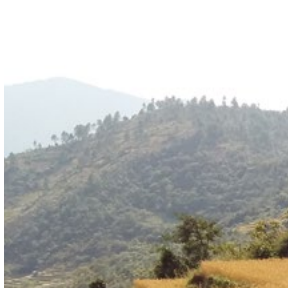


# PERSISTENCE AND CHANGE IN HAKHA CHIN LAND AND RESOURCE TENURE

A SYNTHESIS ON LAND DYNAMICS IN THE PERIPHERY OF HAKHA  
M. Boutry, C. Allaverdian, Tin Myo Win, Khin Pyae Sone

*Of Lives and Land Myanmar research series*



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The *Of Lives and Land* series emanates from in-depth socio-anthropological research on land and livelihood dynamics. Through various thematic and geographic foci, the series provides a rigorous analysis of people's relationship to land in a rapidly changing social, economic and political context. It looks into the challenges that Myanmar people, the State and other stakeholders are facing in managing land and associated resources. Drawing from on-the-ground realities, it aims at informing policy dialogue. The series is peer reviewed by a committee of professionals and academics.

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Celine Allaverdian

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**FIGURE 1:** A fenced garden in Bualtak village





## Abbreviations

<b>AMD</b>	Agricultural Mechanization Department
<b>CARD</b>	Community Association for Rural Development
<b>CCER</b>	Chin Committee for Emergency Response
<b>CF</b>	Community Forestry
<b>CLS</b>	Customary Land tenure Systems
<b>CNF</b>	Chin National Front
<b>CT</b>	Customary tenure
<b>CORAD</b>	Chokhlei Organisation for Rural and Agricultural Development
<b>DALMS</b>	Department of Agricultural Land Management and Statistics
<b>DOF</b>	Department Of Forests
<b>FAO</b>	Food and Agriculture Organization of the United Nations
<b>GAD</b>	General Administration Department
<b>GRET</b>	Groupe de Recherche et d'Echanges Technologiques
<b>HCDC</b>	Hakha City Development Committee
<b>JICA</b>	Japan International Cooperation Agency
<b>KMSS</b>	Karuna Mission Social Solidarity
<b>LCG</b>	Land Core Group
<b>LUC</b>	Land Use Certificate
<b>MoAI</b>	Ministry of Agriculture and Irrigation
<b>MMK</b>	Myanmar Kyat
<b>NGO</b>	Non-Governmental Organization
<b>NLD</b>	National League for Democracy
<b>NLUP</b>	National Land Use Policy
<b>NTFP</b>	Non-Timber Forest Products
<b>SC</b>	Shifting Cultivation
<b>SLRD</b>	Statistical and Land Record Department
<b>SLORC</b>	State Law and Order Restoration Council
<b>SPDC</b>	State Peace and Development Council
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Programme
<b>UNICEF</b>	United Nations Children's Fund
<b>VFV</b>	Virgin, Fallow and Vacant land
<b>VLMC</b>	Village Land Management Committee (refers to Village Tract management committee)
<b>WFP</b>	World Food Programme

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**FIGURE 2:** Millet, sulphur beans and tree tomatoes





## Lai (Hakha Chin) terminology

<i>ar; arpi:</i>	chicken; brood hen.
<i>bawi:</i>	aristocratic families (see also <i>phun</i> ).
<i>bawi pa:</i>	title employed by missionaries ( <i>bawi nu</i> for females) in order to substitute themselves for the traditional chief ( <i>bawi</i> ).
<i>chia:</i>	commoners.
<i>busul:</i>	a variety of sulphur bean.
<i>chung:</i>	lineage.
<i>dum:</i>	garden, orchard.
<i>faang:</i>	millet.
<i>facang:</i>	paddy.
<i>fangvui:</i>	maize.
<i>hmunphiah kung:</i>	grass used for the fabrication of broom-sticks sold to the Hakha market.
<i>inn dum:</i>	home garden.
<i>kalh:</i>	plot of land received as dowry from the bride's side.
<i>kawi:</i>	best friend of the bridegroom.
<i>khamphe:</i>	Shan coriander or Mexican coriander ( <i>Eryngium foetidum</i> ).
<i>Khuachia:</i>	the evil spirit.
<i>Khua hrum:</i>	guardian spirit of a location from which the chief receives his power.
<i>khua ram:</i>	a territorial unit generally corresponding to a village's territory.
<i>lai lo:</i>	warm land, see <i>lopil</i> .
<i>lei:</i>	paddy terrace.
<i>lopil:</i>	a vast field (often the side of a mountain) constituting a communal shifting cultivation unit; the communal rotational shifting cultivation system is made of several <i>lopil</i> each in turn cleared, burnt and put into cultivation (1 to 3 years) before going back to fallow. <i>Lopil</i> are divided in to <i>lai</i> and <i>zo</i> fields, the first being "warm", that is of lower altitude, and <i>zo</i> being "cold", generally situated on the higher slopes.



<i>lo:</i>	any plot within a <i>lopil</i> (see <i>lopil</i> ).
<i>lo hmun:</i>	refers to as “inherited plot” in the text, it refers to a piece of land – generally of good quality – in a <i>lopil</i> , that was cultivated by one’s ancestors, on which use rights have been transferred in inheritance. The heir has “priority” to use this plot where the <i>lopil</i> is chosen for shifting cultivation. However, this land is still under communal management and it is generally not allowed to sell, nor rent it.
<i>lo hrawh man liam:</i>	compensation for damaging a farmer’s field or garden.
<i>nunau thuawm</i> (in Falam Chin) or <i>nu thuam</i> (in Hakha Chin):	the ornaments and clothes the wife brought with her as a bride (Stevenson 1943: 166).
<i>phiang:</i>	pigon pea.
<i>phiang kum:</i>	“pea year”. A <i>lopil</i> ( <i>lai lo</i> ) opened on a “pea year” is sown in majority with pigeon pea. This year had traditionally “mythical sanctions and taboos ensuring that peas are always planted in a peas year” (Lehman 1963: 61).
<i>phun; bawi phun:</i>	clan; chief clan.
<i>phun thawh:</i>	category of marriage price which carries with the wife’s clan and lineage rank and which, then, serves to validate the lineage status rank of the husband and of his children by her (Lehman 1963: 112).
<i>satil tlawn ram:</i>	grazing land.
<i>seu:</i>	designates a unit whether of hired labor or barter (also <i>nihlawhman</i> ).
<i>sia:</i>	mithen ( <i>Bos frontalis</i> ).
<i>siapil:</i>	grazing <i>lopil</i> land, often the next <i>lopil</i> to be opened for cultivation.
<i>siapil nam:</i>	sacrifice of a mithan to protect the animals about to go grazing in a <i>siapil</i> .
<i>thantre</i> (Falam Chin) or <i>ratum</i> (Hakha Chin):	a variety of sulphur bean.

<i>thathunh</i> or <i>hlawh bung:</i>	collective labour sharing systems. Each household accessing a plot in the <i>lopil</i> would need to contribute one man to the <i>lopil</i> labor group.
<i>ti huai:</i>	evil spirit believed to protect the spring. The fear of <i>ti huai</i> was a reason for protecting forest around springs before Christianization.
<i>vok; vok pi:</i>	pork; brood saw.
<i>zo lo:</i>	cold land, see <i>lopil</i> .
<i>zu:</i>	traditional beer made of millet or corn.
<i>zureng pi:</i>	large pot of beer.



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FIGURE 4: Mother and child in Hniarlawn village



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## Executive summary



**FIGURE 5:** A collective shared labor group threshing paddy at harvest time

Located in the rugged mountains at the western edge of Myanmar bordering India, Chin State has remained a very rural and remote area. With a total population of 500,000 (2014 Population Census) for whom subsistence farming is an essential part of their livelihoods, Chin State is characterized by international standards as one of the poorest regions of the country. Starting with the country's land reform that began in 2011 with President Thein Sein's government, the decades of on-going out-migration of Chin youth and the increasing recent connections of Chin's economy to national and global markets (Vicol *et al.* 2018) has raised new questions about the future of land tenure systems found in these regions and the land security of the Chin people. This research was conducted just after the 2015 elections. The dynamics explored here are relevant to land reform, urbanization, and development under NLD and beyond, especially with new reforms such as 2018 VFV land amendments. One of the main preoccupations for Chin's local civil society organizations (CSOs) and non-governmental organizations (NGOs) alike has been the (lack of) recognition of customary land tenure systems (CLS). Indeed, as in most upland regions of Myanmar, these still represent an essential framework for

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administering and managing land and associated resources in North Chin villages. Yet, some practices (such as shifting cultivation, also called swidden agriculture, and communal resource management) do not fit any legal framework under current laws, and many land and resource uses – as they are operated on the ground by Chin villagers – are not subject to any formal use rights.

The research presented here aims to document the evolution of land tenure systems in use in Hakha Township in Northern Chin State from the British annexation up to the present, to better understand the current issues faced by Chin individuals and communities. The study was conducted in Hakha Town (the capital of Chin State) and in nine villages close to Hakha town where State penetration was stronger than in more remote areas. The field data has been collected through 88 work-days of intensive fieldwork and interviews with 137 key informants. While in lowland Myanmar, peri-urbanity is a theater of fast-changing livelihoods, in-between rural and urban, peri-urbanity in the case of Hakha brings competing land tenure systems to the forefront, between statutory and customary laws. Urban and peri-urban settings are thus an excellent prism through which to study how State formation and marketization affect Northern Chin villagers' relationship to land.

Contemporary tenure of land and land-based resources in Hakha Chin villages is a result of a process of change that started during the colonization period (1896-1948). This period saw the establishment of firm locations for villages and the corresponding territorial boundaries delimited on maps, following the pacification of the Chin Hills. Together with the Christianization of Chin people and the institution of village headmen, it profoundly modified how Hakha Chin people perceived their relationship to land. From a domain that changed according to internal warfare, and was ruled by a chief who considered himself to be an intermediary with the spiritual world, Hakha Chin communities inherited fixed territories that were accessible in all parts because the Christian God had replaced feared spirits (notably those believed to protect watershed forests), and they were ruled by an administrative headman. Improved mobility and greater contact with lowlands fostered the introduction of inundated paddy agriculture, while traditional crops such as millet produced in the swidden fields were progressively replaced by corn. In the meantime, monetized exchanges also progressively replaced barter. Rice became the new choice of civilization, the most valued staple crop. With inundated paddy as the first form of permanent agriculture, further individualization of land tenure occurred through the development of permanent gardens. Production of

vegetables for the market started to answer the need of a growing urban population in Hakha following its new title of Chin State's capital (1964). Further individualization of land tenure occurred through the development of permanent gardens and the introduction of cash crops. The increased need for timber and charcoal for urban dwellers and for stone to be used in road construction, affected natural resource management at village level.

