



PERSISTENCE AND CHANGE IN HAKHA CHIN LAND AND RESOURCE TENURE

A STUDY 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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Of Lives and Land Myanmar research series

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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IN MEMORIAM

We dedicate this book to our friend Tin Myo Win, "*saya* Ice"
A bright and passionate researcher
A free spirit
A hilarious buddy
A dedicated comrade
A companion in intellectual adventures

We miss you

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Abbreviations

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

Lai (Hakha Chin) terminology

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

lo:	any plot within a *lopil* (see *lopil*).
lo hmun:	refers to as "inherited plot" in the text, it refers to a piece of land – generally of good quality – in a *lopil*, 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 *lopil* is chosen for shifting cultivation. However, this land is still under communal management and it is generally not allowed to sell, nor rent it.
lo hrawh man liam:	compensation for damaging a farmer's field or garden.
nunau thuawm (in Falam Chin) or *nu thuam* (in Hakha Chin):	the ornaments and clothes the wife brought with her as a bride (Stevenson 1943: 166).
phiang:	pigon pea.
phiang kum:	"pea year". A *lopil* (*lai lo*) 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).
phun; bawi phun:	clan; chief clan.
phun thawh:	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).
satil tlawn ram:	grazing land.
seu:	designates a unit whether of hired labor or barter (also *nihlawhman*).
sia:	mithen (*Bos frontalis*).
siapil:	grazing *lopil* land, often the next *lopil* to be opened for cultivation.
siapil nam:	sacrifice of a mithan to protect the animals about to go grazing in a *siapil*.
thantre (Falam Chin) or *ratum* (Hakha Chin):	a variety of sulphur bean.

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

Burmese terminology

hse eim hmu:	designates the representative of a group of ten households in a village. These representatives elect the village tract administrator.
myauk-Ngo:	*Duabanga grandiflora.*
taung ya:	hill cultivation (see *shway pyaung taung ya*).
shway pyaung taung ya:	shifting (hill) cultivation.
Ya ya ka:	acronym of *yay-ywa-ok-khyup-yay-hmu,* village administration officer under the SPDC.

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A collective shared labor group threshing paddy at harvest

Celine Allaverdian

Executive summary

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 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.

A fenced garden in Bualtak village

Celine Allaverdian

FIGURE 1: Map of Chin State

Adapted from MIMU, 2016

I. Introduction

Chin State, located in the rugged mountains at the western edge of Myanmar bordering India (see Figure 1), is one of the many upland areas of the country where the grip of the central State has been less marked than in lowland areas. Although efforts towards a greater integration within the national "body" took place after independence (1947), when new administrative borders were drawn to encompass the territory known today as Myanmar, Chin State has remained a remote area, characterized by international standards as one of the poorest regions of the country. The opening-up and democratization of the country, initiated in 2011 under President Thein Sein; the on-going out-migration of Chin youth and increasing connections of Chin's economy to national and global markets (Vicol *et al.* 2018); and land reforms (discussed below) raise new questions about the future of land tenure systems found in these regions and land security for Chin people. With a total population of 500,000 (2014 Population Census) for whom subsistence farming is an essential part of their livelihoods, 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 Northern Chin villages. Yet some practices, such as shifting cultivation, also called swidden, 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. Part of a series of studies focusing on peri-urban land dynamics, the research has been conducted in Hakha Town's periphery and nearby villages. As explained in Chapter I.1, the peri-urban setting offers a particularly rich context for analyzing current changes affecting land tenure and for predicting future changes. It is to be noted that in this report, the term "peri-urban" has been adapted to the Chin context. It 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 *et al.* 2016), peri-urbanity in the case of Hakha brings competing land tenure systems to the forefront, in-between State and customary laws. State penetration in the Chin region has intensified since the 1990s, 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. These transformations (commoditization of land, extraction of new resources out of the scope of CLS, among others) have also been exacerbated – or at least became even more visible – due to the last natural disaster that affected Hakha and surrounding villages. This took the form of massive landslides that occurred in July-August 2015 following torrential rains. Severely impacting Old Hakha town,[1] 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, notably by destroying paddy terraces and gardens.[2]

1. These landslides affected more than 6,535 people in Chin State, and destroyed 1,060 acres of farmland in Hakha Township alone (CCERR, 2015): in Hakha Town, around 300 houses were destroyed and many others damaged and more than 2600 people were evacuated to safer areas (http://landslideinhakhacity.blogspot.com).
2. For the whole of Chin State, local media reported that 4,000 houses were swept away and more than 2,000 acres of farmland were destroyed.

The report begins with an overview of the key concepts relating to customary tenure, the context of land reforms initiated since 2012 in Myanmar and how the country deals with swidden agriculture. It also explains what is entailed in a study of CLS in an "urban" area such as Hakha and its surrounding villages.

The second part, mostly based on a literature review, is dedicated to retracing the main socio-economic, political and religious changes that affected North Chin society and land tenure from pre-annexation days to the end of the 1990s. This history demonstrates that customary tenure has continuously changed and adapted to political, ideological, religious, demographic and economic circumstances since colonial times – in other words, that it is not a fixed set of practices or norms.

The third section builds on data gathered through fieldwork in Hakha Chin villages to explore persistence and change in different land uses (including swidden cultivation, permanent gardens, irrigated paddy, and forests) and associated tenure regimes, notably through the process of individualization. To facilitate reading, each sub-section is livened up with synthesis boxes. This part sheds particular light on the fact that Northern Chin land and resources tenure continue to be largely within the field of what we term "customary tenure" but increasingly encounter State-based tenure arrangements. It shows that customary tenure is intimately shaped by – and helps shape – land use and resource practices, and hence tends to shift along with these practices. Then we look more specifically at how urbanization, or peri-urbanization through proximity to Hakha City, is rapidly challenging existing tenure arrangements. We argue that urban and peri-urban settings are a good prism through which to study how State formation and marketization affect Northern Chin villagers' relationship to land.

The fourth section first discusses the implications of the changing agricultural practices and tenure regimes on socio-economic differentiation and livelihoods, and the notion of equity in accessing land and land-based resources. Recommendations for recognizing CLS put the findings into perspective with the State's current land framework, and consider the risks and possibilities for recognizing CLS with care not to romanticize these systems and to limit some of the negative effects that formalization might entail.

1. Presentation of Northern Chin and Hakha region

Chin State[3] is a diverse region encompassing different ethnic groups with their own languages. Although most of them are referred to as 'Chin' (a linguistic family from the Tibeto-Burmese language pool), many of these groups are not able to communicate with each other. Chin State can be roughly divided into North Chin – including the Districts[4] of Hakha, Falam, Tiddim and Tonzang – and South Chin – Districts of Matupi, Mindat and Paletwa (see Figure 1). Northern Chin is more elevated than South Chin. Historically, Northern and Southern societies had little interaction (Lehman 1963: 5). Instead, Southern Chin groups have long entertained close trading relationships with the surrounding Arakanese and Burmese communities. The Northern Chin people have been more distant from the valleys and the societies of irrigated paddy cultivators, from which they probably fled to escape Shan-Burmese warfare in the eighteenth and nineteenth centuries, as did many 'hill-tribes' of the Southeast-Asian massif (Scott 2009: 149). Regarding political organization, Chin societies used to encompass both relatively hierarchical subgroups (especially found in the North and Hakha Region) and relatively decentralized, egalitarian ones (see Chapter II.1).

Chin is the second least populous State after Kayah, and the lowest in population density with 13,3 persons per square kilometer (Department of Population and UNFPA 2015: 11). Hakha has been the capital and seat of Chin State's administration since 1964.[5] Since this date, Hakha town witnessed regular growth, with a population of 25,000 individuals in 2014 compared to 20,000 in 2009;[6] a growth of 25 percent over five years. In 2016, Hakha's urban population was 32,513, making it the District with the highest proportion of urban population in Chin State (Department of Population and UNFPA 2016: 23).

3. The Republic of the Union of Myanmar is divided into seven States and seven Regions, plus the Naypitaw (Union capital) Region. States and Regions are equivalent in administrative terms. However, that States are supposedly dominated by a major ethnic group - for instance Chin in Chin State - while Regions are predominantly populated by the Burman ethnic majority of the country.
4. Each Region/State is divided into Districts, which are sub-divided into Townships. Townships comprise Village Tracts in rural areas, and their equivalent Wards in urban areas.
5. The capital was previously Falam but the administration was located in Kalay Town (cf. Suantak 2012).
6. Chin MFI data

Chin State and in particular Hakha District are affected by large rates of out-migration to other countries, particularly Malaysia (*ibid.*: 36). In terms of domestic migrations, Chin is the State/Region with the highest level of out-migration, with a net rate of -167.7 per 1,000 residents in conventional households (Department of Population and UNFPA 2016: 16). Most domestic migrants are found in neighboring Sagaing Region and in Yangon Region. The Chin State age pyramid consequently shows a considerable reduction in the proportion of the population aged 15 years and above, indicating considerable out-migration of people over the age of 15 years (Department of Population and UNFPA 2015). This also indicates a general aging of the population.

This situation can be attributed to different, interrelated, factors. Chin State is characterized by its very low development rate (of roads, infrastructure, and so on), which makes it one of the poorest States/Regions of Myanmar according to international standards. Off-farm employment opportunities are few, and generally limited to daily wage labor (such as road construction). This reflects a lack of interest from the central government since Chin State, compared with others such as Shan or Kachin, lacks natural resources such as gems and stone. This, in turn, explains the relatively low intensity of conflicts that marked the region under the military governments (1960-2010), although several ethnic armed groups (and notably the CNF - Chin National Front/Army) regularly confronted the Burmese army (Tatmadaw) in the Chin Hills. Chin's lack of highly valuable natural resources and its mountainous and rugged terrain can explain its remoteness, and, in turn, the relatively low pressure on land and associated resources by individuals or companies outside of Chin State. In fact, Chin State is the Region/State of Myanmar with the most equal distribution of land in the country – i.e., under 0.3 acre per household (Ingalls *et al.* 2018).

There has been relatively little interference from large-scale agro-investments or land grabs – a phenomenon from which, in contrast, the Eastern Regions/States of Myanmar[7] have not been spared. This factor makes Chin State Chin State, and particularly Hakha Region, a perfect area for studying the local fabric of persistence and change in land tenure in the context of increased urbanization and penetration of the State.

7. See, for example, Woods (2014).

Due to this diversity, it is difficult to generalize about Chin State as a whole. This report deals with Northern Chin communities in the vicinity of Hakha, and does not intend to represent other parts of Chin State – notably Southern Chin – where contemporary land tenure systems are different from those found around Hakha (see Chapter II.3.2).

2. Studying customary land in the context of urbanization

2.1 Key concepts of customary tenure systems

Customary land tenure in an upland society, such as that of Northern Chin, has to be understood in the wider framework of the relationship between humans and the world (of the living and beyond). Administration of land and resources involves most aspects of social organization and can be considered as a Maussian "total social fact."[8] In that sense, the study of changes and evolutions in Hakha Chin land tenure systems reflects changes affecting the different spheres (economic, legal, political, and religious) of Hakha Chin society. Equally, land tenure cannot be dissociated from other aspects of society. In other words, "under customary law, rights are enshrined in social norms and moral principles, which cannot be so easily isolated" (Lavigne Delvigne 2013).

Most customary regimes throughout the world, as in Chin, draw on the intrinsic relationship between identities and access to land (Jacob et Le Meur, 2010). It is the history of settlement from a founding group that makes it possible to understand the simultaneous construction of territories and political communities, through the integration of new arrivals through the granting of land (Lavigne Delville 2013). In Northern Chin society, this is represented in the "[spirit]-chief-land"[9] relationship (Sakhong 2003: 221), where the chief of a village (or a supra-local realm) receives – as a member of the founding lineage – his power from the guardian spirit of the place (*khua hrum*). The spirit serves both

8. Mauss defined a "total social fact" as an activity that has implications throughout society, in the economic, legal, political, and religious spheres.
9. Sakhong, in his "Search of Chin Identity" (2003), actually speaks of the "God-chief-land" relationship in what seems to be an attempt to merge the conception of a guardian spirit of Chin land (*khua hrum*) with the later introduction of the Christian God. That is why we prefer here to employ the term "spirit" instead.

as a symbol of the chief's legitimacy, and as a source of power to administer the territory (see Chapter II). Administration of the land is not necessarily directly implemented by the chief, and different rights may be delegated to others. The rights of an individual or family group depend on their position in terms of social relations, which can change over time.

Whether these are statutory or customary rights over land and natural resources can best be understood through the concept of "a bundle of rights", i.e., "a set of elementary" rights held by an individual" (Lavigne Delville 2013) such as:

- **ACCESS:**
  to cultivate a plot of land, to have cattle enter on a grazing land, to enter a specific forest area, and so on;
- **WITHDRAWAL/EXTRACTION:**
  to collect timber, tubers or firewood from a forest, to take the harvest from a cultivated plot, to hunt or to fish from a river;
- **MANAGEMENT:**
  to regulate the land's internal use (for example, to decide what crops/trees to plant, how to plant, and so on) and to make improvements to the land (such as building a terrace, digging a well and an irrigation canal);
- **EXCLUSION:**
  to determine who will have the right to access (for example, to prohibit other villagers from entering the land by building a fence, or to allow neighbors and relatives to access your land) and how rights may be transferred (the right to decide how to allocate land to children for inheritance purposes);
- **ALIENATION:**
  the right to sell and lease rights.

Generally, access use and withdrawal rights – as physical actions that are authorized for a specific type of land or resource – are referred to as "operational rights" while "administration rights" (management, exclusion and alienation) refer to the rights to allocate and manage operational rights within the family. People can have different combinations and "bundles" of rights and "levels" of claims as a result of social norms and the history of the construction of these various sets of rights.

These rights are associated with social norms, obligations and regulations with respect to the land and resource use which are inscribed by custom (such as rules covering inheritance) and are managed by authorities and /or collective decision-making processes. This includes functions such as the definition of rules and operational rights, the regulation and enforcement of land and natural resource use, the inclusion or exclusion of individuals or groups from accessing particular resources, and the definition of rules relating to how rights can be transferred. The management is often ensured through a combination of State institutions and customary ones which co-exist and overlap.

It is necessary to emphasize that all of these rights are closely related to social norms and moral principles. Understanding the origin of rights and how different groups of people have obtained them is essential to understand their content, and how they evolve and adapt through time. This also encompasses an understanding of the construction of political communities and the allocation of rights that goes with it. Political communities can be understood as a group of people falling under the jurisdiction of the same political system and its rules, animated by the consciousness of a common past, from which derives a stock of traditional values as well as shared territorial and political interests. This definition works for the construction of a customary realm as in pre-colonial Hakha where the political community was composed of individuals representing different clans who orientate their claims toward the chief who, in return, was in charge of administering land, allocating rights, and so on (see Chapter II.1). With the integration of the Chin Hills within Myanmar, sub-national political communities became embedded within a wider national political system: related claims then became oriented toward the State, with its own rules and regulations, notably for land administration. Therefore, the evolution of customary tenure can be understood through the differential regimes pertaining to interlocked political communities and associated regimes; this could be summarized – at the risk of oversimplifying – as overlapping regimes of tenure between "customary" and "statutory".

2.2 Customary tenure systems and peri-urbanity: the case of Hakha

Customary land tenure is often seen as a fixed framework for administering land and associated resources in an identified community. Accordingly, customary

tenure has long been perceived as unable to adapt to major changes such as the enforcement of State-based land tenure systems (Arko-Adjei 2009). However, many studies show that some aspects of customary land tenure change through time to reflect the dynamic human-land relationship, including: a change from the social value to the economic value of land; a change from communal to individual rights; a change from customary to other forms of land ownership; and changes in land use patterns (Arko-Adjei 2009). The upland peri-urban framework in the case of Chin State and its capital Hakha provides an exceptional, real-time view of this dynamic character of land tenure.

