both wealth and spirit

Pronhuk prochuk: Gossip

Proteal: A type of herb

Rab Antrok: Rape

Rong house: Communal house in the village

Sang Char-oeng: Compensation from the perpetrator of murder or manslaughter to the family of the victim

Teungkang Krak: Elders

Thmub: Evil witch

Yak Veu: Mediator; person who assists in resolving conflict

Elders in Tumpoun Reung Thom village



Plech Nhoy
Retire Chief Elder



Klas Nhot
Chief Elder



Deung Dam
Elder



Son Trok
Elder



Dang Thang
Elder



Trang Tham
Community member



Chas Tuk
Community member



Chhrong Bun
Member of Women
group



Gnok Khem
Community member



Dong Chat
Village Chief



Trong Vich
Elder



Kahat Vel
Elder



Bloc Chrop
Elder



Leut Kon
Elder



Yang Sat
Elder

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

Access to Justice Project Group

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



Cambodia