Shifting cultivation remains the basis of the Chin agricultural system. The territory within a village's realm is composed of different areas, including watershed forest, timber and firewood forests, and the village itself: its major part is divided into *lopil* (fields) which represent the village-level unit of cultivation. Rotation is conducted between the different *lopil* of the village. This system is always adapting, and the number of *lopil* within a village may often change, particularly depending on demographics. One notable change in the use of shifting cultivation is a move from growing staple crops (corn, upland rice and previously millet) and vegetables exclusively for self-consumption, to the introduction of some cash crops principally earmarked for Hakha market. Agricultural practices in shifting cultivation fields are increasingly directed toward producing cash, which in turn will be used especially to buy rice, since irrigated paddy fields and terraces cannot provide for the household's entire annual consumption. Shifting cultivation is particularly important in villages that are farther away from Hakha and that have poor access to markets and to city-related income generating opportunities. However, following natural disasters or economic crises and food shortages, shifting cultivation offers resilience as it is still the most readily available agricultural source of income and food.

There have been three main processes through which shifting cultivation areas have been converted to permanent cultivation managed through individual land use rights: the first through paddy terraces, followed by the development of permanent gardens and orchards (vegetables and fruit trees), and, very recently, the emergence of agroforestry systems based on elephant foot yam. The introduction of paddy terraces through the 1960s served, with the disappearance of the traditional system of class ranks, to perpetuate an intra-village socio-economical differentiation process. While home gardens (*inn dum*) have long existed, the development of permanent "commercial" gardens (*dum*), represents the beginning of urbanization in Hakha Town and its peripheries. In contrast to the development of paddy terraces, the transformation of shifting plots into permanent gardens is more progressive and is reversible. "Permanent" gardens are a more adaptive response



to the changing socio-economic context where the use of cash has developed to become the main currency for exchange and trade. Livestock management has been strongly affected by the emergence of paddy terraces and permanent gardens developed in the vicinity of the village. It became too challenging for livestock to travel through the cultivated areas every day. Livestock management thus became seasonal and livestock are left unattended for months, which can create problems for shifting cultivation fields and permanent gardens.

Firewood and timber are highly sought after resources both at the village level and in Hakha Town. For the poorest fringe of the population, collecting and selling firewood to Hakha inhabitants is an important source of income. Tenure and regulation with respect to firewood varies from one village to another. Some may still have a perennial forest dedicated to firewood, while, in others, there are defined areas for firewood collection within the village forest, rotating on an annual basis. While timber is still linked to a form of customary tenure (in the sense that it is still administered from the village level), control by the Department of Forests brings administration of this resource closer to State tenure.

Housing land, traditionally a resource freely accessible to any household in a village setting, became progressively monetized through urban extension projects, pushing such land outside customary land tenure. Greater integration of the region to the State apparatus and the development of an urban setting, also bring new value to resources such as timber and firewood, the management of which tends to escape traditional tenure. In the same fashion, watershed forests did not exist as such in the past but were protected through the fear of spirits: the management of firewood and timber was part of an integrated management of a whole village territory (including forests, cultivated and fallow lands, housing land, and so on). The projection of a new monetary value to specific resources tends to segment the whole CLS into discrete types of resource management.

Recently introduced activities, such as stone mining, which are outside the sphere of “traditional” Chin land use, suggest that the management of these resources (wood and stone) relies more on a State-based tenure system that reinforces the position of Village Tract administrators as the ultimate representatives of the State. This brings into question the role of the village administrators as the interface between CLS and the legal framework of the State, and their true legitimacy regarding the village community when taking decisions related to the management of land and

associated resources. This misgiving also applies with respect to the transformation of communal plots into permanent gardens—a process of which the village administrator is sometimes the only one to oversee: this issue was raised in different villages calling for better representation, for example, by appointing the elders’ council to make decisions about land and resource management. Likely issues around stone-mining will only intensify given the new World Bank-supported road construction project.

Although cultivation may not currently be as essential for the livelihoods of Chin rural households as it was in the past, the vast majority of villagers have access to land and still practice farming on small acreage (1 to 2 acres with respect to land for permanent cultivation). Social differentiation, notably through access to paddy terraces and permanent gardens, is taking place. Even so, Northern Chin agrarian structures are still very far from any form of entrepreneurial farming. Farmers rely on their own family labor and hire laborers only for specific tasks. Although cash crops have developed in recent decades, rural households are still attached to food production. Very few farmers are engaged exclusively in cash crops even in villages closest to Hakha Town. It is essential to highlight that permanent and shifting forms of cultivation are not mutually exclusive. Remittances have gradually become an essential contribution to those who have remained in Chin villages. According to interviewees, these were initially used to cover schooling costs and basic needs of families. Gradually, remittances were also used to invest in livestock and farming. Road construction is simultaneously a source of income and a landscape transformation that is leading to faster, easier communication and transport. It is changing people’s relationship with land and with their territory, as livelihoods are now trans-local and deployed over much larger distances. As a last resort, mobility in the form of villages splitting into different settlements is a strategy adopted by the poorest fringe of the population to overcome socio-economic differentiation.

Shifting cultivation needs to be recognized under the statutory land framework since it provides a safety net for the majority of households in times of crisis. The diverse and multiples uses of land and natural resources in communal forested spaces also need to be considered in the legal framework. Tenure over permanent cultivation uses such as gardens needs also to be secured. It is surprising to observe the gap between the decades-old discourse encouraging farmers to embrace permanent cultivation and abandon shifting cultivation, and the actual lack of formal recognition of permanent cultivation plots (with the exception of paddy terraces).



It is also important to consider forest resources in a reflection about customary tenure recognition. There has been a tendency to focus on purely agricultural uses. However, forests contribute significantly to local livelihoods, from game, NTFPs and the domestic use of firewood, to the sale of timber and charcoal.

The process of formalizing CLS should be carefully thought through in relation to the following issues:

- **THE NEED TO PROVIDE SPACE FOR CHANGE AND ADAPTATION:**

although resource mapping and collective reflection about natural resource management can be helpful for communities to enable some important issues to be addressed by the village, it can freeze a system which used to be flexible. This might hinder the capacity of village land tenure to adapt to new agricultural practices and land uses.

- **INTEGRATING NESTED RIGHTS AND DIFFERENT TENURE REGIMES:**

tenure over shifting cultivation is an intricate system of conferred, nested rights, oscillating between communal and individual claims on land management. As is most often the case in practice, formalization is concerned only with the rights of possession over delimited spaces. It is, therefore, crucial to work on securing the land tenure of Hakha Chin villages in an integrated way, without relegating some land uses to the State-based land framework, while considering other land uses and associated rights as fitting a more customary system. Resources of greater economic value (timber, firewood and stone for mining) should be integrated within a village-based secured framework for both guaranteeing that benefits are shared equally among all members of the community and for protecting an already damaged landscape. Only as a second step should collective land tenure (whether communal or individual) be formalized through the existing statutory land framework.

- **RECOGNIZING LAND CATEGORIES WITH MULTIPLE USES:** shifting cultivation has to be understood as the whole rotational system with its cultivated fields as well as its fallows. In addition to the diversity of products harvested from the fields of the lopil that are “opened” to cultivation, the fallows are actually a space with multiple uses that can make a significant contribution to livelihoods. A key legal constraint of statutory law is that it tends to recognize only one exclusive use for an area of land.
- **DEFINING THE RELEVANT UNIT FOR RECOGNITION OF COMMUNAL TENURE:** a bundle of rights is embedded under the umbrella of an overall communal tenure, which corresponds to the local territory where local people and their institutions use and manage land and natural resources. In Hakha Chin, this territory seems often to correspond to the village territory. However, a number of resources, such as water, grazing lands and forests, are sometimes used and managed by more than one village. The village level thus appears to be a relevant unit in seeking to formalize land tenure, but this needs to take into account the village’s relationship with other villages.
- **AVOIDING THE EMERGENCE OF NEW FORMS OF CONFLICT:** when it comes to delimitating the actual area of each village and sub-village, conflicts may arise. It is necessary to reflect, ahead of any attempt to formalize CLS, on existing tensions linked to land and resources and to provide conflict resolution mechanisms. This includes basic procedures such as proper information gathering and consultations, boundary delineation with neighboring villages, and specific mechanisms for objection. But it may also need specific conflict resolution institutions (at Township level for example) which are not currently in place.

The best initial focus to protect people’s rights to access land and associated resources would be to tackle the problem in another way: rather than formalizing each and every right over land and resources, a more effective approach might be

to attempt to define a robust procedure to protect land rights so that whenever land is requested for external purposes, a systematic verification could be conducted to check whether or not it overlaps with village and/or inter-village spaces, including areas of individual and communal claims.

Better regulations based on land use planning with projections that relate to current livelihood changes could help to lessen conflicts and decrease damage to crops by livestock. In addition, the land use planning processes could help to address the huge gaps in perception relating to land use between farmers, authorities and NGOs. Furthermore, Participatory Land Use Planning (PLUP) processes are considered by practitioners to increase the credibility of communal land registration processes in ensuring sustainable resource management and optimal land use.

It is important that local institutions operate on the basis of good local governance practices and democratic principles. There is a need to encourage the consolidation of the basic principles of equity, local accountability and inclusiveness; the elder council and or clans' representatives should at least be part of this process to ensure that these institutions are truly representative of the village.

In light of the 2018 VFV amendments and other developments under the NLD, recognizing customary land systems at the Myanmar national level is a crucial step towards peace, economic development and social equity.