Peri-urban areas can be defined as neither urban nor rural in the conventional sense of these terms, while both urban and rural types of livelihoods coexist. They are found at the periphery of cities, often deemed to be incorporated into urban growth. Peri-urban areas are often spaces in which claims and perceptions are contradictory. They can be at the same time spaces of urban expansion, places where urban dwellers seek cheaper housing, places of extraction for the needs of urban development (timber, charcoal, brick, and so on), and, furthermore, places where rural livelihoods can benefit from the proximity of the city (by accessing markets, for example) (Iaquinta and Drescher n.d., Douglas 2006).

Despite increasing demographic pressure, that is increasing, livelihoods in Hakha are still largely rural, depending notably on orchards, gardens and livestock breeding (see Chapter III.1.4, III.2 and III.3.). Therefore, the main difference between the Hakha urban context and surrounding rural villages lies principally in the types of land use and agricultural practices, and the types of tenure applied to the land. As seen in other parts of the world such as Africa (Kasanga and Kotey 2001, Törhönen 2004), the peri-urban context fosters overlapping land tenure systems, subjected to both customary and State recognition, resulting in complex tenure dynamics. This is especially true where State intervention is prevalent, such as in Hakha, the seat of the government for Chin State.

Finally, interactions between customary and State-based land tenure systems have also to be understood in relation to the evolution of social norms and practices. In that perspective, the peri-urban environment is of particular interest in the context of land reforms (and possible formalization of customary tenure systems), for social change is likely to happen faster there than in more rural and isolated areas.

2.3 Land reforms and legal challenges for formalization of customary land tenure systems

Under the first quasi-civilian government (President Thein Sein 2010-2015), Myanmar undertook a reform in land administration by introducing a new Farmland Law (2012) as well as a Vacant, Fallow and Virgin Land Management Law (VFV Law). The main change brought by the Farmland Law are Land Use Certificates (LUCs), which give land holders the right to legally transfer their land use right through inheritance, sale, rent, mortgage or pawn. As in most countries of Southeast Asia (Vliet *et al.* 2012), the Farmland Law 2012 does not legally recognize shifting cultivation – widely practiced in Chin State – and even states that *"the practice of shifting cultivation, a form of uplands agro-forestry cultivation, should be eradicated"* (Mark 2016: 37). Indeed, the Farmland Law 2012 puts an emphasis on permanent cultivation *and* individual land use rights. Although Article 6.b of the Law refers to collective bodies under the format of an association, pilot projects attempting to register a village as an organization managing its communal lands have so far failed on account of a lack of political will by relevant authorities.[10]

On the other hand, the 2012 VFV Law sets a framework for granting concessions on vacant and fallow land (used or tenanted in the past but without a current user) or virgin land (wild land including nullified forest reserves, and land that was never cultivated) by the Central Committee for the Management of Vacant, Fallow and Virgin Land[11] to companies and individuals.[12] This Law has been described as "[enabling] investors to lease land concessions in 'wasteland' and 'fallow' areas that farmers are using but where local land use rights and practices are not officially recognized" (Woods 2014). This means that active fallow lands under rotational cycle can be legally transferred to private entities since fallow lands (i.e. left unused for more than two years) are regarded as "vacant" and unused. From a broader perspective, most lands in upland regions have not been surveyed by the Department of Agricultural Land Management and Statistics (DALMS)[13] and can thus all be considered as *de facto* VFV lands. The 2018 amendment of the VFV law does not resolve this issue despite the fact it stipulates that customary land is excluded from being VFV land. Indeed, the law does not define what is or is not customary land. Although most of the principles of this 2012 VFV Law are not new and have been taken from the Rules for the Granting of Waste Land (1861) and from the 1991 Waste Land Instructions,[14] the reformist context and the VFV Law 2012 sparked a renewed interest among NGOs (international and local alike) to understand existing customary land tenure systems (CLS) in Myanmar and to explore mechanisms to protect upland farmers through formal recognition under State law (see, for example, Ewers Anderson 2015).

In accordance with what Philip Hirsch describes as the "land titling conundrum" – the dual process that secures people with titles, and makes less secure those without – Myanmar's 2013-2015 land registration process can be considered to have weakened tenure security for lands that were not registered, including those with individual tenure. Titles tend to give new economic value to land, and the market can become "a power of exclusion as it limits access through price and through the creation of incentives to lay more individualized claims to land" (Hall *et al.* 2011: 4). The combined effects of these laws has thus likely been to increase land insecurity in the uplands. These laws also contribute in maintaining the highly centralised land management system in place. This challenges any options for more localized and territorialized forms of land management. In view of the massive land acquisitions that occurred in upland regions through the 1991 Waste Land Instructions, civil society and local communities have been anxious to have their land and resources rights recognized by the State.

In addition, the forest policies, laws and rules give little consideration to local communities and customary systems, since they are based on the principles of State-based management of forests for timber and conservation. The 1995 Forest Policy (p. 17) 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

10. An attempt was undertaken for Cunchung Village (under Hakha Township) as part of the Myanmar Land Core Group activities.
11. Chaired by the Minister for Agriculture following recommendations from various government bodies (see Articles 6-7 of the VFV Law 2012).
12. Although farmers are technically eligible to apply for and receive vacant, fallow and virgin land, in practice the government allocates such land primarily to private entrepreneurs, companies and State enterprises (Oberndorf 2012; Woods 2010).
13. Department of Agricultural Land Management and Statistics, former Settlement and Land Record Department (SLRD).
14. Formally called "Prescribing Duties and Rights of the Central Committee for the Management of Cultivable Land, Fallow Land and Waste Land (1991)".

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 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 in this regard and provides new opportunities for the recognition of customary tenure and shifting cultivation practices. Chapter III "*Changing Land Use by Individual Application*" makes mention of protecting existing land users in local communities from the negative impacts of proposed individual land use changes, including for lands that are under rotating and shifting cultivation and customary cultivation practices (Article 29.d). More importantly, it has a whole Chapter on the land use rights of ethnic nationalities which explicitly states that:

> *"Customary land use tenure systems shall be recognized in the National Land Law in order to ensure awareness, compliance and application of traditional land use practices of ethnic nationalities, formal recognition of customary land use rights, protection of these rights and application of readily available impartial dispute resolution mechanisms."*
> (National Land Use Policy, January 2016. Chapter VIII, article 64)

Moreover, it proposes that:

> *"Reclassification, formal recognition and registration of customary land use rights relating to rotating and shifting cultivation that exists in farmland, forestland, vacant land, fallow land, or virgin land shall be recognized in the new National Land Law."*
> (*ibid.*, article 70)

The State's focus on permanent cultivation can also be linked to historical agricultural policies that favored paddy cultivation and high-value crops for export. As such, subsistence-based agriculture has always been perceived as a barrier to agricultural modernization. Within the National League for Democracy (NLD)-led government, the development narrative based on entrepreneurial smallholder farmer emphasizes fostering links between small farmers and markets through value chains (Vicol *et al*. 2018 p 453).

While there is a need to recognize CLS within a State's legal framework for securing land rights, there is a need for careful consideration of how to best bring recognition to these systems. Indeed, conventional adjudication and mapping processes record static information, and cannot reflect developments that might occur in a society with respect to tenure, value and use of land (Arko-Adjei 2009). Formalization is concerned only with the rights of possession over delimited spaces. Exceptions exist however. Some initiatives, such as in Mozambique, undertook formalization in a much broader fashion, with an important focus on local institutional capacity building (Norfolk 2017). Registering a holder in a nested rights system is tantamount to selecting a given level, concentrating rights on that level to the detriment of others (Lavigne Delville 2013). As an example, collective rights of alienation for a shifting cultivation field can be tinged with individual rights of exclusion. Therefore, any attempt to formalize CLS has to be carefully designed in order to avoid more insecurity.

3. Methodology

A first scoping mission was conducted in December 2015 to select potential research study sites and the specific issues to be addressed by the full fieldwork research, which was conducted during three weeks in January 2016.

The villages were selected in the vicinity of Hakha Town for in-depth study (see Figure 2) during the scoping mission, in consultation with Hakha GRET staff members, as well as local NGOs (Green, Chin Civil Society Network, Karuna Mission Social Solidarity (KMSS), CORAD) who had extensive knowledge about these areas. The choice of Hakha pertains to the fact that the town, as the capital of Chin State, is the most developed of the region and is the seat of the State administration. Therefore, the impact of "urbanity" (bringing customary systems into closer contact with State-based land governance, and accelerated social change) should be more visible in its vicinity. This was also the reason for choosing villages that are the closest to Hakha while providing a panel of situations that was sufficiently diversified:

- Proximity to Hakha town ranging from adjacent to roadside villages highly dependent on off-farm activities to remote villages 23 miles distant (Nipi, Loklung)
- Old settlements (Hniarlawn, Old Sakta, Nabual, Bualtak) and more recent settlements (Loklung, Nipi, New Sakta)
- Diversity of land-use patterns (from communal resource use and shifting cultivation, to more individualistic and permanent uses)
- Diversity of land issues and conflicts (from domestic conflicts to inter-village conflicts)
- Diversity of livelihoods (various on-farm and off-farm activities).

Interviews were also conducted in Hakha Town, including with former inhabitants of Old Hakha and key informants (elders and representatives from the DALMS Township office).

Main research questions and guidelines were designed with the participation of the whole team prior to the fieldwork and refined throughout the study at meetings when intermediary findings were shared among the team. Although focusing on land dynamics, land use and livelihoods, research themes also tackled kinship, social organization, decision-making, religious activities, governance and migration issues. In addition, specific questions about urban-rural links addressed the various flows between villages and Hakha Town and the impacts of urbanization.

During three weeks of research work, the research team was composed of five researchers (two international and three nationals including one ethnic Chin). Each member was backed by Chin staff members from the Chokhlei Organisation for Rural and Agricultural Development (CORAD) for translating and facilitating fieldwork. Each researcher conducted fieldwork independently, sleeping in the field, in line with an anthropological approach, conducting in-depth, semi-structured interviews as well as informal discussions backed by direct observation (such as informal conversations in villagers' homes and villagers' gatherings such as church mass and village meetings).

Main key informants were interviewed multiple times, following a semi-structured interview framework. Findings presented here are the result of 88 workdays of in-depth qualitative research. As a whole, 137 informants were identified

and interviewed (sometimes multiple times), supplemented by a great number of informal conversations and observation. Information gathered during fieldwork was reproduced in written form following reporting guidelines by the national researchers, then analyzed and synthetized in the present report. The literature review was conducted before and after completion of fieldwork.

TABLE 1: Demographic data in studied village

VILLAGE	HOUSEHOLDS (2015)			POPULATION		
	Male headed	Female headed	TOTAL	Male	Female	TOTAL
Tiphul (VT)	150	18	168	378	386	764
Hniarlawn	164	14	178	361	385	746
Nabual	40	5	45	98	103	201
Nipi	28	6	34	61	93	154
Loklung	110	20	130	331	342	673
Hairawn	64	11	75	200	223	423
Bualtak			36	67	72	139

Sources: 2015 data from CORAD and 2018 data obtained in villages

Celine Allaverdian

Villagers winnowing paddy grain at harvest

FIGURE 2: Location of Hakha and the villages studied

II. Historical overview of social change

1. Pre-British Hakha Chin social organization

1.1 Clans, lineages and Chin's expansion/social units

For most human societies, land tenure cannot be examined in isolation from the context of social organization. Yet the main difference between State societies and those without highly centralized power is that, in the latter type, the proximity between land tenure and social, economic and religious organization is even greater. Therefore, to better understand the trajectories of Chin land tenure up to the present, it is necessary to briefly identify the socio-cultural framework in which it is inscribed. This section on social organization builds principally upon the renowned work of Lehman (1963), *The Structure of Chin Society*.

Hakha Chin in pre-British times used to be organized as a hierarchical, patrilineal clan society. A clan (*phun*) is generally said to have been founded by a particular man, associated with some miraculous event, or animal or plant.[15] A clan

15. This, however, rarely if ever associates the clansmen totemically with the animal or plant species (Lehman 1963: 107).

gives rise to different lineages (*chung*) which are, like clans, patrilineal. The difference between aristocratic families (*bawi*) and commoners (*chia*) is related to the individual belonging to a clan and to a lineage. Indeed, in Hakha area, up to the post-independence period (1948 onward), there was a fundamental distinction between the class ranks of aristocrats and commoners, being held hereditarily. Beside this clan-based distinction in class rank, lineages were concerned with status rank, also discussed in terms of *bawi* and *chia*. Status rank was not absolutely hereditary, as, in one clan, different status ranks could be represented, and, furthermore, a higher status could be acquired through marrying a high-status woman. While we may see below that most Hakha Chin refute these distinctions nowadays, it still appears that land tenure and related capture of resources are sometimes influenced by these historical considerations (see Box 5). A high-status rank gave the holder access to most privileges enjoyed by the aristocratic class except for accession to the hereditary function of headman or chieftain.

Status also varied with inheritance through marriage alliances. Indeed, each man was expected to have a major wife (a wife "of full" in her own family)[16] for whom the full bride price has been paid. Sons of the major wife would inherit the father's estate. However, in Hakha Chin society, the rules of inheritance varied – and still do today – from one village to another. We note here that either the eldest or the youngest son would inherit the father's estate, a rule still enforced today. Sometimes there is a pairing system through which the eldest and the youngest inherit the father's estate (Stevenson 1943: 167), and in such cases it is common for the youngest son to inherit the site of the house (Lehman 1963: 80). In this patrilineal system, daughters do not inherit.[17]

Sons of women who are not major wives cannot inherit their fathers' estate if there are sons from a major wife, although they can share indirectly, since the father often settles a portion of his holdings on them during his lifetime. Sons who do not inherit, especially if they succeed in maintaining their rank and status (by wealth other than that provided by their father) often lead to a

16. In other words, a wife who is born from a marriage with a major wife.
17. Although there are some conditions through which daughters can inherit their mother's *nunau thuawm*, i.e. the ornaments and clothes she brought with her as a bride (Stevenson 1943: 166).

segmentation in lineage, as they are in competition with inheriting sons. Sons who do not inherit, and their followers, may split from the network of alliances and social obligations maintained by the sons who do inherit. This is probably one of the reasons behind the establishment of new villages.

A headman used to rule over a village and the associated territory. This is still true today. However, during the pre-colonial period the realm of authority enjoyed by a village fluctuated according to the network of alliances established by the headman and the ruling clan. Headmen having influence over other villages would be considered as chieftains of supra-local realms. Ties between villages may be created through wife-giving and wife-taking relationships, in which the wife-givers were politically superior to the wife-takers. Hakha was such a realm, dominated by the Zathang clan, itself composed of two maximal lineages called Sangpi and Sangte. Sangpi, the elder branch, held hereditary chieftainship of Hakha's immediate satellites, to which the peri-urban Hakha villages under this study belong. Sengte, the younger branch, was given large holdings in Hakha.

However, in contrast to the situation in a centralized administration, headmen remained autonomous even if, in theory, they paid tribute to a chieftain. Indeed, the taxes (on wild game, sacrificial animals, crops, and so on) were paid to the headman and not to the chieftain. In return for the taxes, headmen had to redistribute a portion of their wealth during ceremonies, when the meat of sacrificed animals and beer maize or millet were offered to the villagers. A chieftain would receive a kind of tribute gathered by the different headmen in his realm for the purpose of, for example, maintaining peace with other realms. Hence, despite the supra-local nature of Northern Chin social organization, the village represents the main unit for studying Northern Chin land tenure, a fact reinforced after the annexation by the British (see Chapter II.2.2).