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# Synthesis

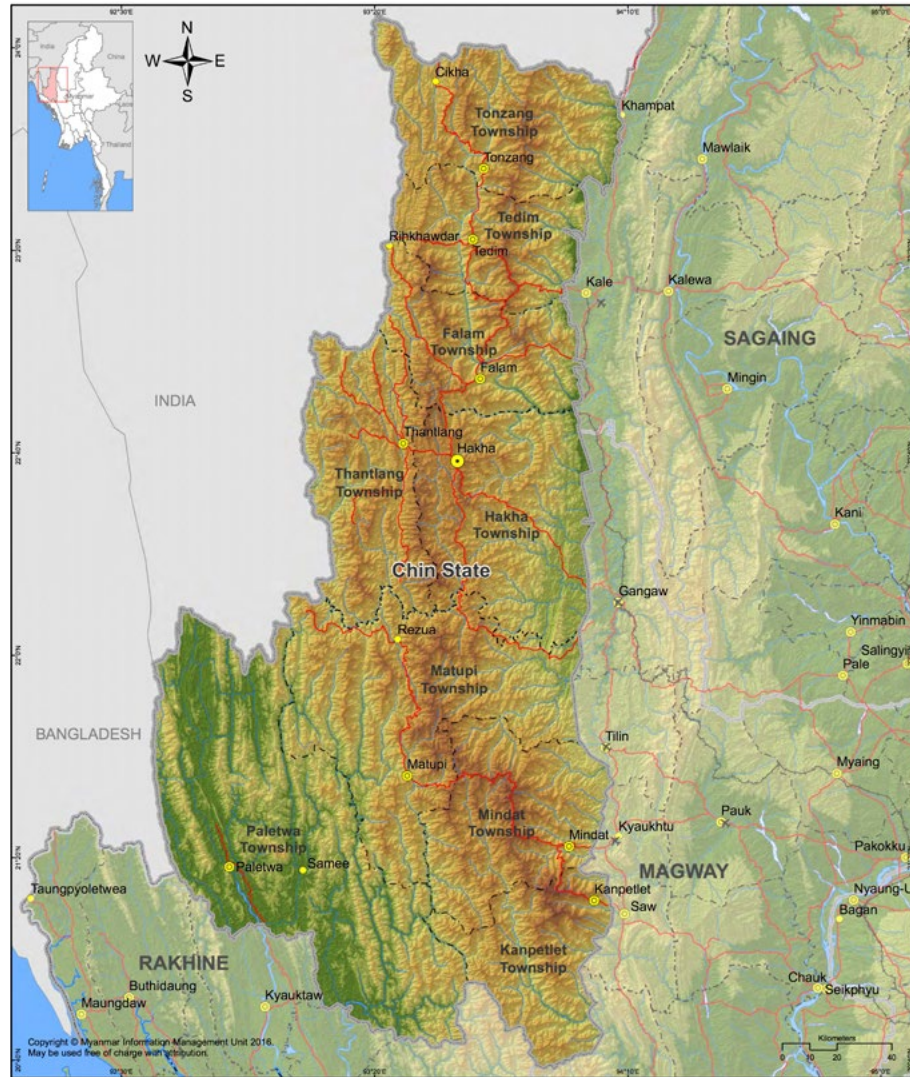


FIGURE 7: Map of Chin State

Adapted from MIMU, 2016

## I. Introduction

Located in the rugged mountains at the western edge of Myanmar bordering India (see Figure 7), Chin State has remained a very rural and remote area. With a total population of 500,000 (2014 Population Census) for whom subsistence farming is an essential part of their livelihoods, Chin State is characterized by international standards as one of the poorest regions of the country.

The country's land reform that began in 2011 with President Thein Sein's government, the on-going out-migration of Chin youth and the increasing connections of Chin's economy to national and global markets (Vicol *et al.* 2018) have raised new questions about the future of land tenure systems found in these regions and land security for Chin people. One of the main preoccupations for Chin's local civil society organizations (CSOs) and non-governmental organizations (NGOs) alike has been the (lack of) recognition of customary land tenure systems (CLS). As in most upland areas of Myanmar, these still represent an essential framework for administering and managing land and associated resources in North Chin villages. Yet, some practices (such as shifting cultivation, also called swidden agriculture and communal resource management) do not fit any legal framework under current laws, and many land and resource uses—as they are operated on the ground by Chin villagers—are not subject to any formal use rights. Furthermore, much of this area is currently treated as Vacant, Fallow and Virgin Land, making unregistered farmers particularly vulnerable under the 2012 VFV law and its 2018 amendments.

Geared for private ownership, the VFV land use permits provide no space for the recognition of communally-managed land and resources.

The research presented here aims to document the evolution of land tenure systems in use in Hakha Township in Northern Chin State from the British annexation up to the present, to better understand the current Chin land issues. Understanding these issues is important as Myanmar strives to create a governance framework that allows for land justice and flourishing livelihoods in areas with strong and diverse ethnic traditions, such as Northern Chin State.

The study was conducted in Hakha Town (the capital of Chin state) and in nine villages in its periphery. The choice to work in these “peri-urban” areas allowed us to explore how state formation and marketization affected Northern Chin villagers’ relationship to land in the context of urbanization. It is to be noted that in this report, the term “peri-urban” has been adapted in the Chin context. It broadly refers to the relative proximity to town and the higher level of socio-economic and political interactions between the peripheral villages and the town. While in lowland Myanmar, peri-urbanity is a theater of fast-changing livelihoods, in-between rural and urban (see Boutry 2016), peri-urbanity in the case of Hakha brings competing land tenure systems to the forefront, between statutory and customary laws. A scoping mission for methodology design and village selection was conducted for one week in December 2015, followed by three weeks of field research in January 2016. Findings presented here are the result of 88 workdays of in-depth qualitative field research conducted by a team composed of international, Burmese and Chin researchers. As a whole, 137 informants were identified and interviewed following a semi-structured interview framework, supplemented by observation and many informal conversations. Main key informants were interviewed multiple times. The report was developed based on the study’s findings and on an extensive literature review, particularly relating to the history of Northern Chin State land tenure systems.

## II. Legal challenges for the recognition of customary land tenure systems

Under the first quasi-civilian government (President Thein Sein 2010-2015), Myanmar undertook a land reform. The main changes brought by the 2012 Farmland Law were Land Use Certificates (LUCs) which gave land holders the right

to legally transfer their land use rights through inheritance, sale, rent, mortgage or pawn. In common with its predecessors, this law put an emphasis on permanent cultivation *and* individual land use rights, and is only applicable for areas legally classified as farmland. The 2012 Vacant Fallow and Virgin (VFV) Land Law set a framework for granting 30-year-land use permits on land that is considered vacant, fallow or virgin land – in practice, any land not registered as another type – to companies and individuals. This means that active fallow lands under rotational cycles can be legally transferred to private entities. Because most lands in upland regions has not been surveyed by the Department of Agricultural Land Management and Statistics (DALMS),<sup>1</sup> vast tracts can be considered as *de facto* VFV lands. The 2018 amendments of the VFV law do not resolve this issue, and likely intensify pressure on customary users. In view of the massive land acquisitions that occurred in upland regions through the 1991 Wasteland Instructions, civil society and local communities have been anxious to have their land and resource rights recognized by the State. The combined effects of these laws has likely been to increase land insecurity in the uplands. These laws also contribute in maintaining the highly centralised land management and administration systems in place. This challenges any options for more localized and territorialized forms of land management.

In addition, the forest sector’s legal framework gives little consideration to local communities and customary systems, since it is based on the principles of State-based management of forests for timber and conservation. The 1995 Forest Policy also makes explicit its intention to “discourage shifting cultivation practices which are causing extensive damage to the forests”. Although the Community Forestry Instruction (CFI 1995 – revised and approved in 2016) provides an opportunity to recognize community claims to forest areas through Community Forestry certificates that are valid for 30 years, it has not been designed to recognize customary forest management. Though the new 2018 Forest Law supports the 2016 Community forestry instructions, the bylaws will need to make specific provisions on Community Forestry so to integrate customary management systems into the possible options. On the ground, Community Forestry registration also remains a marginal and costly process requiring active NGO involvement to support the administrative procedures.

The National Land Use Policy, endorsed in 2016, is more progressive and provides new opportunities for the recognition of customary tenure and shifting cultivation

1. Formerly known as the Settlement and Land Record Department (SLRD).



practices, notably through a whole chapter (VIII) on “land use rights of the ethnic nationalities”. However, it is still unenforceable due to the lack of supporting land laws. Despite the start of a National Land Law drafting process, to date this policy is aspirational, and has yet to be translated into implementable laws, rules, and procedures.

The State’s focus on permanent cultivation can be historically linked to agricultural policies that favored paddy cultivation and high-value crops for export. Within the National League for Democracy (NLD)-led government, the development narrative based on entrepreneurial smallholder farmer farming places emphasis on fostering links between small farmers and markets through value chains (Vicol *et al.* 2018 p 453). In light of these official policies and priorities, recognizing CLS is both challenging and urgent.

### III. Historical overview of land tenure and social change in Chin

Contemporary tenure of land and land-based resources in Hakha Chin villages is a result of a process of change and adaptation—to political, ideological, religious, demographic and economic circumstances—since colonial times. Following the pacification of the Chin Hills, the colonial period (1896-1948) saw the establishment of firm locations for villages and delineated territorial boundaries. Together with the Christianization of Chin people and the institution of village headmen during the colonial and post-independence periods, this shift profoundly modified Hakha Chin people’s relationship to land. From a domain shaped by internal warfare, and ruled by chiefs considered as intermediaries with the spiritual world, Hakha Chin communities became fixed territories that were accessible to all because the Christian God had replaced feared spirits, notably those believed to protect watershed forests. The end of chiefdom had significant impacts on Chin society, gradually erasing clan-based class ranks and modifying the relationships between commoners (*chia*) and aristocrats (*bawi*). This in turn affected traditional wealth retribution and taxation schemes. The overall process of nationalizing agricultural lands under the socialist regime (as of 1961), along with the end of chiefdom, led to the abolition of landlordism and to more democratic forms of the management of shifting cultivation areas (*lopi*).

Improved mobility and greater contact with the lowlands fostered the introduction of inundated paddy agriculture, while traditional swidden crops such as millet were

progressively replaced by corn. The monetization of the Chin Hills’ economy had deep repercussions affecting all matters of society. With the introduction of money and new ways to spend it, the function of agriculture moved from subsistence and barter toward an income-generating activity. With loosened clan ties and weakened authority of chiefs, profits were increasingly handled at the household level.

Rice became the new choice of civilization, the most valued staple crop. Its cultivation was strongly promoted by the government through subsidies for the construction of terraces. Inundated paddy as the first form of permanent agriculture (other than home gardens) initiated the individualization of land tenure. This also led to the decline of labor exchanges and collective labor groups and the rise of hired labor. After Hakha became the capital of Chin State in 1964, its growing urban population created new markets for vegetables. Further individualization of land tenure occurred through the development of permanent gardens and the introduction of cash crops to meet these demands. The increased need for timber and charcoal for urban dwellers and of stone for road construction affected natural resource management at village level.

State penetration in the Chin region intensified from the 1990s, during the State Law and Order Restoration Council (SLORC) regime in light of the “steadily increasing day-to-day domination of the junta” (Callahan 2007: 39). This was purportedly to counter the growing presence of the Chin National Front (CNF) in the region, but was more likely initiated to gain “access to natural resources, key border areas and evolving trade routes” in the area (*ibid*: 59). Increased State presence contributed to transforming the human-land relationship, fueling new market dynamics and introducing new issues for administering and managing land and land-based resources in the region. Economic pressure and the tense military situation, with regular human rights violations (forced labor, extortion, and so on) led many villagers to migrate to towns and foreign countries.

These transformations, including the commoditization of land and the extraction of new resources out of the scope of CLS, have been exacerbated—or at least have become more visible—as a result of the massive landslides that occurred in July-August 2015 following torrential rains. Severely impacting Old Hakha Town, these events led to the relocation of its inhabitants towards the fringe of New Hakha, bringing new urbanization issues for adjacent villages. Landslides also affected many Chin villages through the destruction of paddy terraces and gardens.

## IV. Persistence and change in Chin land and resource tenure

### 1. Shifting cultivation

#### *Nested rights: individual tenure rights within a communal tenure system*

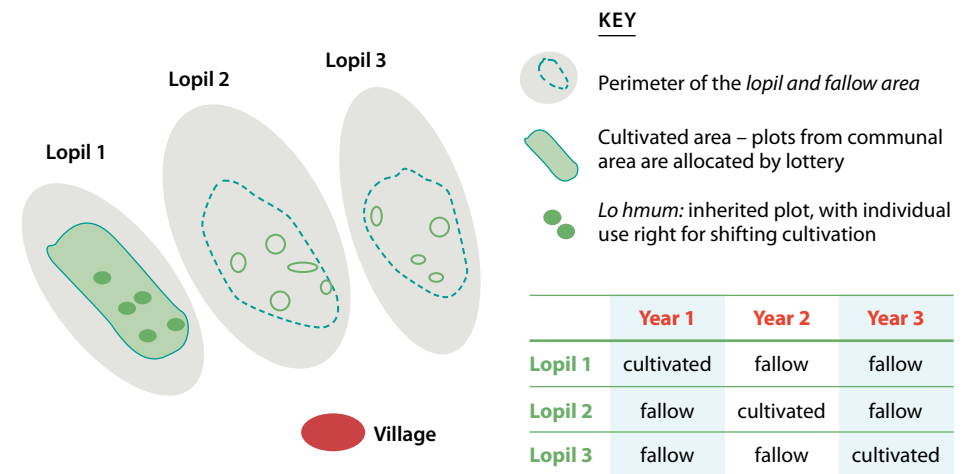
Today, shifting cultivation (known as *shway pyaung taung-ya* in Burmese) remains the basis of the Chin agricultural system. The territory within the village's realm is composed of different areas, including watershed, timber and firewood forests in some instances, and the village itself. *Lopil* (fields) represent the village-level unit of cultivation (see Figure 8). Rotation is conducted between the different *lopil* of the village. While specific cultivation practices vary between villages, the discussion below highlights some of the common features of these systems.

Some plots, known as *lo-hmun*,<sup>2</sup> are held hereditarily or through marriage by a household, who are allowed priority access to these plots only if they are located in the currently worked *lopil* (see Figure 8). One individual may have several *lo-hmun* in one *lopil*, but not necessarily one plot in each *lopil*. This land is still under communal management and cannot generally be sold or rented out. For shifting cultivation, households may not claim more than they can actually work, and tenancy is not allowed. Inherited plots that are surplus to requirements are put in the communally managed pool for the period of *lopil* cultivation. These plots, along with the rest of the fields, form a communal area that is distributed among households settled in the village either through lottery or through plot selection by each household head after clearing the *lopil*. In the latter case, the choice has to be validated during a villagers' assembly by the village administrator, himself generally advised and supported by a council of elders. In some villages, these elders represent each of the main clans of the village. In others, they are the "10 households' representatives" (the Burmese *hse eim hmu*). Households who are not living in the village do not have access to shifting cultivation plots. Every household settled in the village and willing to cultivate in a *lopil* is given access to a plot. Likewise, any newly settled household can claim access to a plot.

The number of *lopil* and number of consecutive years of cultivation for one *lopil*—and thus the duration of the shifting cultivation cycles and fallows—vary

2. An "inherited plot" refers to a piece of land – generally of good quality – in a *lopil*, that was cultivated by one's ancestors, with respect to which use rights have been transferred through inheritance.

from one village to another with great diversity depending on demographic pressure, the fertility of the land, the area of land available for shifting cultivation and the crops cultivated. Rotation periods also vary with the type of *lopil* itself. Chins distinguish *zo lo* from *lai lo*, which can be approximately translated<sup>3</sup> as "cold" and "warm fields", respectively. *Zo lo* are situated at a higher altitude (above 5,000 ft.) than *lai lo*. The soils of *zo lo* are said to be of poorer quality. Also, plant regrowth during fallow periods is slower than in *lai lo*. For this reason, *zo lo* are cultivated for a shorter period. Generally, *zo lo* are cultivated for one year, and *lai lo* for one, two or even three years, though they were only cultivated for one year in the 1950s (Lehman 1963: 54).



**FIGURE 8:** Example of a shifting cultivation system (as in Nabual village)

#### *The lopil system is ever-adapting*

Our interviews indicate that the number of *lopil* within a village often change. For example, year by year, there have been fewer users, and, therefore, less space has been needed. The *lopil* closer to the villages are now also divided into "sub-*lopil*" for the rotation. The names of *lopil* are also "fluid" referring to rivers, rocks, and so on closest to their locations.

3. For a discussion on the broader meaning of *lai* and *zo*, see Lehman 1963 p. 53-55.



### Crops in shifting cultivation

The agricultural cycle starts with the opening of a new *lopil*, generally covered by trees of medium and tall height (depending on the length of the fallow period). The field is cleared by felling trees around December, then the remaining vegetation on the *lopil* is burnt around March-April. In May, *lai lo* lands are generally sown with maize since millet and upland paddy cultivation has become scarce.<sup>4</sup> In areas of the plot where ashes and biomass have accumulated, vegetables such as cucumbers and pumpkins are often grown. Chin sesame, beans, taro, sweet potato and bitter eggplants may also be found to a lesser degree. If it is a “pea year” (*phiam kum*, occurring every three years),<sup>5</sup> pigeon pea would be sown as the major crop. In *zo lo*, crops such as potatoes are grown. The average area farmed by one household in shifting cultivation may vary from 0.5 to 2 acres. Those who do not have paddy terraces generally cultivate 1 to 2 acres, but may be more if the household has more available labor.

### Key changes

One notable change in the use of shifting cultivation is a move from growing staple crops (corn, upland rice and previously millet) and vegetables exclusively for self-consumption, to the introduction of some cash crops produced principally to supply the Hakha market. Agricultural practices in shifting cultivation fields are increasingly directed toward producing cash, which in turn will be used to buy rice, since irrigated paddy fields and terraces cannot provide for the household’s entire annual food consumption. With the individualization of labor arrangements and labor shortages, farming practices are also simplified, and the diversity of planted crop species and varieties has been reduced.

Shifting cultivation is particularly important in villages that are farther away from Hakha and that have poor access to markets and to city-related income generating opportunities. For example, rates of households practicing shifting cultivation in 2016 varied from 0 percent to 10 percent in study villages closest to Hakha such as Nipi, Bualtak and Locklung, and up to 60 percent in villages farthest away, such as Phaipha (three to four hours’ drive from the town). With the development of new

4. In contrast to Southern Chin where millet is still grown, notably for producing millet beer (Vicol *et al.* 2018: 456), in Hakha region this is not the case given that the great majority of households are Baptist. The Baptist denomination forbids the consumption of any yeast-based product.

5. This year traditionally had “mythical sanctions and taboos ensuring that peas are always planted” (Lehman 1963: 61).

permanent farming practices, the number of households involved in shifting cultivation is decreasing each year in most villages.

However, following natural disasters such as the 2015 landslides, economic crises or food shortages, shifting cultivation is still the most readily available agricultural source of income and food. It is also an essential resource for the poorest households who have no access to paddy terraces and other permanent fields. Thus, shifting cultivation remains an essential asset for the resilience of Chin households, especially the poor and remote.

## 2. The shift towards permanent forms of cultivation

There have been three main processes through which shifting cultivation areas have been converted to permanent cultivation: the first through paddy terraces, followed by the development of permanent gardens and orchards (vegetables and fruit trees), and, very recently, the emergence of agroforestry systems based on elephant foot yam (see Figure 9). The development of permanent farming was initially observed in patches in the *lopil* closest to the residential areas. This takes place often on inherited plots (*lo hmun*) which are generally of better quality, or by requesting authorization<sup>6</sup> for an available individual plot within the remaining communal pool of land. Once a plot is under permanent cultivation, it is considered under individual tenure and land sale is allowed.

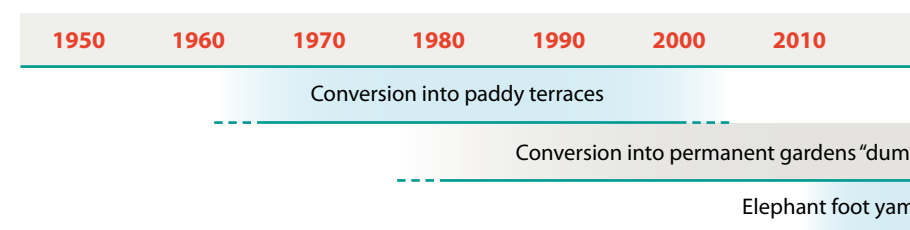


FIGURE 9: *Lopil* land use conversion and land individualization processes through time in Northern Chin

6. In some villages, the transformation of a plot into a permanent garden is decided upon with the village administrator and the participation of elders, or of “10 households’ leaders”. In others, the village administrator is the only one to decide, which tends to spark some dissatisfaction among villagers.

### History of paddy introduction

The introduction of irrigated paddy dates back at least to 1930 (in Sakta village) and was sporadically observed by Lehman (1963: 48) in the 1950s, although it had little impact at that stage on the Chin agricultural landscape. The process of bringing this agricultural practice to the Chin landscape took place progressively from the Chin communities closer to the plain (Kalay) towards the uplands, through Chin “entrepreneurs/pioneers” willing to cultivate the crops that were being increasingly consumed. Rice at that time was considered a luxury food and was widely adopted into the Northern Chin diet during the 1970s, according to our interviewees.

With the advent of the Ne Win regime after 1962, the central government pushed for the development of paddy cultivation throughout the whole country, with little concern for geographical or climatic features. Incentives turned into obligations, forcing the villagers to painstakingly develop terraces. Cattle were introduced at the same time, replacing manual work with the use of a plow. According to our interviewees, owners of “inherited plots” had priority over the development of terraces on their land, but if they were not willing to build the paddy terraces, they risked having to cede it to any individual willing to do so. The development of rice terraces boomed in the ‘70s and ‘80s, with the help of the central government who subsidized the labor costs for terrace construction.

### Paddy terraces: a key status marker rather than a crucial livelihood asset

Although all households consume their entire rice harvest, it is not self-evident that subsistence rice production was the main rationale behind the introduction of irrigated paddy cultivation. According to our interviewees, Hakha Chin households rely increasingly on rice purchased from the valleys (coming mostly from Kalay paddy plains). A farming system analysis conducted in the same villages of this study by Frissard and Pritts (2018: 100) shows that whether or not a household has a paddy terrace does not significantly affect its income or even its capacity to be self-sufficient in rice throughout the year.

Danel-Fédou and Robinne (2007: 14) explain that the adoption of rice terraces “was [as] much of a civilization choice [...] rather than a profitability target.” Likewise, our research confirms that the conjecture of the development of paddy terraces with the disappearance of traditional status ranks, served to perpetuate an intra-village socio-economical differentiation process. After the adoption of paddy terraces, buffalos and cows replaced mithans (*Bos frontalis*) as large livestock. This even

Celine Allaverdian



FIGURE 10: Harvest in the paddy terraces (Chungung village, December 2015)



more reinforces the idea of a gradual substitution of mithans<sup>7</sup> by paddy terraces as status and wealth markers.