1.2 Customary land tenure

Stevenson's (1937) *Land Tenure in the Central Chin Hills of Burma* is the authoritative source for understanding customary tenure before the British era. The following extract gives the most important features of land tenure in "autocratic" Chin (e.g. Hakha Chin) societies:

> *"The whole of the lands of the village are divided into two or more sections or fields called* lopil*, each of which is cultivated in turn. Plots in these* lopil *are demarcated by lines of stones.*
> *[…]*
> *The right of allotment of land between villagers is vested in the Headman. Sale and renting are forbidden, but individuals have hereditary rights to cultivate certain plots* [what we call "inherited plots" afterward]*, the number being strictly limited to one plot per man in each field (*lopil*). These rights were derived from the original squatters' claims to continue cultivation of the plots cleared by them of virgin jungle.*
> *Persons not possessing hereditary cultivation rights, and also persons whose hereditary plots do not provide sufficient sustenance for a large family, may cultivate for one rotation period any vacant plot they desire, on a nominal payment to the Headman of one pot of beer (*zu*) as 'talking price'. This cannot be regarded a rent as it is only about 1/200th of the total value of the yield. All residents of the village have a potential right of cultivation, as the Headman must provide for everyone.*
> *As regards hereditary titles to cultivate, where a man already in possession of titles over the full quota, that is, one plot in each field (*lopil*), receives a few more by inheritance from a relative, he can exchange, without increasing the number of titles held, any less desirable plots of his own for those of his deceased relative, up to the limit of his quota, and hand over the balance to the Headman, to be allotted as need arises. If any patrilineally related heads of individual families so desire, they have an exactly similar right of selection in order of precedence in consanguinity.*
> *One of the obligations which fell upon holders of cultivation titles on the best plots was that of assistance in kind, to a much greater degree than the ordinary villager, when defeat in war or other calamity rendered payment of communal indemnity necessary."*
> (Stevenson 1937: 45)

Lehman, however, tells us that in Hakha Chin society specifically, landholders are individual households, and that in some villages a few families, only, own

the bulk of the land. This was related to us by elders in Sakta and Bualtak villages, where, before independence and the end of the chieftains' system, land used to be held by a few aristocratic (*bawi*) families. It is, however, difficult to generalize the situation as it varies from one village to another. For instance, the hold of an aristocratic clan depended "to a considerable extent upon the degree to which the headman's family has been able over a fairly long period of time to maintain its wealth and dominance" (Lehman 1963: 77). Lehman states that rents were nominal and did not comprise a share of the crop – although there were also some sharecropping arrangements in place. Much of the wealth accumulated by these landholders was, in fact, indirectly acquired through the bonds created between them and their followers. Indeed, the landholder was "in principle required to allow his debt-bound followers to work on his land rent free" (ibid.: 77). He was also likely to give an advantage with respect to the most fertile plots to his friends and followers, while he had to agree to rent some plots to anyone who asked for a plot of uncultivated land. The rental price was in fact paid only for the first year of opening a *lopil*, in offerings of one brood hen (*arpi*), one brood sow (*vok pi*) and one large pot of grain beer (*zureng-pi*). In fact, the real profits from land ownership did not come from rents but from other privileges associated with:

> *"the right to dispense rented plots and thus secure the loyalty of followers; the right to make one's own fields as large as possible and to make them each year in a new place, even though the rest of the population must keep on using the same fields several years in a row; the right to make one's* lai[18] *fields in any land one owns, even though it is not in the* lopil *currently begin worked by the rest of the village. All of these bring considerable agricultural wealth to the landowner, and wealth leads to further political power and then to further wealth."*
> (Lehman p. 78)

Lehman (*ibid.*:78) also underlines the fact that the dominant position of some households could be threatened by natural events, such as a bad harvest, sickness, the absence of heirs). Mechanisms that allowed the creation and perpetuation of

18. *Lopil* are divided in to *lai* and *zo* fields, the first being "warm", that is of lower altitude, and *zo* being "cold", generally situated on the higher slopes. See Chapter III.1 for more details.

inequalities could be reversed relatively quickly. These autocratic systems have not existed since the post-independence socialist government (see Chapter II.3.1), but transitioned to a more "democratic" system, already in place in the Falam area as Stevenson described it when he was posted there from 1936 to 1938:

> *[In the democratic system] limited right of disposal is vested in the individual, since he can gift his land titles to males of his own patrilineal extended family. He may also inherit cultivation titles over an unlimited number of plots, but these are in effect priority titles, as he may not refuse permission to cultivate to any person wanting a plot which he himself is not using. Sale and renting are forbidden […].*" (Stevenson 1937: 45)

We must stress that even in autocratic Chin groups, the land tenure systems were quite similar in guaranteeing households' access to a plot for their subsistence, while preventing direct profit to be made out of selling or renting one's land.

According to Stevenson (1937: 45-46), a first kind of change that affected pre-British Chin land tenure concerned the "commoditization" (relatively speaking) of land. This change seems related to tribal wars, in which the chief of the defeated village was constrained to offer a payment. Such payment was collected from villagers, and holders of cultivation titles over the best plots were required to put up the major portion. These holders were considered to be materially wealthy, although it was not necessarily the case, especially if such a landholder had earlier performed a feast of merits. It was, therefore, customary for other households to shoulder the payment and receive through the chief one of the plots of the man who would have normally paid. Later on, when it came to marriage, such supposedly wealthy households would not be able to pay the required assets to the spouse family (gongs, guns or mithans), and instead started to offer land plots as the bride price. A consequence was that more plots were added per household than were normally authorized by customary law – the ancestral quota of one plot per *lopil* – and this encouraged those households to rent vacant plots instead of giving them away free for cultivation. The renting of these plots became a general practice, so that the "right of cultivation has been metamorphosed into right of disposal" (Stevenson 1937: 47). This practice of giving plots away as a bride price is still in force in the Hakha area.

2. British rule: Setting the limits, sowing new seeds of change

2.1 Pax Britannica

Following the occupation of the Chin Hills and the promulgation of the 1896 Chin Hills Regulation, the pacification of the region – during which Chin continued to lead internal warfare and resist the British – became a great concern for the British imperialists (Sakhong 2003: 119). When the *Pax Britannica* was finally achieved in the Chin Hills at the beginning of the 21st century, the Chin people realized that there were fewer constraints to accessing land formerly situated too far to be protected from raids conducted by other villages and tribes. Hence, migration towards new lands began, with different tribes penetrating the territory of others (Stevenson 1937: 47 and 1943: 96).

This is likely to have happened in the village of Loklung, which is part of this study, set at the edges of the territory between Hakha and Sakta villages; both being the home of Laimi tribes but with their respective sovereign, and sometimes conflicting, chiefs. According to interviews with Loklung villagers, some families were first sent there in 1937 by one Hakha (Sangte) chief to guard the British outpost on the Hakha – Sakta road. In exchange for their services, they were granted the chance to cultivate on the area's *zo lo*, ordinarily too far to be cultivated either by Hakha or Sakta villagers. Progressively, the settlement grew into a village. Stevenson remarked that the migration into remote lands following the *Pax Britannica* resulted in more individualistic tenure systems, "the squatters aiming at establishing a right to disposal of the lands they have cleared, so that if ever they wish to move again, they can sell out" (Stevenson 1943: 97). Indeed, it was observed in study villages that those which were created more recently (by the end of colonization or in the post-independence period) show a less developed sense of communal tenure than others.

2.2 Fixed village boundaries

Chin society was mainly village-based, but also featured supra-local realms, such as that of Hakha, linking villages through marriage as well as through allegiance and for protection. Hence, when the British imperialists started to administer

the Chin Hills, the "idealized notion of a chief as an official placed above headmen in a neat hierarchy [led the British] to discover such chiefs where they did not in fact exist" (Lehman 1963: 155). The Chin Hills Regulation Act (1896) set a regulatory framework relating to how the British administration and its local government would interact with the Chin customary authorities. It vested considerable power in the local government's superintendents, and defined the powers of the headmen for the territory under their jurisdiction, particularly for the maintenance of order and security, "in accordance with local customs." It also specified that taxes were to be levied on all clans and villages and that any order for the payment of any fine or tax would be enforced. In addition, although the village unit was central in the act, the headman's governance unit was not exclusively defined at village level: "*Where a headman is appointed for a group of villages or clans, the Superintendent may declare the extent to, and the manner in which the headman of the villages or clans composing such group shall be subordinate to the headman of the group*." (Chin Hills Regulation, 1896. Chapter III Article 5.2)

However, the concept of a village – or a realm of multiple villages – with *fixed* boundaries did not exist as such. Villages and associated territories were often moving due to internecine wars, depletion of resources, alliances, and marriages (giving access to land through bride prices). Nonetheless, the British felt it necessary to delimit precisely and definitively the boundaries of villages – as they did everywhere else in their colonies including Burma – for administration (taxation, legislative matters, and so on) and development (roads) purposes. The concomitant step was to administer these villages through headmen appointed by the government (Stevenson 1937: 49).

A long-lasting effect imposed by the British administration was thus to fix the limits of villages, without much prior knowledge of the existing situation, so that "the most accomplished liars often came off best in the negotiation" (Stevenson 1937: 48). For each village, this was mostly done by stating on paper what natural features were serving as boundaries (e.g. rivers and mountain crests) in each direction. Interviewed elders reported that the area attributed to each village also depended on the relationship between the chiefs and the British officers. In other words, the distribution of land among the different villages did not always respect the pre-annexation realities, and some villages were able to obtain more land at the expense of others. This is illustrated in the case of Hniarlawn,

which, according to the villagers, saw a significant part of its original area go under Hakha's territorial control at that time. This seems less linked to Hakha-Hniarlawn rivalry than sanctions from the British toward the Hniarlawn, whose chiefs took a leading role in the 1917-1919 Anglo-Chin war (Sakhong 2003: 159). As a consequence, Hniarlawn inherited a cultivation area allowing for the cultivation of only three small *lopil*, with no more grazing grounds available.[19]

The delineation of fixed village boundaries has also provided a quasi-immutable administrative basis to rule on territorial and land conflicts up to the present day. In other words, our interviews show that villages created after independence are often not fully recognized as such (i.e. sovereign) by villages that have been longer installed, although they may be registered as villages by the General Administration Department (GAD). This is the case of Loklung, which is situated in an area that many Hakha dwellers believe to be their territory. Zathal (which has not been studied as part of this research project) is not considered to be a proper village by Sakta since it was settled between 1940 and 1950 by people who originated from Buan Lung village (see Box 1).

Therefore, when considering the formalization of customary tenure under the current land policy, the alleged relevance of the village unity must be carefully considered on a case-by-case basis.

19. While Stevenson (1943: 32) who studied the Falam area states that "traditionally" one field (*sia-pil*) must be set aside in the rotation for grazing, Lehman who studied the Hakha area makes no mention of such a rule. However, Sakta elders stated that they also had one rotating *lopil* allocated for grazing in the past.

BOX 1: ACCOUNT OF THE BOUNDARY CONFLICT IN SAKTA RAM

Sakta was founded in 1430. The original village was burnt to the ground by the British during the Anglo-Chin war. The village (Old Sakta) was rebuilt in the lower and warmer area of Sakta, on the east side of their territory (Figures 7 and 8) and, according to the local elders, its boundaries were documented by the British in the 1910s. In 1948, some villagers from the neighboring Buan Lung (located near to the west border of the Sakta territory) were allowed by Sakta people to settle on the Western side of the territory: Zathal village was founded (Figure 8). The new settlers were also allowed to open shifting cultivation fields on the authorization of Sakta's customary authorities. Decades passed, the Matupi-Hakha road was further developed and livelihoods became increasingly linked to the outside world. At that time, a significant number of "Old Sakta" villagers moved up to "New Sakta", located along the main road where some villagers from Zathal and Bualong had already moved.

Once, during the 1990s, Sakta villagers discovered that Zathal villagers had submitted a request to the Hakha authorities to be registered as a separate village with specific boundaries. This was allegedly done without any discussion and without any prior information being given to Sakta villagers. In response, 200 Sakta villagers marched towards Zathal and set a boundary stone to ensure that the historical boundaries of "Sakta Ram" were remembered (see Figure 3). The conflict escalated to the State level. The case was finally closed when Chin State authorities declared that the British boundaries, as recorded in the Chin Hills regulations, were the ones to be legally recognized.

In accordance with our discussion with elders, it seems that Sakta's attachement to their territory is more symbolic. There are limited economic interests since Zathal villagers are "allowed" to cultivate, cut timber and build terraces and they do so without any retaliation from Sakta. However, Sakta authorities perceive that they are still the legitimate authorities, notably to solve any potential conflicts between users within this territory.

Celine Allaverdian

FIGURE 3: Among the family pictures, one featuring Sakta Ram's boundary stone which was erected as a reaction to Zathal's attempt to become a separate village in the 1990s

3. Individualization of society, and land tenure, through independence

3.1 Christianization and new resource distribution

The Christianization effort can obviously not be separated from colonization processes, since the *"main characteristic of the American Baptist mission in Chinram was the 'all-conquering approach' of the mission: conquering their political institution, changing their social structure, transforming their worldview and converting their religious beliefs and ritual systems"* (Sakhong 2003: 121). The conversion, which took some time among the Chin, intensified after the end of the Anglo-Chin war and lasted through the 1960s. It changed the whole society. The animist "spirit-chief-land" relationship meant that chiefs also drew their hegemony over land

through the spirits – those that protect the village and the land, those having influence over agriculture, and so on. With the progressive abandonment of such beliefs, the tribal chief had no more legitimacy. The figure of the chief was cleverly replaced by the missionaries, who called themselves *Bawipa* and *Bawinu, "the titles for Chin chiefs and their paramount wives, to show that they were the new lords of the land like the colonial officers"* (Sakong 2003: 121). Therefore, some chiefs – also because they were required to be able to read and write – sent their children to missionary schools in order to maintain their position. However, most of these students came back converted to Christianity and often served as pastors rather than shouldering the headman position. It is noteworthy that, according to our interviews, the first Hakha Chin pastor was also administrator in 1948, illustrating the progressive transfer of political power from tribal chiefs to pastors. Political power also encompasses power over access to resources. Religious leaders, who regularly moved through the Chin Hills and to the Burma plains, have often been vectors for the introduction of new cash crops (for example, fruit-trees, coffee and grape vines) and paddy (see Chapter III.2). The introduction of new crops such as these was also perceived to be "civilizing", and a new form of "symbolic power" for the religious leaders and officials.

When it came to the relocation of Bualtak village to its current place at the beginning of the 1990s – as seen above, Chin villages are always mobile, even if it is in the same "village territory" (*khua ram*) – the then pastor took a leading role *against* the village administrator of that time. While most households (about 40) and the pastor were willing to move to the new place, roughly 20 households and the administrator wanted to remain in the previous one. After most households moved to the current Bualtak location in 1996, the village administrator sent a letter to the Township administrator to denounce the unapproved village shift. Villagers reacted by sending a letter showing their support for the pastor, and the administrator was dismissed. The latter and "followers" eventually went to found Nipi village two years later; a radical move from their previous stance.[20] In terms of access to resources, religious leaders also have a role in capturing access to land, as in the case of Loklung where the Baptist church claimed a large piece of land supposedly for grazing cattle in support of a religious welfare fund, or even in Bualtak where the church chairman cultivated 6 acres of permanent

20. See Chapter IV.2 on underlying reasons for moving to Nipi.

garden and about 200 banana trees. In Nabual, elders said that, in the post-independence period, pastors used to be favored with the most fertile plots of the cultivated *lopil*, although this is no longer the case. The instances of land confiscations and resource capture in Hakha under the SLORC[21]/SPDC[22] era also clearly illustrate the role of religion in creating new elites locally that would, in turn, contribute to modifying the human-land relationship in peri-urban Hakha (see Box 8).

Christianization can be seen, in some instances, as a unifying identity among the diversity of Chin groups (Sakhong 2003) and as a way for them to stand as equals with other religions, especially Buddhists, and with the Burmese (Lehman 1963: 219-220). However, at the village level, Christianity has acted, instead, as a vector of atomization because of the diversity of congregations present in the villages. Though the Baptist church remains the major congregation in and around Hakha, Roman Catholic, Adventist and numerous other denominations (often split from bigger ones) are also present in the villages. The ability of a family to choose different support networks in villages where religious, social and labor divisions become ever more numerous, is of prime importance and explains why every care is taken to protect capital (to cover the cost of building the house, children's education, and so on). Thus, the choice of churches is more often related to social and economic considerations than to ideological and spiritual ones. Poor families, who are rarely among the founders of a new church, generally change congregations, hoping that the limited contingent of poor families among the members of the new church may allow them to receive more concentrated and abundant support (Danel-Fédou and Robinne 2007: 115).

3.2 The end of chiefdom and rise of the Yayaka: defining a new land tenure system

Since the promulgation of the Chin Hills Regulation in 1896, and despite the fact that it authorized village headmen to "levy from such clan or village any customary dues and impose on them such punishments as are authorized by local custom" (Chin Hills Regulation, 1896, Chapter III, Article 6.2), the power of the

21. State Law and Order Restoration Council (1988-1997).
22. State Peace and Development Council. (1997-2011)

traditional Chin chiefs was eroded so that they gradually lost their hereditary right to tax their domain villages, including the religious tax used for sacrificial ceremonies (Sakhong 2003: 130). The appointment of village headmen, in fact, required the consent of the British government and they could be removed by the Superintendent. Hence the whole Chin socio-political system was downgraded in the eyes of the Chin themselves. This was one of the rationales behind the 1917-1919 Anglo-Chin war (Sakhong 2003: 105). So even though the Chins were defeated again in 1919, the British government decided to restore the chiefdom system. However, the end of the war saw a faster development of Christianity (see previous Chapter), notably due to the promulgation of the vernacular as the language of instruction. In general, chiefdom as a social, religious and political system was losing ground – its authority diminishing in the eyes of the young people, who had converted to Christianity.

On the 20 February 1948, the chiefdom system was voted down not only as a vehicle for choosing parliamentary representatives, but also as a means to administer the Chin Hills. As summarized by Sakhong (2003: 221), "it was the end of the structural and functional pattern of traditional Chin religion, which had functioned as a unitary pattern of *god–chief–land*". Together with the development of Christianity, the first field of social relations to be affected was the one relating to the redistribution of wealth through ceremonial events normally held by the chiefs. Indeed, with no more taxation, the chief could no longer perform large sacrificial rituals, like the "feast of merits".

In some villages studied around Hakha (Hniarlawn, Bualtak, Nabual, Tiphul), elders said that, after the end of chiefdom following independence, farmers generally had to pay a tenth of their harvest to the landholder (generally the headman or an aristocrat). While this is not consistent with Lehman's findings on the Hakha region (see Chapter II.1.2), it complies with the demands of Christianity that every household should pay one tenth of its production or income as a "tithe" to their church. It is not clear whether the "rental" fee for shifting cultivation was actually one tenth or whether this has become confused with the Christian tithe. Nevertheless, it may again point to the individualization of the society in this transition period. We saw (see Chapter II.1.2) that in the pre-British period land claims functioned on "the simultaneous construction of territories and political communities" (Lavigne 2013), that is, the bulk of the land and of the large

livestock was retained by a few aristocratic (*bawi*) families, although they did not manage these resources by themselves, and land rents were more symbolically than economically significant. Elders (such as in Sakta) reported that the rent had not always been a portion of the harvest and this was a fixed contribution to the aristocratic landlords' family food needs, so that the sum of all tenants' contributions would cover all their food needs for the year. However, through the transition toward independence, this system lacked the more inclusive "chief-spirit-land" framework of the pre-Christianization era that guaranteed redistribution of wealth to the whole village. Hence it may be that in this transition period (the end of chiefdom, and the advent of Christianization), land tenure systems experienced an individualization process as they adapted to new social and political norms. Indeed, commoners (*chia*) still had to pay rental fees to original land holders until 1953, the date of the Land Nationalization Act. Therefore, contrary to what we may think,[23] the customary management of village land was affected by this central policy in the following decade. With the Land Nationalization Act 1953 followed by the Tenancy Act 1964 and Tenancy (Amendment) Act 1965, landlordism was abolished in Hakha Region.[24] This was not the case throughout the whole Chin State, as there is current evidence that in Southern Chin particular clans still "own" (according to customary law) the land and there are those who do not have to pay rent to access it. It is also possible that villages closer to Hakha and other towns might have been influenced more rapidly by central State policies than was the case in villages that were more remote.

With the advent of Ne Win's socialist regime in 1962, chiefs and aristocratic (*bawi*) families were comprehensively excluded from their privileged, sacred relationship to land. From rulers of a *khua-ram* (village territory and all its resources including spiritual ones), village headmen became mere administrative authorities, especially under the Ne Win government. Political centralism had the effect of depriving local headmen (the *yayaka)*[25] of the budgetary resources necessary for the development of collective infrastructure and the opening up of villages.

23. Mark for example states that: "Even when the 1953 Land Nationalization Act was passed, which nationalized all land under the name of the state, the actual land tenure practices in Chin State were not affected" (Mark 2016: 144).
24. It is noteworthy that while the nationalization process of all land and the efforts to abolish tenancy in Myanmar failed in the Burmese lowlands, i.e., where there was much at stake, it fully succeeded in the framework of Hakha Chin customary land tenure.
25. *yay-ywa-ok-khyup-yay-hmu* in Burmese.

From acting as hegemonic rulers of their village, village headmen turned into "State brokers," representing both central government and villagers. As villagers' representatives with little power to act for the development of their own village, but also caught in the middle of fights with the central government and the Chin National Front (CNF), the village headman role shifted from being a prestigious position to one that was more uncomfortable. Hence, from 1962 to the newly elected NLD[26]-government of 2016, the *yayaka*[27] often held an unenviable position, and in many village headmen had to be appointed by holding a lottery among villagers.

3.3 The post-independence period: redistribution of powers and increasing State interference

In place of the integrative "spirit-chief-land" relationship, that mostly drove the flow of resources and the way they were shared, the different spheres of power were redistributed among the new local figures. "Taxes" once collected by the chief were transformed into the tithe due to the influence of the church. Yet, in contrast to the redistribution of wealth taking place through ceremonies such as the "feast of merits",[28] churches tended to concentrate most of the collected wealth at the congregation level and the redistributed "wealth" was principally of a symbolic nature: believers acquired merits. Furthermore, village headmen (*yayaka*) were deprived of a budget as they could not collect taxes anymore. Hence, the symbolic and political powers were divided between the church and the headmen, respectively. However, the power of headmen was administrative rather than political, and they had limited scope to make decisions. However, as village representatives, they did gain greater proximity to officials from the central government, which was a distinct advantage. This tendency was reinforced by the geographical proximity of villages with Hakha. This had a certain impact on resource management, which is well illustrated by the case of Loklung Village (see Box 2).

26. National League for Democracy.
27. Also called village headman and later transformed into Village Tract administrator.
28. "The sacrifices and the redistribution of wealth to which [these ceremonies] gave rise act as an amplifier of social ties, giving official recognition at once to the intra-clan solidarity, matrimonial alliances, the rights and duties of everyone" (Danel-Fédou and Robinne 2007: 37).

At the same time as the sense of belonging to a clan was being diluted as a result of looser religious affiliations, wealth found new directions in which to flow, with access to new services such as schooling, health (sought outside of the influence of shaman), and so on. Besides, money progressively assumed greater importance as a local medium of exchange. As Stevenson explains (1943: 101):

> *"Though it was inevitable, I think it can be said truthfully that when [the] Government annexed the Chin Hills it had to inject cash into the then existing subsistence barter economy mainly in order to make the payment of taxes possible. The early administrators had no means of coping with taxes paid in the local "goods," mithan, pigs, chickens and* seu[29] *of iron, and so they had first of all to introduce money by giving paid work to the people, and then to collect it again in tax."*

The monetization of the Chin Hill's economy had deep repercussions on all matters of society and notably in the outcomes sought from agriculture. While North Chin's economy – contrary to that of Southern Chin –[30] was not one of subsistence (Lehman 1963), agricultural outcomes were mainly used for self-consumption, barter, and tax. With the introduction of money and new needs, as well as with the loosening of clan ties and the chief's authority, the function of agriculture moved progressively toward becoming an income-generating activity from which profits were mainly handled at the household level. Until the 1960s, individualization of land tenure led families in some villages to work their plot independently from the *lopil*'s rotation scheme (Danel-Fédou and Robinne 2007: 69), as was confirmed in Hniarlawn and Nabual. In addition, the previous collective labor-sharing systems[31] (*thathunh*) used for all operations relating to shifting cultivation (from the initial slashing to the final harvest) gradually disappeared and were replaced by family labor or even hired labor arrangements. This can be related to the weakening of a chief's powers. However, it is interesting to note

29. *Seu* designates a unit whether of hired labor or barter.
30. Lehman (1963) puts an emphasis on the difference between Southern Chin closer to the plains and Burmese settlements, and Northern Chin communities who had to cross a greater distance to reach the plains. According to Lehman, this fundamental difference led to the development of a more elaborate system of social gradations, trade, technology, capital accumulation, and political organization, as well as more permanent types of settlement. Southern Chin communities, on the contrary, because of their proximity and steady availability of goods produced in the plains, show much less elaborate socio-political and trade systems.
31. Each household accessing a plot in the *lopil* would need to contribute one man to the *lopil* labor group.

BOX 2: LOKLUNG: AN UPROOTED VILLAGE IN HAKHA CHIN'S HISTORY

Loklung's first settlers were sent by the Hakha chief in 1937 to guard his land. They obtained use rights through sharecropping but no permanent claim on land. For this reason, Loklung lacks a system of inherited plots as found in older villages, therefore individual claims on land are not embedded in the customary communal management of *lopil*.

When Loklung was established as an independent village after Myanmar's independence, the chiefdom system was abolished and land managed communally. However, Loklung was never recognized as a proper village under Chin customary political and administrative division of the territory as mapped by British cartographers. Hence, up until the present, Hakha people still consider Loklung as part of their territory. It is said a map defining Loklung's territory once existed but was "lost" in Hakha administrators' hands. In the 1970s, under the Socialist Party Council, the current chairman's grandfather built his house even further North of the first drawn boundary of Loklung to establish a peach and apple wine farm. The agriculturist then received a prize from the government and obtained a registered brand for his products. From then on, Loklung's boundary was extended to include his wine factory. This gave rise to Hakha's complaint in the 1990s that Loklung was stealing its land, as planning for the National Students' Games (1998) began. Loklung was designated as the main source for timber supply to build the stadium. Timber developed at the same period as a lucrative trade for few merchants based in Hakha and Loklung. Later, during 2005-6, the then administrator organized the sale of housing land located between the first village boundary and the wine-maker's farm. Other plots were sold by Loklung administrators throughout the 2000s, including gardens and grazing land (from 1 to 8 acres). Some were even sold in the designated watershed forest area. Loklung's peculiar history, an "orphan" village, explains the quasi-absence of customary tenure over most of its land and resources. There is no functioning communal *lopil* system in the village. Loklung villagers have also been affected by herds of mithans that have intruded into their village and damaged plantations (see Box 5).

that the Tenancy Act 1964, and the overall process of nationalizing agricultural lands and the socialist regime, along with the end of chiefdom, promoted a more democratic management of the *lopil*.

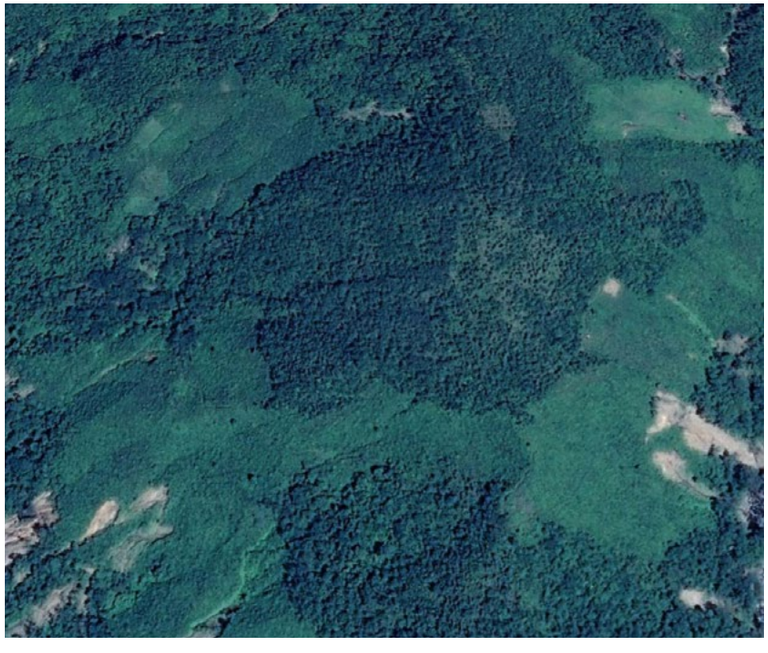
Further changes happened in the course of the 1990s, after the advent of the SLORC regime, and with the *"steadily increasing day-to-day domination of the junta"* (Callahan 2007: 39). These were purportedly to counter the growing presence of the Chin National Front (CNF) in the region, but were more likely initiated to gain "access to natural resources, key border areas and evolving trade routes" in the area (ibid: 59). Opium eradication programs were launched in the area,[32] and by the end of the 1990s roads were being improved in all directions from Hakha.[33] Besides military deployments (Callahan 2007: 39), nationalization also took place through events such as the Annual Students Sport Festival, which was staged in Hakha in 1998.[34] New work opportunities in the city, a growing pressure on an already weak economy and a tense military situation between the government forces (Tatmadaw) and the CNF led many villagers to migrate from villages and to settle in Hakha (as in the case of Tiphul),[35] and also to seek job opportunities in third countries (Kyin Lam Mang 2015).

All of these changes have to be taken into account in order to understand the current situation in respect of land tenure and how land dynamics are shaped by a constantly evolving context. Chin land tenure must still be acknowledged as a complex set of intermingling regimes of tenure, adapted to the context, a situation that we will now describe in detail.

32. Burma press summary – The working people's daily – Vol. V, No. 1, January 1991. http://www.ibiblio.org/obl/docs3/91-01.txt
33. News from Indo-Burma border. 12 March 1997. http://www.burmalibrary.org/reg.burma/archives/199703/msg00532.html
34. The BurmaNet News January 11, 1998. Issue #909. http://www.burmalibrary.org/reg.burma/archives/199801/msg00161.html
35. The headman of Tiphul in May 2006 and many other Chin headmen were arrested in connection with the presence of the Chin National Army the same year (http://www.ibiblio.org/obl/docs4/Chin-docs.pdf: 53-54).