#### *Permanent gardens: urbanization and socio-economic change*

While home gardens (*inn dum*) have long existed, the development of permanent “commercial” gardens (*dum*) represents the beginning of urbanization in Hakha Town and its peripheries. This agricultural practice arose to answer a local demand from an increasingly urban population through the 1960s (notably after the shift of Chin State’s capital from Falam to Hakha). In addition, one important driver for the change from shifting cultivation to gardens, orchards and elephant foot yam agro-forests, is the increased need for cash combined with limited labor. It is probable that, with the continued out-migration of young people, farm labor will remain a key factor in farmers’ decision-making. The aging of the rural population also contributes to an increase in perennial trees.<sup>8</sup> As a consequence, the shift to gardens, orchards and agroforests will most probably continue, along with the improvement of the road infrastructure. Although permanent gardens for commercial purposes have not been developed on the same scale in every village, this process of agricultural change was observed in all locations.

The development of permanent gardens has had a profound impact on cultivation practices and also on livestock management. As “dum-ization,” the conversion from *lopil* to gardens, is a relatively recent process, fertility management practices are sometimes still based on former shifting cultivation know-how. It was reported that gardens are often abandoned after three to five years due to depleted fertility and decreasing yields. While permanent gardens are a major reason – along with paddy terraces – for not keeping livestock in the village overnight, the collection of animal manure is limited and is thus used only for home gardens.

#### *Gardens: oscillation between permanent and shifting forms of cultivation*

In contrast to the development of paddy terraces, the transformation of shifting plots (*lo*) into permanent gardens (*dum*) is more gradual and, importantly, reversible.

7. With the end of chiefdom and associated ritual feasts, where the sacrifice of mithans used to indicate the rank of the owner, these animals lost part of their value for the Chin. Yet they are still valued in, for example, wedding ceremonies (Danel-Fédou and Robinne 2007: 62).

8. As explained by an informant, farmers grow older and prefer to plant trees that can offer them a regular source of income in their old age, without having to manage the very physical tasks involved in the slash and burn of shifting cultivation fields and even the maintenance and plowing of paddy terraces.

It regularly happens that one *lo* is cultivated for up to five years after the entire *lopil* is left fallow – notably for growing banana trees – and that it is reintegrated into the *lopil*’s rotation cycle after that period. Other shifting plots may be “definitively” turned into permanent gardens for perennial trees and also for ginger and various vegetables for the local market. For these reasons, “permanent” gardens are a more adaptive response to the changing socio-economic context where the use of cash has developed to become the main currency for exchange and trade.

This oscillation between permanent and shifting cultivation also pertains to the new development of elephant foot yam cultivation that has taken place over recent years.<sup>9</sup> Elephant foot yams are grown over three to four years, under the shade of natural forest vegetation, before being harvested. Despite growing under some natural forest cover regrown from fallow land, cultivation of elephant foot yam – oriented towards income generation – follows the same process as other types of permanent cultivation.

#### *Registration of permanent cultivation plots*

The differences observed regarding the introduction and purpose of paddy terraces – government supported, and a wealth and prestige marker – and permanent gardens – an agricultural adaptation to generate cash – may explain the difference observed in the formalization of land use rights relating to these two agricultural practices.

Because the government actively supported terracing, land use rights over paddy terraces have been recognized by the State for decades. After the 2012 Farmland Law, the vast majority of paddy terraces were registered with Land Use Certificates (LUCs, also called Form 7). Considered as an heirloom, paddy terraces logically enter the sphere of private possession of the household, along with traditional items such as mithans and gongs.

Officially titled permanent gardens are much rarer in Hakha Chin villages. These represent the extremity of an oscillating process between shifting cultivation and a longer-term form of agriculture on one plot. In Hakha Town, where shifting cultivation is no longer practiced, the cultivation of permanent gardens became the

9. Note that, compared with Southern Chin, elephant foot yam was introduced years later in Northern Chin and remains a marginal crop in 2016–2018.





main agricultural practice along with inundated paddy fields, and most gardens are sanctioned with titles. In surrounding villages, the oscillation between shifting cultivation and gardens depends on the economic needs of individual households. For example, gardens might be developed if a household needs more cash or might be abandoned if the household lacks labor. For this reason, most gardens in rural villages have been left without titles, leaving open the possibility that they could be reintegrated into the pool of shifting cultivation plots. Only those farmers with the best connections may be granted Form 7 on gardens.

### ■ 3. Changes in livestock management: the counterpart of land use change and urbanization

Livestock management was strongly affected by the emergence of paddy terraces and permanent gardens developed in the vicinity of the village (Frissard and Pritts 2018: 71-72). Previously, the animals were sent out with shepherds for grazing in the forest or to dedicated “grazing” *lopil (sia-pil)* during the day and brought back to the house compound every night. However, as paddy terraces and permanent gardens became common, it became too challenging for livestock to travel through the cultivated areas every day. Livestock management thus became seasonal with a specific collective pasture area made available during the paddy cultivation season (May to November) and free grazing on paddy terraces after harvest. Livestock are now left unattended for months, which can create problems for shifting cultivation fields and permanent gardens.

The greater penetration of the State translated into government schemes supporting large-scale breeding and the allocation of State-recognized grazing land to individuals through the 1991 Wasteland Instructions. Local elites and large-scale breeders took the opportunity to apply for large tracts of land considered to be “fallow” under the law, although they were within villages’ territories and the communal pool of lands for shifting cultivation and other uses. This underlines the sometimes-conflicting overlap between a customary land tenure framework shaped according to the “traditional” and multiple uses of village-based resources (e.g., shifting cultivation and village cattle grazing) and a State-based land tenure framework that introduces new economies based on exclusive land use: large-scale cattle breeding, but also timber extraction and stone mining. However, inter-villages arrangements aiming at sharing common grazing spaces have remained.

Maxime Boutry

**FIGURE 11:** Elephant foot yam (raw in the foreground, sliced to dry in the background), an emerging crop



#### ■ 4. Forests and other resources

##### *Inter-village administration of resources as a contemporary adaptation*

The watershed forests of today – to some extent like timber and firewood forests – are an example of persistence in land use and the management of resources, although the norms and principles dictating practices have profoundly changed. From practices pertaining to animism, to rules and regulations pertaining to a new set of customary laws established in response to the decreasing availability of water, Hakha Chin CLS again show their capacity to adapt.

An important characteristic of watershed forests, like grazing lands, is that those areas are managed under inter-village arrangements, contrary to agricultural land (shifting and permanent) managed at the village level. This can create conflicts over the management of such areas, particularly because other land uses (such as for firewood) may overlap. This has major implications for formalizing customary rights: grazing land and watershed forests need to be formalized as common property between two or more villages, and the different kinds of uses allowed in such areas must be clearly set out.

Population growth and the firm establishment of the village location led to an intensified exploitation of resources, among which timber and firewood are probably the raw products in greatest demand, particularly in Hakha.

##### *Firewood and charcoal*

Given the cold weather that characterizes the Hakha region, firewood is a highly sought after resource both at the village level and in Hakha Town. For the poorest fringe of the population, collecting and selling firewood, mostly to Hakha, is an important source of income. Based on interviews, the consumption of one household of five members in Hakha is about 1.5 tons of firewood per year. It is closer to 1 ton in villages.

Tenure and regulation with respect to firewood varies from one village to another. Some still have a perennial forest dedicated to firewood, while others have defined areas for firewood collection within the village forest, rotating on an annual basis. There can be lottery systems to allocate plots for firewood collection for that given year. Firewood is also harvested from individually held plots or “inherited” plots (*lo-hmun*) by requesting authorization from the plot holder with a small exchange

of goods or services. The common limitation is set at one ton per household, but in one village, people are authorized to cut firewood only during the months of October to December in unlimited quantities. In some villages, Hakha dwellers have direct firewood harvest arrangements. In others, charcoal making is another income generating activity, serving the Hakha market.

##### *Timber*

Northern Chin villages rely on pine trees found in villages’ *zo-lo* areas for timber, which is most commonly used for house construction. Depending on the village’s location, pine trees are more or less abundant. Only a few villages have forests for commercial logging. In the 1990s, after the accession of the SLORC government, State governance became more predatory and saw the rise of State-backed individual claims (cronyism). Village headmen were also empowered in their role as representatives of the State to create more space for predatory practices, especially close to Hakha. During this period, the appropriation of land for grazing (following the 1991 Wasteland Instructions) by a wealthy and well-connected Hakha businessman took place simultaneously with the authorization of timber extraction in the same village to meet Hakha Town’s housing needs. There, timber now provides an important source of income for the poorest section of villagers. Some work directly with timber contractors, receiving advance payments and chainsaws. Working with a timber contractor also protects them from Forest Department and police checks on illegal logging. Others do not take money in advance and can sell at the market price but are at risk of having to pay bribes to the FD/police in case there is a check.

While timber is still linked to a form of customary tenure in the sense that it is still administered from the village level, the control by the Forest Department brings administration of this resource closer to State tenure. State tenure here translates into the possibility of allocating land mapped as vacant or fallow for the purpose of extracting timber. While this has not yet happened in the villages studied here, some elders in one village cited the case of a timber extraction company that had tried – currently without success – to appropriate one of their *lopil* where the forest consists mainly of pine trees.

A strategy – which endures to this day – was developed to bypass official regulations on timber extracted for house building, especially within Hakha Town. It involves building a house on the site of timber extraction, before taking it down to be sold to Hakha. This serves to bypass taxes imposed on timber by the Forest Department.

### *Non-timber forest products (NTFPs)*

The main NTFPs include orchids, yams, more recently elephant foot yam (mainly for seeds for new plantations) and even more recently “*u phyu*” (white tubers). A grass species (*hmun phiah*) used in the fabrication of broom-sticks is sold to Hakha market. These products are marginal but represent an important source of income for the poorest households. In most villages, every household is allowed to collect NTFPs without restrictions.

## ■ 5. Urbanization brings a new value to resources

The development of an urban setting, and the land pressure it implies, entails in the case of Hakha a huge demand for timber, firewood, and housing land. These resources directly modify the relationship to land with regard to the existing CLS.

To take the case of housing land, this resource changed from one freely accessible to any household in a village setting, to one transacted on the market. Urban extension projects an economic value that rapidly pushes such land outside customary land tenure.

Customary law in Northern Chin State regarding housing land is quite simple. Any household settling in the village should be attributed a plot of land for its own housing needs, with the associated rights of cultivating in a *lopil*, collecting firewood and even timber for the house. However, according to customary law, a housing plot cannot be sold to outsiders and returns to the village as communal land if a household leaves the village permanently. Although such regulations apply in most villages, the peri-urban dimension that affects some more than others progressively overcomes the customary framework and transforms tenure rights. Indeed, housing plots tend to be commoditized to answer the need for cheaper land for urban dwellers that is increasing with the demographic growth of Hakha. Landslides and relocation projects have also accelerated this process.

The greater integration of the region to the State apparatus that accompanies regional development also brings new value to resources such as timber and firewood, the management of which tends to escape traditional tenure. In the same fashion, watershed forests did not exist as such in the past but were protected through the fear of spirits: the management of firewood and timber was part of

Maxime Boutry



**FIGURE 12:** Part of Tiphul terraces under cabbage and garlic cultivation during the dry season



an integrated management of a whole village territory (including forests, cultivated and fallow lands, housing land, and so on). The projection of a new monetary value to specific resources tends to segment the whole CLS into discrete types of resource management.