Celine Allaverdian

Mother and child in Hniarlawn village



Google Earth 2017

FIGURE 4: Shifting cultivation area (in Sakta village)

III. Persistence and change in land tenure

We deal in this chapter with different land uses and associated tenures. While it does not cover the whole set of legal and actual land uses, for example religious or village land, the chapter focuses on the land uses linked to the the main livelihoods and natural resources of Northern Chin. We can see that these resources have evolved through time, notably through the commoditization of land (see III.5).

One key feature of upland land use is often the multiple purposes to which land is put. Indeed, an area assigned for shifting cultivation includes the fields which are actually cleared and cultivated at a given time for one to three consecutive years, as well as the fallow "temporary" shrub lands and forests which may be used for grazing (e.g., the year before a new *lopil* is cleared), and extraction of firewood and of non-timber forest products. 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 a land.

1. Shifting cultivation land

1.1 Shifting cultivation and change of agricultural practices

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: its major part is divi-

ded into *lopil* (fields) which represent the village-level unit of cultivation (see figure 7). In each *lopil,* households cultivate a plot (*lo*), whether decided by lottery, chosen by the household head and sanctioned by the headman, or farmed according to one's "inherited plot" (*lo hmun*).[36]

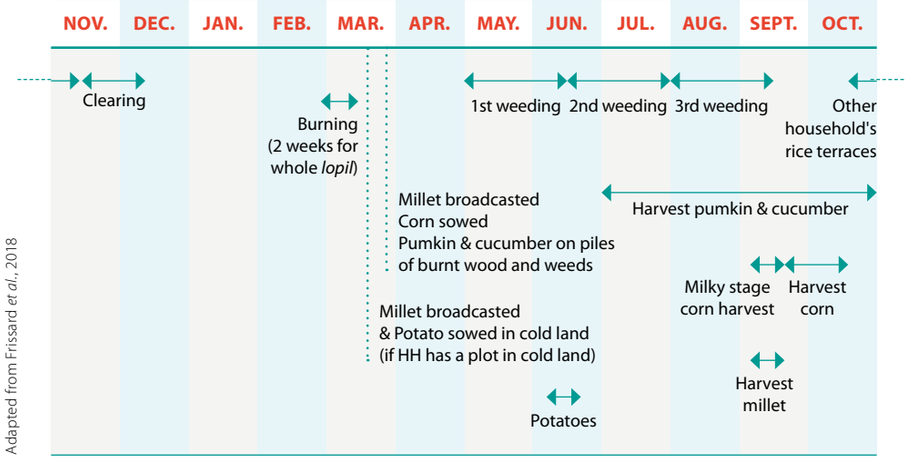
The number of *lopil* and number of consecutive years of cultivation for one *lopil* vary from one village to another with great diversity (see Table 2 below), depending on the demographic pressure, the fertility of the land, the area of land available for shifting cultivation and the crops cultivated. Rotation periods also vary with the type of *lopil* itself. Chins distinguish *zo lo* from *lai lo,*[37] which can be approximately translated[38] as "cold" and "warm fields", respectively. *Zo lo* are situated at a higher altitude (above 5000 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 (one year generally) than *lai lo* – the latter being cultivated one year only in the 1950s (Lehman 1963: 54), and from one or two years (and, more rarely, for up to three years) today.

VILLAGES	DETAILS OF ITS SHIFTING CULTIVATION SYSTEM
Chuncung	17 *lopil* (8 *zo lo*, 9 *lai lo*)
Loklung	shifting cultivation stopped in the 2010s due to interference from livestock
Nabual	3 *lopil*, 3-year rotation (1 year per *lopil)*
Hniarlawn	3 *lopil*, 9-year rotation (3 years per *lopil*, with the first year in "pigeon pea year" (see below)
Nipi	no *lopil*
Sakta	8 *lopil,* 9-10 years fallow. Cultivation for 1 or 2 years (based on *lopil* fertility)
Bualtak	6 *lopil* (3 affected by 2015 landslides). Some still practice shifting cultivation but on an individual basis (no collective *lopil* system)

TABLE 2: Summary features of shifting cultivation in studied villages

36. An "inherited plot" refers to a piece of land – generally of good quality – in a *lopil,* that was cultivated by one's ancestors, in respect of which use rights have been transferred in inheritance. The heir has "priority" to use this plot where the *lopil* is chosen for shifting cultivation. However, this land is still under communal management and cannot generally be sold or rented out (see Chapter III.1.2)
37. In Sakta, which has a specific Sengtang dialect, warm lands are also referred to as *chin ram*.
38. For a discussion on the broader meaning of *lai* and *zo*, see Lehman 1963 p. 53-55.

The agricultural cycle starts with the opening of a new *lopil*, generally covered with trees of medium to 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. On *lai lo* lands, crops are sown in May with maize (and now much more rarely with millet or upland rice).[39] If it is a "pea year" (*phiang kum*, occurring every three years),[40] pigeon pea would be sown as the major crop. 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. In *zo lo*, crops such as potatoes are grown (see Figure below).



Adapted from Frissard *et al.*, 2018

FIGURE 5: Agricultural calendar of current shifting cultivation cropping systems

The "ancient" staple crop in the north would have been millet (*faang*), as it was the only crop linked to rituals at various stages of the cultivation period (Lehman 1963: 57, Stevenson 1943: 35). Millet, as a staple crop, had already been replaced by maize (*fangvui*) at the time of Lehman's study, although millet and upland rice

39. In contrast to the situation in 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.
40. This year had traditionally "mythical sanctions and taboos ensuring that peas are always planted in a peas year" (Lehman 1963: 61).

are still grown. Already, "*millet as food [had] not the prestige of rice, though many people prefer it for its flavor*" (*ibid*.: 57). According to Stevenson (1943: 35), the full list of the staple crops cultivated in *lopil* used to be as follows: rice (*facang*); three varieties of millet (*faang*); maize (*fangvui*); two varieties of sulphur bean (*thantre* and *busul*); a type of pigeon pea (*phiang*); and black runner beans. The subsidiary crops were: broad beans; pumpkins; melons; taro; sweet potatoes; English potatoes; and gourds of various kinds. Various spices and condiments including turmeric (*Curcuma longa*) and roselle (*Hibiscus sabdariffa*) grow on the margins of the swiddens. The succession of crops and the duration of consecutive cultivation years in one *lopil* also depend on the type of *lopil* (*zo-lo* and *lai-lo*). *Zo lo* are never planted with rice, but mainly with maize and potatoes.

The duration of cultivation within the same *lopil* can vary from one to three years (see Table below). Some Chin villages (e.g. Hniarlawn) tend to align the shifting cultivation cycle and the opening of a new *lai* field with a "peas year". Other villages with enough land have reduced the *lopil* cultivation time to one year to reduce the growth of weeds and therefore the labor needed for weeding. The average area farmed by one household in shifting cultivation generally varies from 1 to 2 acres (for those who do not have paddy terraces) but may be more if the household is larger and has more available labor.

	CROPS	Nb of HH
Year 1 (pigeon pea year)	Pigeon peas, corn, millet, Chin sesame, vegetables	50
Year 2	Corn (on most fertile plots)	30
Year 3	Corn (on most fertile plots)	12
Year 4 to 9	Fallow	

TABLE 3: Crop rotation within the *lopil* (example of Hniarlawn)

According to U San Thein (2012: 50), shifting cultivation provides for only three months in a year for most households in Hakha area, although that depends of soil fertility and household size. According to the same author (*ibid*.: 19), in some villages in the Hakha area (Zathal, Tinam, Tiphul) the production of maize per acre has decreased 1.2 to 1.6 times during the past 20 years,[41] as soils have become progressively impoverished as a result of shorter fallow periods and

erosion linked to local timber and firewood exploitation. Other data from the same author collected in villages in Falam Township, however, show that with the use of fertilizers, the average yield can be substantially increased (*ibid*.: 21). However, such data on yield needs to be viewed with care since in such cultivation fields, maize is not planted alone but in association with many other crops. Frissard and Pritts (2018) point to the simplification of shifting cultivation systems through time, with reduced diversity of cereal species (drastic reduction of millet and disappearance of sorghum and "*mung*") and varieties, as well as fewer farm operations conducted in the fields.

In the 1950-60s, it seems that shifting cultivation and home gardens generally provided enough to cover annual household consumption and that food shortages were rare, and even "artificial" (Lehman 1963: 57): even if "*there may be enough vegetables [...] a family will not eat many in the absence of grain*". It must be said that, until now, Chin villagers could rely on wild products (tubers or game animals) or secondary cultivated products (sulphur beans and taro, for instance) that, although not highly regarded, could form a basic diet. However, household needs *and demand* changed over the years, together with the monetization of exchanges in the hills. As noted above, rice gained in importance in the post-independence period although it had not been unknown as a dry-field crop. Interviews suggest that Northern Chins started to eat rice widely from the 1970s at the expense of millet and maize. In the meantime, shifting cultivation was no longer the only mode of agricultural production. Permanent gardens (*dum*) and irrigated paddy terraces developed in the bottom of the valleys (see Chapter III.2.1), hence reducing available surfaces of *lopil*, and especially "warm" fields – *lai lo* – that were most suited to this type of agriculture. In addition to staple crops, Chin people started to cultivate more cash crops under shifting cultivation, such as pigeon peas, bananas and ginger. A very recent phenomenon is also the cultivation of elephant foot yams. These were already present in the wild but traders with links to the Chinese market have been coming to villages since 2015-2016 to encourage farmers to plant these.[42] As this crop requires shadow, it is grown within the forest in new plots and is creating what could be called a new agro-forestry "front" within communal forest lands and shifting cultivation areas.

41. Maize production in these villages varied from 375 to 600 kg/acre 20 years ago, down to 234 to 500 kg/acre in the same villages.
42. A similar process is taking place in Southern Chin where elephant foot yams began to be cultivated widely after 2010 (Vicol *et al.* 2018: 458).

Highlight

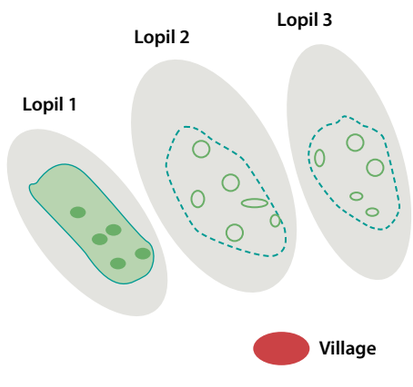
SHIFTING CULTIVATION: FROM SUBSISTENCE TO COMMERCE

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 production of products directed principally to the Hakha market. Therefore, the apparent low productivity of shifting cultivation and its incapacity to produce staple crops for the yearly consumption of the whole household has to be put into perspective: 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 in any case provide for the household's entire annual consumption. With the developmentof new permanent farming practices, interviews pointed to a gradual decrease in the number of households involved in shifting cultivation each year in most villages. In fact, there is a direct link between the distance of the village from the town (e.g., Hakha or Falam) and the percentage of households engaged in shifting cultivation. For example, rates vary from 0 percent to 10 percent in the villages closest to Hakha such as Nipi, Bualtak and Loklung, and up to 60 percent in villages farthest away, such as Phaipha (three to four hours' drive from the town). However, following natural disasters (such as the 2015 landslides that affected Hakha Township on a large-scale) or economic crises, shifting cultivation is the most readily available agricultural source of income, and it does not necessitate inputs apart from seeds and labor. It is also an essential resource for the poorest households who have no access to paddy terraces and other permanent fields. As a consequence, shifting cultivation cannot be considered marginal. The practice 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.

1.2 "Communal" and "hereditary" plots, a nested rights system

Shifting cultivation's tenure follows the precepts described in Chapter II.1.2: the whole area is divided into fields (*lopil*), which are then divided into plots (*lo*) cultivated by a household. Rotation is conducted between the different *lopil* of the village. Some plots, known as *lo hmun*, are held hereditarily or through marriage by a household, who subsequently has privileged access to these plots if they are located in the currently worked *lopil* (see Figure 6). One individual may have several inherited plots in one *lopil*, but not necessarily one plot in each. Independently from the number of plots held in one *lopil*, the household may not claim more than it can actually work, and tenancy is not allowed. Unused inherited plots fall in the communally managed area for the *lopil* cultivation period. This area is distributed among households settled in the village either through lottery (Chuncung, Nabual, Hniarlawn, Tiphul) or by being chosen by each household head after clearing the *lopil*. In the latter case (Bualtak, Hairawn), the choice is validated during an assembly by the village administrator, generally advised by a council of elders. In some villages (Hniarlawn, Tiphul and Hairawn) elders represent each of the village's main clans. In others, they are the "10 households' representatives" (the Burmese *hse eim hmu*). Households not living in the village do not have access to shifting cultivation plots. Every household settled in the village is given access to a plot. Likewise, any newly settled household can claim access to a plot.

FIGURE 6: Example of a shifting cultivation system (as in Nabual village)



KEY

- Perimeter of the *lopil and fallow area*
- Cultivated area – plots from communal area are allocated by lottery
- *Lo hmum:* inherited plot, with individual use right for shifting cultivation

	Year 1	Year 2	Year 3
Lopil 1	cultivated	fallow	fallow
Lopil 2	fallow	cultivated	fallow
Lopil 3	fallow	fallow	cultivated

According to some interviewees, the recourse to a lottery method instead of direct choice by the households for distributing plots in a *lopil* may pertain to the greater demographic pressure on land, as well as a greater variety in the quality of the plots within the *lopil*. This is consistent with the fact that Nabual and Hniarlawn, both of whom practice the lottery method, have reduced shifting cultivation areas. However, in Tiphul, this makes little sense as the population has drastically decreased, with about a hundred households relocating to Hakha since 1976. So here, the choice may be related more to differences in soil quality. Independently from the redistribution system, some individuals have prioritized access to the plots of their choice in the *lopil*. This is the case in the first place for the village administrator and the village administrative body (the elders' council) who manage the division of the *lopil* into plots before allocation (Tiphul, Nabual). In some villages, school teachers (Nabual, Sakta) and pastors (Nabual, Bualtak, Sakta) are also permitted to choose their plot before the rest is allocated through a lottery.

Among the *lopil* available to the village, it often happens that plots are situated far away from settlements and are, therefore, not wanted by villagers. Such plots can be temporarily attributed to people of neighboring villages. This was the case in Hairawn where a plot was cultivated by a household from Tiphul. This arrangement is valid during the *lopil*'s cultivation period only and sanctioned through an offering made according to Chin customs. An example might be a bag of sugar and a box of condensed milk. These are paid to the village administrator for a plot located in the communal area, or to the plot's holder for an inherited plot (*lo hmun*).

Communal plots cannot be sold either within or outside the village. Inherited plots can be transferred among villagers for several reasons. A group meeting with elders in Tiphul summed up the different modalities with respect to claims on "private" plots and how they may be transferred:

- Originally, village founders hold claims on the most fertile lands (for instance, the two *lopil* closest to Tiphul village are entirely subject to individual claims);

- Land is given as *phun thawh*[43] to the bride's father on the occasion of a wedding;
- Land is transferred as a "giving name ceremony" present;
- Land is traded, or exchanged for a service;
- Land is simply sold (if the plot holder does not have anybody to transfer it to, for example, as inheritance);
- Land is brought by the bride side as a dowry (*kalh*);
- Inherited land may go back to communal ownership if the original owner leaves the village;
- Land can be added as a present for the "bridegroom's best man" (*kawi*) (reported during interviews in Hakha).

On the whole, administration rights (management, exclusion or alienation) for communal plots are vested in the village community through its representatives (the headman and the elders' council). In most instances, social norms make it impossible to alienate such rights to entities (individuals or groups) outside the village. Operational rights are vested in the household receiving a plot for the *lopil*'s cultivation period.

Nested in this overall system are rights over hereditary plots (*lo hmun*): administration rights are conferred to the household having claims on such plots. However, these rights are only partial. The holder of a hereditary plot can alienate rights through the modalities seen above to other individuals. However, in the rotational cultivation system, the holder cannot claim operational rights over more than one plot per *lopil*; management of the remaining plots is vested in the community's representatives (headman and elders' council).

Throughout history, the overall system changed little. Despite the fact that in the chiefdom era the bulk of the land was in the hands of a few aristocratic families (holding administration rights) who rented plots to others (as it is still the case in some Southern Chin villages (Ewers Anderson 2015, Vicol *et al.* 2018)), we saw (Chapter II.1.2) that rent was symbolically rather than economically relevant. Besides, the "spirit-chief-land" relationship guaranteed consistency between territory (the village and associated land) and political community (the

43. *Phun thawh* "is the category of marriage price that is linked to the wife's clan and lineage rank and that, then, serves to validate the lineage status rank of the husband and of his children by her" (Lehman 1963: 112).

community made of different clans and lineages). With the end of chiefdom and the superimposing of State land governance (land nationalization), management of *lopil* was reinforced in its communal dimension. We saw, however, that the transition period through independence witnessed individualization in *lopil* management (Chapter II.3.3), whether because of more exclusive claims from landholders (aristocratic families), or through individualized management of plots outside of the *lopil*'s rotation scheme, especially after the 1990s.

Tensions between these two models (communal and more individualized) are still at play. One instance is in Nipi, where *lopil* are managed under the same land arrangement as those of Bualtak. Nipi is about four kilometers away and about 600 meters higher than Bualtak, so many households do not want to cultivate a plot in collective *lopil*, especially for those that are located farther away. Hence, since the creation of Nipi in 1999/2000, many started to ask the village administrator (the current one is living in Nipi and administering Bualtak as well) for authorization to cultivate plots outside the collective *lopil*. Progressively, this practice has also spread to Bualtak, with some households preferring to cultivate plots (*lo*) not included in the collective *lopil* and closer to the village. This trend is related to the increasing interest in permanent gardens, as some of the plots formerly requested for individual shifting cultivation have later been turned into permanent gardens (*dum*). Individualization of tenure may also go along with reduced fire risks and, therefore, more tolerance has been shown towards it. This process appears to happen especially this process happens especially in villages where shifting cultivation is less commonly practiced than in others. Loklung is the only village that, despite having named *lopil* as elsewhere, has not actually operated *lopil* collectively for decades. All plots (*lo*) are managed individually. This is the result of a combination of factors, such as the recent establishment of the village, its proximity to Hakha – which offers better income opportunities than agricultural livelihoods (notably timber extraction, see Chapter III.4.2) – and land capture by a large cattle breeder from Hakha (see Box 3). We may see that customary tenure in Chin is not in use for managing most of of Loklung's resources.

Highlight

CUSTOMARY LAND TENURE: AN OSCILLATING SYSTEM

To summarize, 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. This perspective is important when considering formalization of CLS. But it is also worth underlining that this system of nested rights represents the framework that will allow the integration of paddy terraces and other forms of permanent agriculture into Hakha Chin CLS, although not without creating some issues, as we will see in the following sections. The individualization process of shifting cultivation practice observed in some villages also underlines the ability of Hakha Chin CLS to adapt, answering the closure of the land front – i.e. the absence of non-appropriated land – initiated by the firm establishment of village locations since the British rule.

1.3 An ever-adapting *lopil* system

Finally, we have seen that the number of *lopil* in use was not immutable. Hairawn used to rotate between seven *lopil*, but due to increasing demographic pressure on land, those were merged into four. Similarly, in Bualtak, where there used to be eight *lopil*, the shift in the village location, and an increasing population led to these merging into five. In contrast, in Tiphul, where there used to be six *lopil*, when the village moved in the 2000s, one *lopil* was required for the village settlement, while the one it replaced is mostly kept under permanent gardens. Among the five remaining *lopil*, three are used for communal rotation (two others are held through individual claims on inherited plots, *lo hmun*), where double cultivation is practiced: cultivators work on two different plots consecutively, each for two years, before moving to another *lopil*. Such decisions are made collectively, led by the village administrator and the elders. Where clan representatives are still active in managing *lopil* (Hniarlawn, Hairawn), they also participate in the decision.

BOX 3: CASE STUDY OF SAKTA AND ITS "MOVING" LOPIL

In Sakta, the most distant *lopil* are no longer considered in the shifting cultivation cycle and some have been converted into pastures, as village grazing lands (in 1974) or taken under a concession for livestock raising (through the 1991 Wasteland Instructions). In contrast, the *lopil* that were closest to the village continue to be converted into permanent farmlands (paddy terraces, gardens, elephant foot yam plots, and so on). The number of *lopil* actually used for the shifting cultivation rotation is thus constantly changing. Simultaneously, year by year, there have been fewer users and 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 the sub-localities (using the names of rivers and of rocks, and so on) closest to the preferred locations. The farthest *lopil* (which also happen to be less productive *zo lo*) are being abandoned. In addition, the cultivation period has been reduced from two-to-three years, to one year only (allegedly to reduce the growth of weeds). A number of *lopil* falling within Sakta's territory are cultivated by Zathal villagers (settlement in 1948). Old Sakta (Hauka) was also divided and many people moved to New Sakta (Sakta Bualfiang) when the Hakha-Matupi road was upgraded in the 1960s.

Celine Allaverdian

A typical Northern Chin landscape with *"lopil"* shifting cultivation areas

NAME OF *LOPIL* (AND LOCALITIES)	DETAILS ABOUT SHIFTING CULTIVATION AND LAND USE
Khua Ram	Some land affected by land slides
Tlai Dap	–
Ting Kun and Khup Ka	Fertile land, with higher yields, (two years' cultivation in shifting cultivation)
Phir Sih	–
Pum (Pum/Ceva/Ngei Lan)	Cultivated in 2016
Thluang	–
Hriang Kan (Hriang Pi and Dar Khor)	Cultivation planned for 2018 (around 20-30 households)
Khua Hla (and An Rang)	*Zo lopil, Khua Hla* cultivated in 2013
Phai	Cutlivated in 2014 and 2015
Sia sih	Former grazing *lopil*, has now became permanent cultivation
Faza and Fa Ram	Former *lopil*, has now became permanent cultivation area
Tlang Leng (Lung Tho, Sir va)	*Zo lo*, too far from villages. Not considered in *lopil* rotation any longer. Used as hunting grounds
Tawk Sih, Bai Hram, Awk Fak	*Zo lo* on west side of Sakta (for potato and corn cultivation). Lands also cultivated by Zathal villagers
Hung sih	Former *zo lopil*, turned into village grazing area
Za Hautu	Former *zo lopil*, now under concession (since 1990s for livestock, under Wasteland Instruction)

TABLE 4: Description of the *lopil* of Sakta territory

FIGURE 7: *Lopil* of Sakta land (before independence)

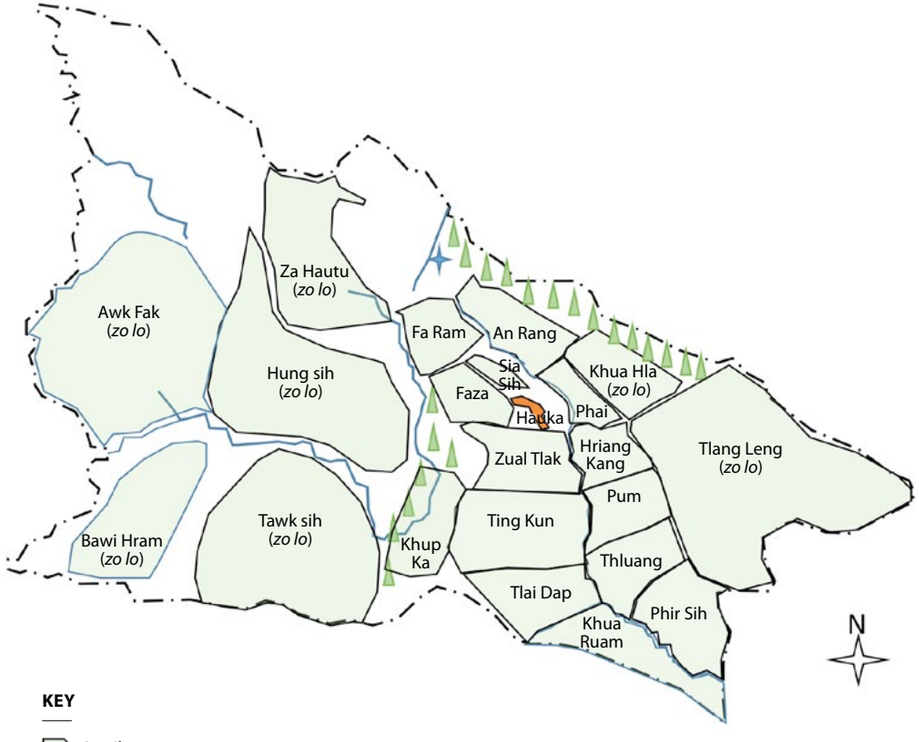
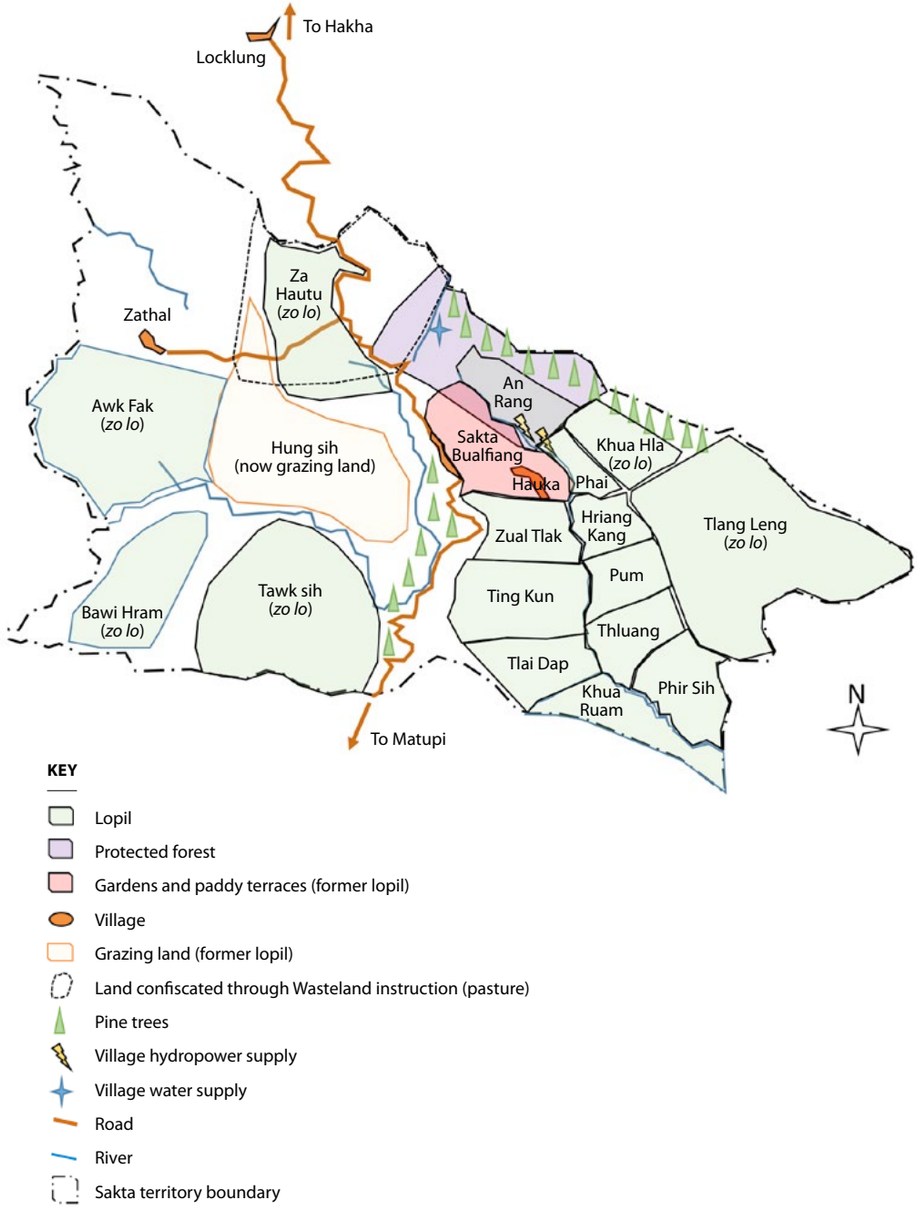


FIGURE 8: Current land use of Sakta territory

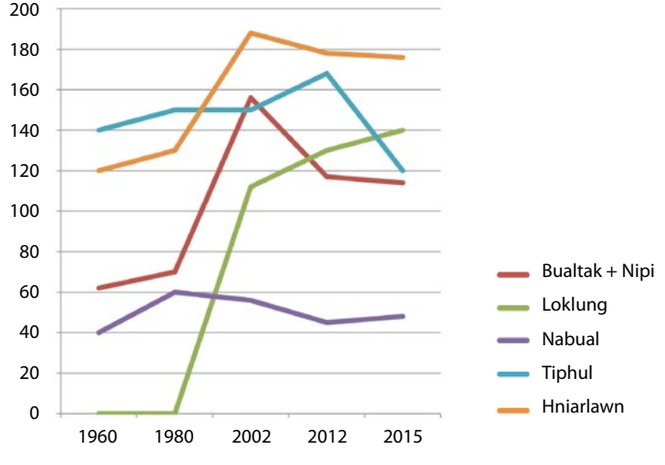


1.4 Shifting cultivation and the specter of demographic growth

The transition from shifting cultivation – handled through a communal system of tenure relying on the rotation of *lopil* – to permanent cultivation – individualizing and subjected to State tenure – has been noted already by several authors (Robinne and Danel-Fédou 2007, San Thein 2012). They generally see shifting cultivation as a kind of model of customary tenure in the sense of an endangered system sensitive to demographical pressure and always under threat of "slipping" toward permanent cultivation and individual land claims. Indeed, the transformation taking place in Northern Chin State, i.e., the shift from shifting cultivation to permanent cultivation, is often seen as a simple response to demographic pressure (San Thein 2012). Demography is, of course, linked to some transformations with respect to the agricultural and land tenure landscape of Northern Chin villages. Note that the "ever-increasing population" (Stevenson 1943: 74) of Chin villages was already observed in the 1940s. This was accentuated by the settlement of village boundaries and the end of the inter-tribal warfare after the annexation of Chin Hill by the British. The only demographic data available for some of the studied villages has been recorded by GRET from the 1960s onward. The 1960s also saw the development of irrigated paddy terraces.[44] At the time village territories were defined, not all ended up with the territory they used to control before annexation. This was the case in Hniarlawn and Nabual whose chiefs were actively involved in the Anglo-Chin war of 1917-1919. As a result, the agricultural area of these two villages was already (too) small for their respective populations. In other villages, such as Chunchung (Ewers Anderson 2015) or Tiphul, the existing *lopil* area have been sufficient. As for Tiphul, the out-migration of many households due to the civil war between the government and the Chin armed forces, led to the sub-division of six *lopil* into eight to adapt to the decreasing pressure on land. In contrast, in Nabual, seven *lopil* were merged into five. Generally, demographic pressure has decreased since the 2000s in long-settled villages, while populations have been growing in recently-created ones like Loklung. Note, however, that Loklung stopped practicing shifting cultivation a few decades ago for reasons other than those of demography (see Box 2 and chapter III.3).