Recently introduced activities outside “traditional” Chin land use, such as stone mining,<sup>10</sup> tend to rely more on a State-based tenure system that reinforces the position of Village Tract administrators as the ultimate representative of the State. This brings into question the role of the village administrator as the interface between CLS and the legal framework of the State, and his true legitimacy regarding the village community when making decisions related to the management of land and associated resources. This issue also applies with respect to the transformation of communal plots into permanent gardens—a process the village administrator is sometimes the only one to oversee. This issue was raised in different villages, where residents called for better representation, for example by appointing the elders’ council to make decisions about land and resource management.

## ■ 6. Land governance and land transfers

In most cases, the village community (through the village administrator, the Village Land Management Committee (VLMC) and/or elders) still partially administers permanent cultivation plots by acknowledging individual claims, much like hereditary claims on inherited shifting plots. Furthermore, rights on permanent cultivation plots are as much as possible retained within the village sphere, whether being plots are officially titled or not. In the very few cases where land use rights on permanent plots are still held by individuals who have left the village,<sup>11</sup> we may consider that management, access and alienation rights escape the village’s land administration. There is, however, little interest for individuals (even living in Hakha, which is close to those villages) in managing far away plots since they do not produce many financial benefits that would justify tenancy: while tenancy is not totally unknown in Hakha Chin villages, arrangements are most often conducted on a free basis and between villagers.

10. Given the perpetual need for the repair of roads in northern Chin State, stone mining is also a source of income, both as a village-based activity and on a larger scale for wealthy investors.

11. We encountered only three such cases during the whole of our fieldwork activity.

## *Land transactions in urban areas*

The greater penetration of the State in the 1990s saw a shift in land value within Hakha Chin society. Today, the monetary value attributed to land tends to outweigh its social significance, especially when the land is situated within the urban area or its peripheries. This tendency is more or less pronounced depending on the scale of transactions and the monetary value at stake. Transactions among “simple” dwellers of Hakha—as opposed to the “elite”—regarding housing or gardening plots show that the customary framework still operates: the economic value of land is not fixed but depends on the degree of kinship between the two contractors. Besides, owners deemed legitimate under customary tenure are generally consulted before somebody claims a plot through the official channel of the ward administrator. No such customary framework applies, however, with respect to large tracts of land captured by the elites through the statutory land framework (e.g.: VFV law), although it can serve to regulate relationships within traditional supra-local realms, such as between the Hakha and Senthang areas.

## *Inheritance*

In parallel, inheritance patterns have also evolved, from the traditional preference of giving land to either the oldest or youngest son, depending on clan. Migration, notably to other countries, has been massive, and has not exclusively involved the middle sons. This has led to a change in inheritance patterns with more opportunities for middle sons to receive inheritance by default if the others have migrated. Given that men are over-represented among migrants,<sup>12</sup> it is not surprising that inheritance rules in relation to gender are also evolving, and there are now cases of women inheriting.

## V. Livelihoods

Although cultivation may not currently be as essential for the livelihoods of Chin rural and “peri-urban” households as it was in the past, the vast majority of villagers have access to land and still practice farming on small acreages (1 to 2 acres with respect to land for permanent cultivation). Social differentiation, notably through access to paddy terraces and permanent gardens, is taking place. Even so, Northern

12. See population pyramids in the Myanmar Population and Housing Census – Chin State (Department of Population, Ministry of Immigration and Population, Republic of the Union of Myanmar 2015: 12- 13).



**FIGURE 13:** Home gardens for year-round self-consumption of households

Chin agrarian structures are still very far from any form of entrepreneurial farming. Farmers rely on their own family labor and hire laborers only for specific tasks. According to our interviewees, farmers who cultivate paddy owned on average 0.5 to 1 acre of terraces and rarely extended beyond 1.5 acres. Similarly, for permanent gardens the acreage cultivated remains very small: varying from 0.25 acre to 1 acre maximum. This must be linked to limitations with respect to family labor. In addition, although cash crops have developed in recent decades, rural households are still attached to food production. Very few farmers are engaged exclusively in cash crops even in villages closest to Hakha Town. Farmers try to combine paddy terraces with gardens whenever possible.

Furthermore, it is essential to highlight that permanent and shifting forms of cultivation are not mutually exclusive. We have already described above the oscillation between these two forms of farming. A number of farmers with paddy terraces and/or permanent gardens still practice shifting cultivation, particularly those who have more family members engaged in farming activities. In fact, according to the farm typology developed by Frissard and Pritts (2018), the non-ownership of large livestock (cattle, buffalos, mithans and horses) is the most essential feature of those who rely exclusively on shifting cultivation. Unsurprisingly, this highlights the fact that this form of farming remains an essential source of livelihoods for those who lack capital and cannot invest in permanent cultivation. These households are also probably the ones most affected by the changes in livestock management triggered by the shift to permanent cultivation, and the dramatic increase in crop destruction by free grazing. The typology also shows that the vast majority of farmers own large livestock.

Small livestock rearing activities, such as pig fattening or breeding, are widely practiced as a supplementary source of income and socio-economic safety net. Small-scale aquaculture is still very marginal but it appears to be developing, pioneered by the better-off farmers to complement household diet and for sale.

When considering crops, livestock and aquaculture together, the agricultural income of households remains quite low, even when the value of self-consumption is taken into account. According to Frissard and Pritts (2018), agricultural income varies from USD 300 to 1900 per year per family member. This is considerably lower than in other parts of Myanmar (Allaverdian and Diepart 2018). Most households are, however, able to cover their food needs year-round, suggesting the importance



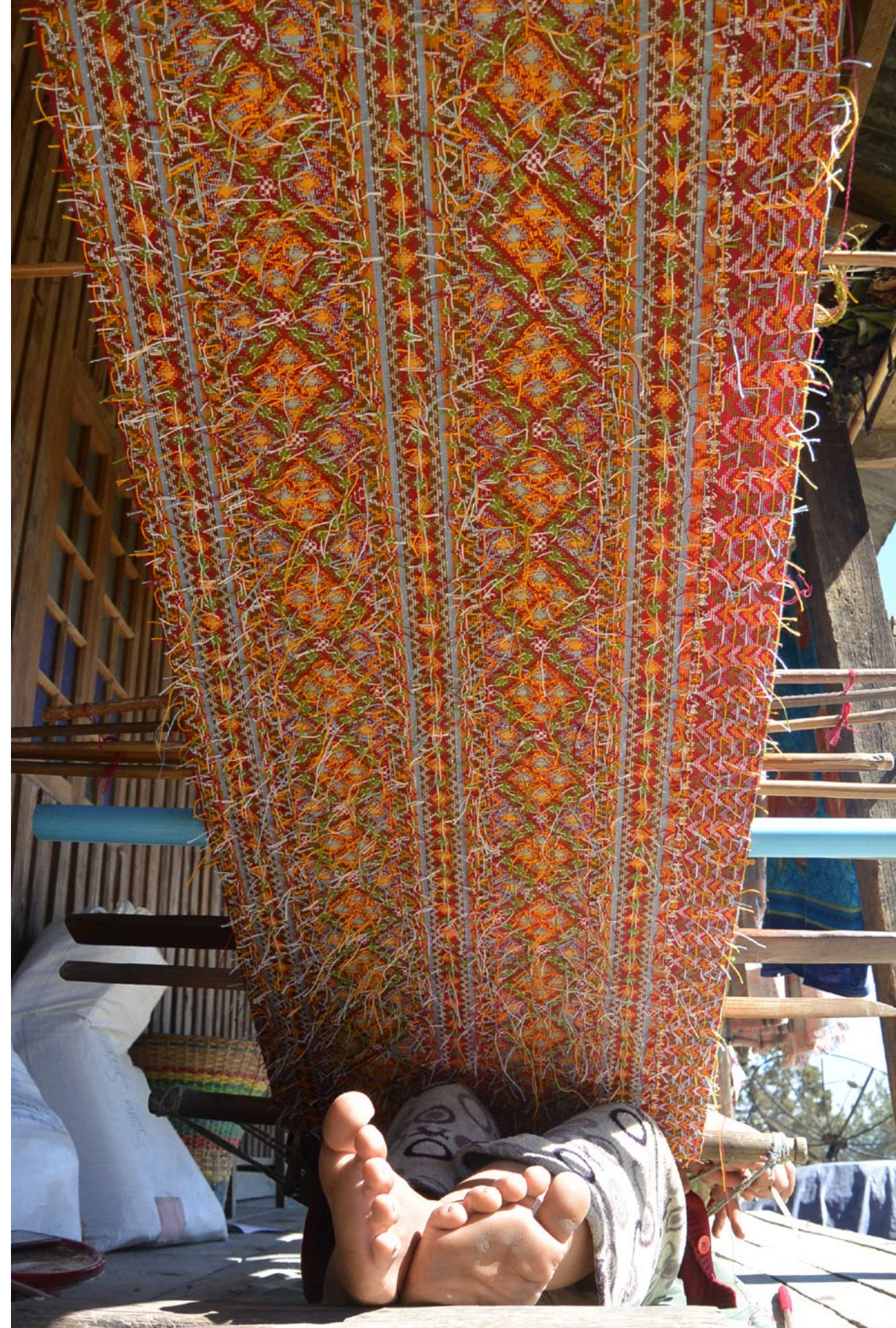
of other sources of livelihoods. As stated by one Village Tract administrator, “we number around 200 households in this village - 190 families practice farming but only 30 families are able to live from agriculture alone.”

### *Mobility, Roads and Remittances*

It is interesting to recall that Northern Chin villages, long before annexation, were extremely mobile, which enabled the colonization of the region from the Kalay plain up to the mountains of Hakha. It was in fact common for “disinherited aristocrats” to found new villages (Lehman 1963: 122, 150). Migration was also a way to cope with land shortage and high rents (Stevenson 1943: 96). A parallel can be drawn with the contemporary movements of the villages in this study where villages splitting into different settlements and new villages can still be considered to be a strategy adopted by the poorest fringe of the population to overcome socio-economic differentiation.

Remittances have gradually become an essential contribution to those who have remained in Chin villages. According to interviewees, these were initially used to cover schooling costs and basic needs of families. Gradually, remittances were also used to invest in livestock and farming. Cung Lian Hu (2018) differentiates at least two trends in the kind of remittances and how they are used by the households. If the household receiving the remittances is not able to invest in further livelihoods (either because remaining members are old, or lack a workforce, or must spend remittances for health purposes), this money tends to be sent regularly in small amounts. For households able to invest in livelihoods, remittances are less regular but may be sent in larger amounts to cover such investment. The same author (*ibid.*: 48-49) notes that children abroad, especially if they arrived in developed countries through a refugee program, have tended to provide for their parents so that they no longer have to engage in agricultural work. Therefore, migration can decrease the pressure on land, first by reducing the number of working people in a village, and second through remittances which, for some households, constitute the main source of income. In addition, the diaspora also plays a significant role in collective actions, such as infrastructure construction, notably conducted through religious organizations. Road construction is simultaneously a source of income and a landscape transformation that is leading to faster, easier communication and transport. It is changing people’s relationship with land and with their territory, as livelihoods are now trans-local and deployed over much larger distances. Family members work in different places, through daily work outside of the village, or

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seasonal and permanent migration. They also live in different places. On several occasions, we met households (among the better-off) who had also built a house in Hakha to make access to education easier for their children. The complementarity between the peak work periods of farming (during the rainy season), and road construction and mining (mostly in the dry season) also allows rural households to combine farm and off-farm activities.



FIGURE 15: Road construction and mobility

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## VI. Recommendations for recognition of customary tenure

While there is a need to recognize CLS within a State's legal framework for securing land rights, these efforts must consider the complex canvas of CLS.

### 1. Why it is important to recognize shifting cultivation?

Although shifting cultivation may be declining with the gradual conversion of lands to permanent cultivation fields, grazing lands and even housing lands, it remains a key resource for villagers in many different ways. First, it represents the main way for poorer households—who are not able to access paddy terraces (by purchase or by inheritance) or to invest in the construction of such terraces—to continue to access land and maintain an agricultural livelihood without being forced to migrate. It also represents a means to adjust and adapt in response to the households' other livelihoods and constraints. These findings are in line with studies summarizing the trends in shifting cultivation throughout the world, emphasizing this agricultural practice as a safety net for poorer households (Vliet *et al.* 2012: 9). We have previously seen that farmers are still able to oscillate between semi-permanent forms of cultivation (e.g. banana plantations or other commercial crops such as “Shan coriander”) and shifting cultivation. When landslides<sup>13</sup> occur and destroy permanent cultivation fields, farmers re-engage in shifting cultivation as a coping strategy. This was clearly observed as a resilience mechanism following the 2015 landslides. In addition, in the more isolated areas of Chin where there is poor transport infrastructure and limited access to markets, shifting cultivation remains a crucial activity to cover food subsistence needs.

### 2. Beyond shifting cultivation: securing tenure over non-paddy permanent cultivation uses

In Myanmar civil society, much attention has recently been given to finding ways to protect shifting cultivation. However, one overlooked issue is the lack of recognition given to permanent gardens, orchards and agroforests. It is surprising to

13. Landslides are rather frequent in the region, mainly due to the geological nature of the soil and sub-soil and not to the impact of shifting cultivation, contrary to the anti-shifting cultivation narratives that are sometimes disseminated in the media and reports (e.g. CCERR 2015).



notice the gap between the decades-old discourse from government authorities and NGOs alike, encouraging farmers to embrace permanent cultivation and abandon shifting cultivation, and the actual lack of formal recognition of permanent cultivation plots (with the exception of paddy land). Indeed, in the study villages, most farmers have no titles over these gardens apart from a few well-connected farmers who took advantage of the DALMS survey activities during the land registration process in 2013-2015 to acquire some formalized rights.

If the elephant foot yam market continues to develop in Northern Chin—as it has in Southern Chin—it is probable that a new wave of land appropriation by farmers will take place in the communal *lopil* areas to provide a new and significant source of income for villagers. What mechanisms will regulate land tenure for this type of cultivation under forest cover?

### ■ **3. The importance of forests**

It is also important to consider forest resources in the reflection on customary tenure recognition. Indeed, there has been a tendency to focus on purely agricultural uses. However, we have seen that forests contribute substantially to local livelihoods, from game and the domestic use of firewood, to the sale of timber and charcoal. Non-timber forest products such as tubers become a crucial source of income for the poorest segments of the population. Forests also play an important environmental role for the maintenance of watersheds. They can potentially also constitute an “open space reserve” that is protected and where development is set aside for an indeterminate period until new needs arise. Baird’s comparison of existing communal land titling schemes in Laos and Cambodia maintains that one of the main limitations of Cambodia’s land titles is that these do not include the provision of communal rights over forests, despite the fact many of the relevant communities depend heavily on forest resources.

### ■ **4. Pitfalls and complexities in formalizing customary laws, rules and regulations**

Formalizing CLS in order to protect land access and use rights for villagers is crucial in a changing context in which the unsustainable capture of resources by elites/outside occurs.

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*For all these types of land uses and resources, the mechanisms that are now legally in place do not respond to communities' needs:*

- **LAND USE CERTIFICATES (FORM 7)** allow the registration of land use rights over lands that are already categorized as farmland. But fallow is not included, and land is generally classified for one specific use only (paddy, orchards, and so on). In addition, Form 7 grants a full ownership right, including the right to sell, mortgage and rent lands, while a number of communities may wish to include different provisions to strengthen the internal control of lands. For example, a number of communities would prefer that land sales remain regulated within village customary institutions so as to avoid lands falling into absentees' or outsiders' hands, and raising social inequities.
- On the other hand, it is also possible to register lands with **COMMUNITY FORESTRY CERTIFICATES**. However, the process remains cumbersome from an administrative point of view and is out of reach for most communities without consistent NGO support. In Northern Chin, Community Forestry (CF) is still marginal. In addition, CF grants use rights only for 30 years and does not consider shifting cultivation as part of the possible forest uses. There are also a number of institutional challenges to the scaling up of Community Forestry (notably between the Ministry of Agriculture, Livestock and Irrigation and the Ministry of Natural Resources and Environmental Conservation) linked to the legal category of the relevant lands, especially when these fall under the category of Vacant, Fallow and Virgin (VFV) lands.
- **VFV LAND USE PERMITS** cover only productive projects such as livestock and agriculture. They are not designed for communities although one could always use loopholes to enable communities to apply. But tinkering with laws may not be appropriate in the long run. Also, the 2018 amendments to the VFV law stipulates that customary land is excluded from being VFV land. Unfortunately, the amendments do not define what is or is not land under customary use. Finally, grants are for 30 years only, and cannot be transferred. However, the law allows VFV land to be converted to farmland after three years of "stable" cultivation. But this process is highly challenging in practice.

The process of formalizing CLS should be carefully thought through in relation to the following issues:

#### *The need to provide space for change and adaptation*

**A historical approach shows that customary tenure is not a fixed set of practices or norms.** The local ethnographic approach shows how diverse customary arrangements are, and how adaptive they are to changing circumstances. Although **resource mapping and collective reflection on natural resource management can be helpful for communities to enable some important issues to be addressed by the village (such as solving the current friction between livestock management and permanent cultivation), it may also have some pitfalls.** First, it can freeze a system which used to be flexible given that conventional adjudication and mapping processes record information on tenure in its static (non-dynamic) state, and cannot reflect developments that might occur in a society with respect to tenure, value and use of land (Arko-Adjei 2009). This might hinder the capacity of village land tenure to adapt to new agricultural practices and land uses. As seen in the villages studied, *lopil* can be merged together, split, become permanent cultivation lands, or even village land area (when the village moves its location for example). Changing rules on rotation periods also address demographic change.

#### *Integrating nested rights and different tenure regimes*

Tenure over shifting cultivation—the basis of customary tenure over agricultural land in Chin societies—is an intricate system of conferred, nested rights, oscillating between communal and individual claims on land management. Formalization is usually concerned only with the rights of possession over delimited spaces. Registering a holder in a nested rights system is tantamount to selecting a given level and concentrating rights on that level to the detriment of others (Lavigne Delville 2013). As an example, inherited plots (*lo hmun*) are characterized by individual use rights although nested in a communal management system. Therefore, any attempt to formalize CLS has to be carefully designed in order to avoid more insecurity.

Differentiating regimes of tenure within the territory of a village according to land use—e.g. customary collective tenure for shifting cultivation and State-based individual tenure for paddy terraces—would hinder the potential benefits of formalizing users' rights. Reflecting on the pilot study of the Land Core Group (LCG) on formalizing customary land use rights through cadastral registration (Ewers Anderson 2015), the main shortfall may be the fact that it considers only shifting cultivation



for building internal rules and regulations at village level (e.g., Chuncung village near Hakha).

*“All irrigated paddy fields, fruit orchards, and terraced paddy fields should not be included in the category of upland being managed collectively for upland farming. As per the instruction of Township Settlement and Land Record Department [now DALMS], they must be registered as farmland under farmland law”*  
(Ewers Anderson 2015: 87)

Going further, according to Chuncung’s internal regulations and the context of agricultural change towards more permanent agriculture, all collectively managed upland (*lopil*) could be virtually turned into permanent cultivation plots. Chuncung’s regulations include a clause regarding valuable land-based resources such as stone mining (stone, gravel and sand) allowing “owners” (meaning hereditary rights holders) to extract from their land but forbidding “members who access land with random selection method [to] do the same” in *lopil* (Ewers Anderson 2015: 87). Nonetheless, any permanent cultivation plot falling under the regime of hereditary land use rights can be transferred as an heirloom to descendants, or sold. This could be applied to other types of land use (including stone mining). On this basis, such “valuable” land could escape the village framework and benefit outsiders.

**It is, therefore, crucial to work on securing the land tenure of Hakha Chin villages in an integrated way, without relegating some land uses to the State-based land framework, while considering other land uses and associated rights as fitting a more customary system. Resources of greater economic value (timber, firewood and stone for mining) should be integrated within a village-based secured framework that both guarantees that benefits are shared equally among all members of the community, and protects an already damaged landscape. Only as a second step should collective (whether communal or individual) land tenure be formalized through the existing statutory land framework.**

#### *Recognizing land categories with multiple uses*

Finally, shifting cultivation has to be understood as the whole rotational system with its cultivated fields as well as its fallows. In addition to the diversity of products harvested from the fields of the *lopil* that are “opened” to cultivation, **the fallows are actually a space with multiple uses that can make a significant contribution**

**to livelihoods: they provide grazing grounds for livestock, they bear timber and firewood for household use and a wide variety of non-timber forest products that can be sold or can enrich the household diet. Beyond the fact that fallow land is not recognized by the Farmland Law 2012 as a legal farmland class, a key legal constraint of statutory law is that it tends to recognize only one exclusive use for an area of land.**

#### *Defining the relevant unit for recognition of communal tenure*

A bundle of rights is embedded under the umbrella of an overall communal tenure, which corresponds to the local territory where local people, and their institutions (the council of elders and/or clans’ representatives, or the village administrator) use and manage land and natural resources. In Hakha Chin, this territory seems often to correspond to the village territory. We recognize that these territorial boundaries have been manipulated over time, and may sometimes change, but remain the main territorial reference point. In fact, the village territory corresponds closely to the territorial expression of social organization. **The village level thus appears to be a relevant unit in seeking to formalize land tenure, but this needs to take into account the village’s relationship with other villages.** Indeed, land tenure at village level can also be affected by the mobility of the settlements and the creation of new villages – from households of the existing villages and from outsiders. While many Village Tracts are mono-village, some like Bualtak (regrouping Bualtak, Mang Nu<sup>14</sup> and Nipi), Sakta (Sakta and Zathal), Tiphul (Tiphul and Hairawn) or Loklung (Loklung and Li Chia) comprise several villages. Some are managed under a unique “territory” (Sakta and Bualtak), but others manage land each with their own “territory” within the same Village Tract (Tiphul and Hairawn, for example). We have also seen through the study that **a number of resources, such as water, grazing lands and forests, are sometimes used and managed by more than one village. Hence, work should be undertaken on an inter-village basis to negotiate and define the rights and prerogatives of each in terms of land tenure before starting any work on formalization.**

#### *Avoiding the emergence of new forms of conflicts*

As mentioned above, some village territories encompass other villages so that, when it comes to delimitating the actual area of each village and sub-village, conflicts may arise. During interviews in one village discussing the formalization of village land tenure and associated rules, elders expressed a wish to go back to the system of

14. However, this village was washed away by the 2015 landslides.

tenancy in the chieftain era, and to remain sovereign over their territory including another village, in accordance with the territorial boundaries fixed by the British. **This underlines the necessity to reflect ahead of any attempt to formalize CLS on existing tensions linked to land and resources and to provide conflict resolution mechanisms.** This is even more important to consider when dealing with multiple ethnic groups and sub-groups who have different settlement histories. This includes basic procedures such as proper information gathering and consultations, boundary delineation with neighboring villages, and specific mechanisms for objection.