Therefore, attributing the upland agrarian transition only to demography is unsatisfactory. Millet was forbidden by the missionaries in order to limit ritual consumption of millet beer. Then maize became the staple crop before the introduction of paddy, which became the most valued staple food. However, the great majority of households having access to paddy terraces are not able to produce for the whole year and maize remains the most accessible diet for the poorest. Findings from other countries, notably the 2012 global meta-analysis in Global Environmental Change, show a similar picture in that swidden cultivation has decreased across the globe in landscapes where access to markets has encouraged cattle production and/or cash crops. It shows, however, that swidden cultivation remains important in many frontier areas, particularly where intensification is difficult because farmers have little or insecure access to agricultural inputs, credit or markets, or where multi-functionality of land uses has persisted as a strategy to adapt to changing ecological, economic and political contexts (Vliet *et al.* 2012). Therefore, shifting cultivation does not seem, by any means, condemned to disappear in the agricultural landscape of Chin State, as it continues to provide less fortunate households with a piece of land each year.[45] We will see that diversification of agricultural practices does not affect the different socio-economic classes of a village in the same ways (Chapter IV.1.2).

FIGURE 9: Demographic evolution of the studied villages in a number of households



Data source: interviews and CORAD

44. To which GRET contributed later through the 1990s and 2000s.

45. In Bualtak only 10 households worked in *lopil* for the 2014-2015 period, but the respondents expected the number to increase in 2016 as a response to the damage inflicted on permanent orchards by landslides .

2. Permanent cultivation land

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 agro-forestry systems based on elephant foot yam (see Figure 10 below).

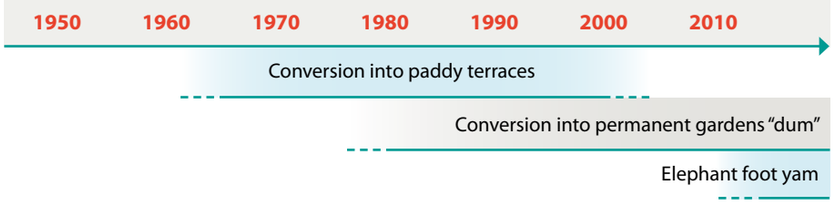


FIGURE 10: *Lopil* land use conversion and land individualization processes through time in Northern Chin

The development of permanent farming was initially observed in patches of *lopil* closest to the residential areas (see Figure 11 which shows orchards, paddy terraces and gardens). As described in detail in the followed section, this took place simultaneously with the individualization of tenure of these plots within the communal *lopil*.

2.1 Introduction of paddy cultivation and terraces

Introduction of irrigated paddy dates back to our earliest record in 1930 (Sakta village) and was sporadically observed in patches of by Lehman (1963: 48) in the 1950s, though with not much 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. This also supports U San Thein's findings (San Thein (U) 2012: 3). Relevant to the fact that paddy terraces

were not cultivated before the 1950s, U San Thein (2012: 31-32) emphasizes the dislike of the Chin people for valley bottoms, probably due to the greater prevalence of malaria and the absence of quinine to treat it in earlier days, which translated into a fear of the lowland spirits. We must also articulate the choice between shifting cultivation and irrigated paddy with different lifestyles and economies. Indeed, under the regime of Chin's internal warfare, keeping permanent paddy fields would have been a foolish choice, since the labor necessary to develop terraces could have been lost in one unfortunate battle. In general, the mobility of the Chin could not accommodate the practice of permanent cultivation. Through annexation, the British paved the way to permanent cultivation by introducing the *Pax Britannica* and the definitive demarcation of villages and associated land. In that context, the first factor that influenced the move towards permanent cultivation (including irrigated paddy) is more the adaptation to a new socio-economic organization, than demographic factors.

Google earth, 2017

FIGURE 11: Permanent cultivation fields in the close periphery of old and new Sakta villages

FIGURE 12: Harvest in the paddy terraces (Chuncung village, December 2015)

Celine Allaverdian

However, beginning with the 1962 government of Ne Win, 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 that would sometimes never be exploited. Cattle were introduced alongside rice, 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 became at risk of 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. Farmers received financial allowances intended to cover the cost of the labor needed to dig terraces. The introduction of paddy terraces accelerated the monetization of labor, with the introduction of a hired workforce to ensure the construction of terraces and cultivation tasks. From 2002 onwards, the government launched an Upland Reclamation Project. The "*Upland Farm Mechanization Project was initiated and the Department of Agricultural Mechanization (AMD) formed the task force [of which] objectives are to facilitate rural development and to transform the shifting cultivation [into] permanent farming*" (San Thein 2012: 39). Financial aid amounted to 12,000 MMK (around USD 1750)/acre for farmers developing terraces between 2002 and 2007. Personal initiatives continue to this day in the villages where topography permits, but the movement is very slow, hampered by the growing difficulty of constructing terraces in the remaining locations. International organizations such as GRET, the United Nations Development Programme (UNDP) and the World Food Programme (WFP) also helped to build terraces in Chin State through the 1990s and 2000s.

However, during the study, in every village the team could observe an important number of terraces left fallow as irrigation is deficient (whether as a result of canals destroyed by frequent landslides or of lack of maintenance). Another reason is the lack of draught cattle to work the fields, which are sometimes sold to cover household expenses. These issues may also be the consequence of out-migration of youth resulting in a lack of laborers. However, most interviewees pointed to the incompatibility between cattle breeding and the development of permanent agriculture in the absence of proper grazing land (see Chapter III.3). For the above reasons, as well as the cost of constructing terraces, this practice is unlikely to develop on any greater scale. Indeed, one study estimated the construction costs of one acre of irrigated terrace to be around USD 300,

equivalent to the median annual income found among the families interviewed during the survey (Danel-Fédou and Robinne 2007: 72). One acre of paddy terraces provides on average 45 baskets of paddy[46] (0.935 tons) or seven to nine bags of rice each weighing 50 kg, which at the current market price rate corresponds to USD 84 per bag. This represents roughly six months of daily consumption for an average Chin family of seven members (Frissard et al 2018: 93-100). Thus, even in the better-off villages with larger terraced areas (Hniarlawn has 200 acres for 180 homes), the average allows only 1 to 1.5 acres of terrace per family.[47] Further extension of terraces seems likely to take place only in villages where geographical features allow for this at a low cost.

TABLE 5: Paddy cultivation (terrace system) cost-benefit analysis

PADDY PRODUCTION (TERRACE)	**BASKETS /ACRE**	**UNIT PRICE (MMK)**	**TOTAL (MMK)/ACRE**
Harvest (gross product)	82	5,880	482,160
Post harvest loss (4%)	3.28	5,880	-19,286
Inputs and labor costs*	1	241,175	-241,175
GROSS ADDED VALUE			**221,699**

*** PADDY PRODUCTION COSTS**	**AMOUNT/ ACRE**	**UNIT PRICE (MMK)**	**TOTAL (MMK)/ACRE**
Seeds (baskets)	0.63	5,880	3,675
Transplanting (man.days)	9	6,000	54,000
Land preparation (man.days)	10	9,000	90,000
Weeding (man.days)	8	6,000	48,000
Harvesting/threshing (man.days)	7	6,500	45,500
TOTAL			**241,175**

Adapted from Frissard and Pritts (2018)

(USD 1 = 1360 MMK)

46. In comparison, upland rice on 1 acre of mixed shifting cultivation (which also provides other food items for a household) produces only 75 to 150 kg of paddy per acre (Frissard *et al,* 2018. p 93-100).
47. According to our interviewees, each household owns between 0.5 and 3 acres.

If a plot chosen for developing a terrace falls into the "inherited plot" category, the holder is prioritized in developing a paddy terrace if he is willing; if somebody wishes to develop a terrace on an inherited plot belonging to someone else, the holder has to give away his hereditary claim if he is not, himself, developing a terrace; this rule pertains to the development of paddy enforced under the military governments.

FIGURE 13: Land title (Form 7) for a paddy terrace (Bualtak village)

Paddy terraces *(lei)* are inheritable and can be sold between villagers. The general trend is that these permanent plots cannot be sold to individuals who live outside the village. However, doubts and questions persist. In Bualtak, for instance, there is one paddy terrace owned and worked by a household who have settled in

Hakha (and no longer have a house in Bualtak) for four or five years. In Tiphul, the elders raised the following issue during a group discussion: a plot located in one of the *lopil* in the village was transformed into a paddy terrace in 1979, and then abandoned in 1990 because of a landslide that destroyed the terrace. Since that time the *lopil* has not been opened, but will be for the coming year. Hence their question was whether they could include the destroyed terrace in the set of communal plots available from the *lopil* or not. This clearly illustrates the challenges brought by the "intrusion" of State tenure into the Chin customary tenure framework.

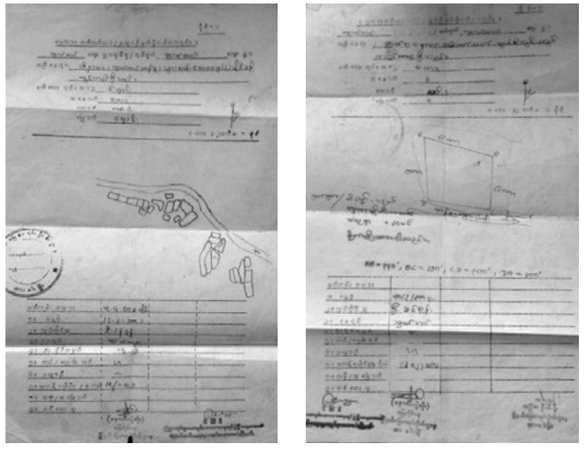


FIGURE 14: Land registration document (Form 1) dating from 2001 for a paddy terrace (left) and a garden (right), Bualtak village

The fact that these cases were raised only in Tiphul may not be by chance, given that Tiphul presents another singularity concerning the management of paddy terraces. Indeed, between January and March, i.e., when paddy terraces are left vacant (see Annex 1), plots belonging to three different owners are allocated rent-free to villagers in order for them to grow cabbages and garlic on a total area of 7 acres (Figure 15). This is made possible by the irrigation system that provides sufficient water throughout the year. While we cannot speak of collective tenure, since these temporary land use rights are inter-individual arrangements, terraces in Tiphul are managed in a more inclusive manner than they are in other villages.

Maxime Boutry

FIGURE 15: Part of Tiphul terraces under cabbage and garlic cultivation during the dry season

Highlight

PADDY TERRACES: A STATUS MARKER RATHER THAN A PROFITABLE ASSET

According to our interviewees, Hakha Chin households rely increasingly on rice purchased from the valleys (coming mostly from Kalay paddy plains), while shifting cultivation provides a safety net for food security. This is both for own-consumption production and income generation through cash crops such as elephant foot yams. In addition, the improvement of transport infrastructure and the growth of commercial flows make the price of rice produced on the plains of Kalay Region more accessible to Chin households. Although all households consume their entire rice harvest, it is far from being obvious that production of rice for self-subsistence has been the main rationale behind the introduction of irrigated paddy cultivation. The first

to develop terraces were generally wealthier families who were able to mobilize the labor necessary to turn steep fields into flat terraces, especially around Hakha (Lehman 1963: 48, Danel-Fédou 2007: 24). Since the development of paddy terraces is conducted on former lai lo *("warm" shifting cultivation fields), i.e., the most fertile plots situated by the river or having good access to irrigation, most fall into the "inherited plots" category. For this reason, those households who already have individual claims on plots are generally favored in terms of access to paddy fields: our interviews confirmed that households having access to paddy terraces could be considered to be in the upper socio-economic class of villagers.*[48] *Hence, the introduction of paddy terraces served, with the disappearance of the traditional bawi (aristocrat)-chia (commoners) system of class ranks, to perpetuate an intra-village socio-economical differentiation process. As Danel-Fédou and Robinne (2007: 14) explain, "the deficit in terms of food self-sufficiency and increased dependency against lowland rice farmers led by the development of terraces […] suggests that this was much of a civilization choice […] rather than a profitability target." We may go further in comparing the introduction of inundated paddy in the Northern Chin economy to other techniques borrowed from the Burmese Valley society, as well as luxury goods and heirlooms, that used to be essential in the social and political organization of Northern Chin (Lehman 1963: 169). The fact that this kind of land is transferrable as a bride price, according to the villagers interviewed, means that paddy terraces can be an element of an heirloom, which reflects the investment (time and money) needed to develop terraces and the social value attached to rice. A farming system analysis done 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. Therefore, paddy terraces appear to be a wealth marker – and we are tempted to say a status marker – rather than a wealth differentiating asset. Since the adoption of paddy terraces, buffalos and cows replaced mithans as large cattle. This even more reinforces the idea of a gradual substitution of mithans by paddy terraces as status and wealth markers.*

48. See U San Thein (2012 : 45-48) for more details on wealth ranking and access to paddy terraces in Chin.

2.2 "*Dum*-ization": the introduction of permanent gardens and socio-economic change

Permanent gardens are referred to in Hakha Chin as "*dum*". The term refers to all types of gardens or orchards, cultivated with perennial trees or non-perennial species such as vegetables. While *inn dum*, or "home gardens" have long existed to grow plants such as leeks, onions, garlic, chilis, and indigo (Lehman 1963: 53), the introduction of permanent gardens dedicated to growing cash crops or vegetables designed to be sold outside of the household started with new demands from the British officers in Hakha before WWII (Lehman 1963: 48). However, it seems in the 1940s that this form of agriculture was not practiced by the villagers themselves (Stevenson 1943: 45), despite the flourishing trade in oranges between the Chin Hills and the Chindwin plain. After independence, the government injected agricultural loans to stimulate the planting of tea and coffee in parts of the Chin Hills (San Thein (U) 2012: 78). Lehman (1963: 48) had already noted at that time that the processing and transport of tea leaves and coffee beans was an issue, hence cultivation areas were confined to Falam and Tedim Townships, which is still more or less the situation today.

Until the 1960s, shifting cultivation was in Hakha Town, as elsewhere, the main agricultural practice. According to interviews with elders, Hakha's territory was provided with about 15 *zo lopil* and nine *lai lopil*, cultivated during one year and left fallow for 12 to 15 years for the former, and cultivated for three years consecutively and left fallow for seven to 20 years for the latter. However, the progressive increase in population, which boomed after 1964 with the shift of Chin State's capital from Falam to Hakha, reduced the available area for practicing shifting cultivation. Together with demographical growth and the development of paddy terraces in lower areas (*lai lo*), Hakha was left with only seven *zo lopil*. The government itself seized surrounding lands for city development and livelihoods projects including gardens and cattle breeding (see Box 8). All of these changes fostered an individualized practice of cultivation in existing *lopil*. According to interviews, the communal management of *zo lo* lasted until 2001 or 2003. In the meantime, most plots, often under "inherited ownership", were transformed to more or less permanent gardens. "Landless households" (i.e., those having no "inherited plots") also started applying individually to the new administration for land plots under the Nationalization Act (1953), which gave ownership to the State so that everyone could access land. Bit by bit, the surface

of individual cultivation plots grew larger. At first, the same crops, usually cultivated under shifting patterns (maize, millet, pigeon peas, potatoes, cabbage and common green beans) and hill paddy, were cultivated. The development of permanent cultivation plots, as found in the region today, is linked to the development of Hakha as the capital of Chin State starting in 1964. According to different interviews with administrators and elders of Old Hakha, permanent gardens started with the need to supply the growing pool of officers stationed in the town. These officers were the main clients of a new market in its infancy. One administrator recalls that "at first Hakha people were not interested in farming permanent gardens, for lack of skills; the village administrator had to give them clothes, rice, and other presents" as incentives in order for them to produce for the government officers' market. In addition, terraces constructed forcibly under the socialist government were in many instances not suitable for the intended paddy cultivation. Therefore, many were turned into permanent gardens.