Conflict risks are not to be underestimated. The experience of the Coopération Internationale pour le Développement et la Solidarité (CIDSE) in communal land titling in Laos has indicated a high proportion of boundary conflicts in the targeted villages (30 percent of cases), suggesting that “initial efforts to define borders are critical” (Ling and Scurrah 2017: 25). These efforts might also include spaces for negotiation as exemplified by the “PLUP fiction” tool which allows communities to explore various scenarios on land use and land management (Bourgouin *et al.* 2011).

#### IN SUMMARY:

FORMALIZATION OF CUSTOMARY LAND TENURE SYSTEMS (CLS) SHOULD INVOLVE:

- I. documenting and registering the tenure shell;
- II. documenting the nature of existing rights under this umbrella without necessarily aiming at registration of each and every individual right;
- III. documenting and registering inter-village arrangements;
- IV. providing space for flexibility and adaptations; and
- V. being conflict-sensitive and planning consultation, negotiation and conflict resolution mechanisms

### ■ 5. Another approach to securing Chin land tenure

**Reflecting at the Chin State level and even at the national level, it seems crucial to consider the specificities of customary land tenure systems, such as the relevant management unit (village or inter-village) and the diversity of land and use of resources.** Establishing rules and regulations and undertaking systematic village

boundary mapping may prove to be costly and cumbersome, particularly considering the diversity of customary land systems across Chin and in Myanmar as a whole. Cambodia’s communal land titling experience was based on this approach and its implementation remained marginal due to many challenges at all steps of the registration process.<sup>15</sup> One may wonder whether the best entry point to protect people’s rights to access land and associated resources would not simply be to tackle the problem in another way. **Rather than formalizing each and every right over land and resources, a more effective approach might be to attempt to define a robust procedure to protect land rights** so that whenever land is requested for external purposes, a systematic verification could be conducted to check whether or not it overlaps with village and/or inter-village spaces, including areas of individual and communal claims. In fact, this recommendation to verify “*whether the lands are in fact vacant, fallow and virgin lands*” is already in the VFV land management rules 2012 (Chapter II) but it has never actually been implemented because there is no clearly defined procedure to verify land claims on the ground. Such an approach has been used elsewhere in Southeast Asia; the Laos participatory land use planning methodologies stem from this idea and aim to protect village lands.

### ■ 6. Land use planning

With the introduction of paddy terraces, the cattle population has considerably increased over the last 40 years, and there is great interest in expanding livestock herds (Frissard and Pritts 2018: 108). Simultaneously, we have shown that villagers are developing permanent gardens and orchards at the expense of previous practices of shifting cultivation and extracting products from forest grounds. The development of livestock will probably continue as villagers seek non-labor-intensive sources of livelihoods, and conflicts with permanent field owners might intensify unless stronger regulation is placed on livestock management. Hence, **better regulations based on land use planning with projections that relate to current livelihood changes could help reduce conflicts and decrease damage to crops.** In addition, the land use planning processes could help to address the huge

15. Since the 2001 Land Law and the 2009 sub-decree on communal land titling, only 19 communities (1,784 households) have completed the process and received land titles covering an area of 16,271 ha (Ministry of Land Management Urban Planning and Construction 2017). This is explained by the fact that communities need to be recognized as indigenous people first by the Ministry of Rural Development and then by the Ministry of Interior, through procedures that are relatively onerous (Baird 2013).



### gaps in perceptions relating to land use between farmers, authorities and NGOs.

Villagers almost never know what the legal categories of land are within their village and how these are recorded by the DALMS and the Forest Department. They also have little awareness about the legal implications in terms of rights and restrictions, including those related to VFV and forest land. Conversely, these departments have no awareness of the customary and local knowledge about land and resource uses and their specific regulations. Consultative land use planning processes could help to reduce such gaps in a dynamic and constructive dialogue toward improved land governance. In addition, as demonstrated in Laos communal titling experiences (Ling and Scurrah 2017), Participatory Land Use Planning (PLUP) processes can provide a basis for issuing these titles. The management plans – which are part of the PLUP process – are considered by practitioners to increase credibility of communal land registration processes in ensuring sustainable resource management and optimal land use.

The local institutions need to be given the tools to manage the territory; a village land use plan and a village fund are two such tools. Empowerment of local institutions is achieved by formalizing the CLS rights over the territory. The village fund – which already exists in Hakha villages – and land use plan are important to ensure that locally generated income from land and natural resource management is spent in an equitable way for the benefit of the village and not just for a few influential people.

## ■ 7. Strengthening local institutions

Local institutions and their representatives (e.g. clans' representatives deciding on *lopil* rotation) take care of the overall management of the common property resources; they also play a role in setting and adjusting rules for individual, household and group-owned and managed resources (no transfer to outsiders, for instance). These institutions exist and are very much alive, although many changes and manipulations can be identified throughout history. Capacity building of these institutions is an essential part of CLS formalization. It is important that local institutions operate on the basis of good local governance practices and democratic principles; the role of the headman seems to be essential but raises some questions: is the headman representing the interests of his people or of the State? How can this be balanced? Since it is important to link local, customary institutions with the State structure at the local level, the role of village administrator is critical.

There is a need however to encourage the consolidation of the basic principles of equity, local accountability and inclusiveness; the elder council and or clans' representatives should at least be part of this process to ensure that these institutions are truly representative of the village.

## VII. Conclusions

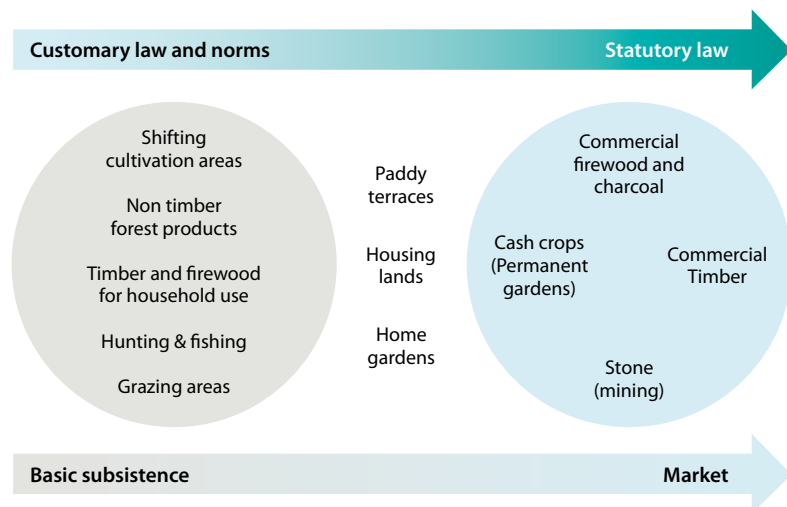
Northern Chin land and resource use and administration continues to be largely within the field of what we term “customary tenure,” but increasingly encounters State systems, especially in and around Hakha city. Customary tenure is intimately shaped by – and helps to shape – land use and resource practices, and hence tends to shift along with these practices.

Our study shows that the weakening of customary land tenure systems – especially in their collective, equitable dimension – through time, does not only relate to the capture of land and resources by the State or elites. It seems in fact that old socio-political organizations are still active in the capture of resources but that elites emerging from this organization have moved from former clan chiefs to religious and State authorities – over the course of 50 to 60 years (1940s-1990/2000s). The stronger grip of the junta on the region beginning in the 1990s revealed new, cronyism-based, elites; yet, the direction in which efforts for capturing resources are concentrated can still be read through the lens of the former socio-geographical division of the Chin territory in pre-annexation days.

Urbanization or peri-urbanization of surrounding villages comes together with State formation and marketization. Urbanization is, therefore, a strong vector in the evolution of the human-land relationship that rapidly challenges existing customary arrangements. The form of communal ownership over land and land-based resources in each village depends partly on historical factors but mostly it relates to their proximity to Hakha. The proximity to Hakha town also fosters differential changes such as the development of permanent gardens providing a better access to the local market. There is, therefore, a distinct geography of land-use transition in Northern Chin, which will lead not only to intra-village differentiation, but also to inter-village differentiation. Migration towards villages that have better access to Hakha market may put more pressure on resources and exert a further impact on how these resources are managed through CLS.

Customary rules and the State-based framework relating to the use of land and land-based resources may cohabit smoothly where the economical stakes are limited. For instance, somebody willing to turn a piece of land into a paddy terrace or a garden would ask the legitimate (customary) holder first, offering customary in-kind compensation. Second, this person would seek the administrator's authorization and possibly proceed with titling. In the case of one watershed, the different letters issued by the stakeholders who were involved put more emphasis on customary agreements that existed between them than on the formal documents produced by DALMS. In that sense, legal pluralism is quite well managed regarding the original agreement with respect to the use of water from the area.

But, as land and natural resources become commodities, customary systems are put under pressure. Land may be directly appropriated by the State or sold to individuals. Conflicting interpretations between customary and statutory law often arise with these emerging financial interests. Individualization of tenure also affects resources that were previously only loosely controlled by the Hakha Chin CLS, because they had no commercial purpose (timber, firewood, stone) at the time. Today, it appears that Hakha Chin communal customary tenure is mainly reduced to the management of multi-use shifting cultivation areas and natural resources for domestic use. In other words, customary tenure applies to the least profitable and non-commercial forms of land use and resources (see figure 18).



**FIGURE 17:** Land uses and main legal framework for administering them

Therefore, the formalization and empowerment of CLS is essential in order to protect local livelihoods, and this becomes even more urgent in the context of urbanization. It is also a necessity in order to solve potential conflicts linked to the appropriation of land and resources by the State and well-connected elites. Reflecting more broadly at the Myanmar national level, recognizing customary land systems is a crucial step towards peace, economic development and social equity.





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Celine Allaverdian



## PERSISTENCE AND CHANGE IN HAKHA CHIN LAND AND RESOURCE TENURE

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