Maxime Boutry

FIGURE 16: Gardens in old Hakha town

FIGURE 17: Old Hakha (in *lai lo*) and New Hakha (in zo lo)

The progressive transformation from shifting cultivation to permanent gardens led to a differentiation and specialization process within Hakha town – between the Old and the New Hakha. While Old Hakha is situated principally in a *lai lo* environment, New Hakha's fields are mainly in *zo-lo*. Hence, the development of permanent vegetable gardens, like paddy terraces, was undertaken mainly in Old Hakha. To this day, this place remains the main supplier for Hakha market (providing about 60 percent of Hakha market's vegetables according to our interviewees). In New Hakha, gardens were mostly set-up for cultivating potatoes, a less profitable source of income, so that livelihoods were mainly oriented toward other activities such as cattle breeding or charcoal making. In addition, in the 1990s, and with the support of UNICEF, the government implemented an irrigation project to provide water for the whole of Old Hakha's agricultural land.

The government itself set-up a well-irrigated garden of 45 acres in Old Hakha. In the rainy season, cabbage, Chinese cabbage, Chinese kale, rosella, bitter brinjal or Kha-Yan-Kha-Thee, mustard and chili are usually grown. In summer, pigeon peas, cabbage, Chinese kale, mustard, rape, Chinese cabbage and cauliflower are grown. Vegetable plantation was so successful in Old Hakha at that time that there is a saying that "*even a widow could not be poor in Old Hakha*".

Back in the 1970s, surrounding villages of Hakha, such as Hniarlawn, Nabual, Pai, Kobe and Beute, also started vegetable production on permanent plots, first in home gardens and, then, progressively intensified production on fenced *dum*. The case of Bualtak (Box 4) clearly illustrates the progressive interest in permanent orchards and the subsequent changes in livelihoods.

BOX 4: PERMANENT GARDENS, A POTENTIALLY LUCRATIVE BUSINESS: THE CASE OF BUALTAK

The first permanent gardens in Bualtak were developed in 1975 for coffee, but without much success. Later on, mangos, lemons, *Myauk-Ngo* and avocados were introduced and grown in order to be sold in the Hakha market. The first cultivator of a permanent garden was the then Village Tract clerk who moved from Htantlang Township in 1975 and married a Bualtak woman. He developed his garden first with the aim of producing coffee, but the operation failed. Some 20 years later, permanent gardens gained interest among the whole village population. In 1998, permanent gardens were widely developed, cultivated with mangos, lemons, Myauk-Ngo, avocados, bananas, Thit-Al, oranges, maize and Shan coriander (*khan-phay*). In addition, some have also grown vegetables such as San-Tok (bitter eggplant) in some small parts of the gardens. The most financially interesting plants are *Myauk-Ngo (Duabanga grandiflora*), bananas and Shan coriander (*Khan-Phay)*. Shan coriander began to be grown for commercial purposes in 1999/2000 after the relocation to the current Bualtak location. *Khan-Phay* can be grown easily without much tending if it is planted in rich soil with access to water. Initially produced for domestic use, it became a commercial crop to answer the demand from Hakha market around 1999/2000. It is grown and sold between June and December. With access to irrigation *Khan Phay* can be sold throughout the year. *Khan Phay* is grown mainly in permanent and house gardens, but also in the most fertile parts of shifting plots. Sale is conducted house-by-house in Hakha. A woman can carry 250 bunches and sell a bunch for 200 MMK (about USD 0.14). Hakha people use to eat it with Sar-Bu-Thee (traditional maize soup) and some villagers sell it directly to restaurants. Some villagers earn up to 5 lakh[49] per year from *Khan-Phay*. It is the most popular commercial vegetable in the village, and is an income source for the whole village. *Myauk-Nyo (Duabanga grandiflora*) was first grown in 1975 by the first permanent garden farmer but it did not spread to other households until 1994. According to the villagers, in around 1994 a staff member from the Agriculture Department came to introduce the crop to the villagers again. In 1995, they began to grow it. It came first as a small plant brought from Falam Township and was later grown from seeds. This tree takes seven years to bear fruit. With the fruit from a medium-sized tree, one can earn 2 to 3 lakh a year and up to 7 to 8 lakh a year from a fully-grown tree. Brokers from Tahann in Kalay Township come to collect it and have been exporting it to Ta-Mu and to Mo-Ray in India since 2014. Myauk-Nyo is grown especially in permanent gardens, although some households grow one or two trees in their home garden. In the past, banana trees were planted on the edges of the *lopil* for domestic use only. Bananas developed into a commercial crop, grown in permanent gardens, around the year 2000. Bananas are sold in Hakha market. Bualtak and Hniarlawn are the only two villages to sell bananas in Hakha according to our interviewees. If properly fenced and maintained, a banana garden can produce for seven to ten years. Banana is usually planted in March and April and can produce fruit after two years.

49. One lakh = 100,000 MMK.

III. PERSISTENCE AND CHANGE IN LAND TENURE

Highlight

PERMANENT GARDENS: URBANIZATION AND SOCIO-ECONOMIC CHANGE

The development of permanent gardens (dum), represents the beginning of urbanization in Hakha Town and its peripheries. This agricultural practice in the 1960s arose to answer both a local demand from an increasingly urban population and the growing need for cash. As shown by Frissard and Pritts (2018:100), cash crops are a strong determinant for a household's income and its capacity to accumulate wealth. Currently, one important driver for the change from shifting cultivation to gardens, orchards and elephant foot yam agroforests is the increased need for cash combined with limited labor. It is probable that with the continued out-migration of youth, farm labor will remain a key factor in farmers' decision-making. The aging of the rural population is also part of this equation, notably in relation to perennial trees. 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 taxing physical tasks involved in the slash and burn of shifting cultivation fields and even the maintenance and plowing of paddy terraces. As a consequence, the shift to gardens, orchards and agroforests will most probably continue, along with the improvement of the road infrastructure.

The development of permanent gardens has had a profound impact on cultivation practices and also on livestock management (see the following section). Although permanent gardens for commercial purposes are not developed on the same scale in every village – among those studied, Bualtak is probably the most affected by this practice – this process of agricultural change has been observed in all locations. As "dum-ization" is a relatively recent process and farmers have been used to shifting cultivation, they do not all have systematic fertility management practices in permanent gardens. 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 very limited and is thus used only for home gardens.

Celine Allaverdian

A woman watering her home garden

Tenure and transactions of garden lands

Although, in Hakha, permanent gardens have been established since the 1970s, in surrounding villages their adoption is still in progress, in-between house gardens and proper permanent ones (1 acre plus) around the village. Hence, related land tenure tends to vary more from one village to another than it does with respect to paddy terraces. In some villages (Bualtak, Hniarlawn, Tiphul and Sakta), permanent gardens are developed within the village settlement (housing) boundaries or on its fringes. In others they are located on plots included in *lopil* (Loklung, Nabual, Hairawn). Hniarlawn and Nabual, which have insufficient land for transforming shifting plots into gardens, manage by buy plots from Hakha holders. We saw in Loklung that shifting cultivation ceased some decades ago. Land use rapidly developed into permanent gardens, notably growing potatoes which thrive in "cold" (*zo-lo*) areas. However, due to mithans free grazing in the area, paddy fields and gardens are regularly destroyed. Fencing is expensive and mithans tend to jump over it. The lack of village "ownership" over land and resources is, therefore, aggravated by the dispossession of their land by Hakha's mithan breeders and the impossibility of securing agricultural production. Therefore, land closer to the village is most sought after since it is better protected from possible damage by mithans. In all villages, the administrator must validate any land use change to permanent garden. Though administrators sometimes issue a letter (see Figure 18), agreements are generally oral.

The transformation of a plot within the *lopil* into a permanent garden involves transferring management from a communal to an individual basis. For instance, we saw for shifting cultivation that a holder of inherited plots in a cultivated *lopil* was given priority to cultivate the one of his choice, and that unused ones were redistributed through the pool of communal land to other households for the cultivation period. After the *lopil* has been left fallow and put into cultivation again, the holder will be able to choose again any plot of his own. Irrespective of who worked the land during the *lopil* cultivation period, the holder keeps the right to give any of his plots as inheritance. The process of turning shifting plots into permanent gardens, as explained in Hniarlawn, contradicts this tenure framework, and enables an appropriation of inherited land belonging to others by the person who has developed the garden. Indeed, a plot obtained temporarily under *lopil* cultivation can be retained by the user even after the *lopil* is left fallow if it is planted with perennial crops such as banana trees. Moreover, this can be done on others' inherited plots, received as part of the communal pool of land.

Even so, according to the villagers, it seems that permanent gardens acquired this way become transferable, yet within the village only, in the same fashion as paddy terraces. Individualization of land use prevailing under State tenure disrupts the village-based, often communal nature of land tenure in Chin villages. In Tiphul, four different households applied in the beginning of the 1990s for plots located in *lopil* in order to transform them into permanent gardens. This was supposedly to grow oranges, a project supported by the SPDC government in Chin State (see case of Pa D. C., Box 8). But no orange trees were planted, and these plots were at best cultivated with corn for few years before being left by their new holders. Some are still in the village, others are in Hakha, yet the village administrator and elders are confused about whether these plots can be reintegrated within the *lopil*'s management – as would be the case for *lo hmun* left by a departing household – or not. Even in Hakha, the most State-tenure-oriented location in this study, where permanent gardens were first developed, tenure is still caught between customary and State governance. In other words, while most land can be considered as vacant under the law, it is still the rule to ask any holder of a plot to transform it into a garden, before asking the administrator to record the land use change. When there is doubt about the land owner or about any "communal" (under Chin custom) land, the land seeker will ask the representatives of the main lineage who are Sengte and Sangpi (Zathang clan) who used to hold most of land in Hakha before the end of chieftainship in 1947.

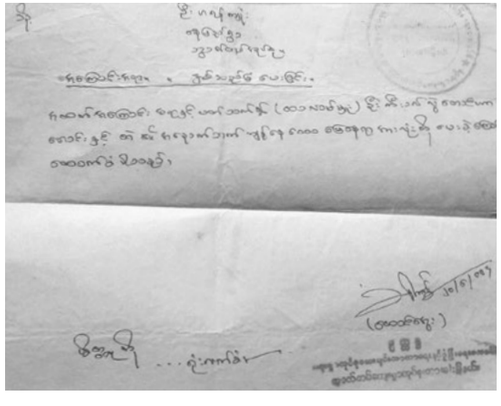


FIGURE 18: Letter of agreement from Bualtak's administrator allowing the transformation of a plot into a permanent garden in 2001

Highlight

PADDY TERRACES AND PERMANENT GARDENS: DIFFERENTIAL AGRICULTURAL CHANGES

Permanent gardens must be differentiated from paddy terraces in the process of agricultural and land tenure change. We have seen that permanent gardens tended to be developed outside of lopil when possible and that, conversely, there was a tendency towards individualization of agriculture (land tenure and also labor arrangements) from within existing lopil (see Figure 10). While individualization pertains to a village's characteristics and, indeed, individual choices, a recurrent rationale is the continuing cultivation of a plot formerly opened as part of a lopil (Bualtak, Hairawn, Tiphul, Hniarlawn, Nabual). Therefore, in contrast to the development of paddy terraces, the transformation of shifting plots (lo) into permanent gardens (dum) is more progressive and, importantly, reversible. 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.[50] 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, i.e., by individualizing access to plots located in a lopil, by planting elephant foot yam in inherited plots or by requesting authorization from the Village Tract administrator for an individual plot within the remaining communal pool of land.*

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

2.3 Permanent agriculture in Chin State under the statutory land framework

Paddy terraces are actually the primary kind – together with permanent gardens but to a much lesser extent – of formalized agricultural land use. Indeed, land use rights of paddy terraces have mostly been formalized through Form 7 (LUC) since the 2012 Farmland Law. Since many paddy terraces were developed under governmental schemes, earlier registration was also conducted to formalize cultivation rights.

In most villages, only a few permanent gardens received land use titles from the DALMS. Under the last land registration process, some villagers have been able to formalize their rights over permanent gardens with documents such as Form 7 but most commonly with Form 105 or Form 1. Registration processes vary substantially from one village to another. In addition, within the villages, there was no systematic registration of all permanent gardens: some farmers were issued with documents and others not, often depending on the farmers' connections with DALMS officers and level of interest in acquiring registration. According to a Hakha DALMS officer, since these lands are considered VFV, Form 105 is a way to certify that the land is being cultivated so that, after a minimum of three to four consecutive years under stable cultivation, it could be titled under Form 7.

The difference with paddy terraces is that permanent gardens are mostly village-based or individual initiatives that are not backed by government policies. Therefore, access to formal registration by the DALMS depends on individuals' legal awareness and concerns regarding land tenure security. Such concerns are generally very low among Northern Chin villages, since villagers feel secure within the village-based land tenure framework. Some farmers also said that they were waiting to see if gardens were actually profitable. Besides the greater costs involved than in shifting cultivation, landslides are a regular occurrence, meaning that permanent fields are always at risk of being destroyed.[51] One interviewee in Bualtak remarked that while the village administrator alone sanctioned land use change toward permanent gardens, he believed that this should be a matter brought in front of the elders' council.

51. Small landslides are recurrent in the region, apart from the great landslide that happened in July 2015. The instability of soils in the region tends to hamper the development of permanent orchards and, instead, favors shifting cultivation.

Highlight

TITLING OR NOT? TESTING THE CAPACITY OF CUSTOMARY LAND SYSTEMS

The differences observed regarding the introduction and purpose of agricultural change between 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 implementation of formal land tenure titles relating to these two agricultural practices. Because the government actively supported terracing, titles have been distributed since their implementation and quasi-systematically updated to Form 7 after the 2012 Farmland Law. Considered as an heirloom, paddy terraces logically enter the sphere of private possession of the household, similar to more traditional items such as mithans and gongs. On the other hand, titled permanent gardens, much rarer in Hakha Chin villages, 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 main agricultural practice with inundated paddy fields, and most gardens were sanctioned with titles. In surrounding villages, the oscillation between shifting cultivation and gardens depends on the economic needs of individual households rather than denoting social status. Gardens might be developed if, for instance, more cash is needed at a defined period. In contrast, they might be abandoned if the household lacks the capacity to provide the necessary inputs (irrigation, fertilizers, and so on) for a truly permanent formof agriculture. For this reason, most gardens have been left without titles, i.e., leaving open the possibility that they could be reintegrated into the pool of shifting cultivation plots. This is clearly illustrated by the July 2015 landslides around Hakha that destroyed a significant number of both permanent gardens and paddy terraces. While in villages paddy terraces are still awaiting rehabilitation, many gardens have been brought back into shifting cultivation fields. The 2015 landslides showed that the environment was not so suitable for permanent agriculture; apart from this extreme episode, villagers were able to recount many smaller landslides before that which destroyed their paddy terraces and gardens. Therefore, shifting cultivation remains the most accessible type of agricultural livelihood in the Hakha Chin landscape, providing for the poorest households, as well as for those whose permanent cultivation plots have been destroyed. According to interviewees, the latter were particularly numerous in the monsoon of 2016.

Finally, titling issues also reveal how CLS responds to the introduction of new agricultural practices and socio-economic changes. 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. This presents the design of a managing/ decision-making body as a key element in the formalizing of CLS.

III. PERSISTENCE AND CHANGE IN LAND TENURE

Celine Allaverdian

A home garden in a neighborhood of Hakha town

3. Grazing lands and animal husbandry

In pre-annexation days, cattle comprised only mithans (*Bos frontalis*), an animal related to the cow (with which it can reproduce) and wild bison (Lehman 1963: 79). Other livestock consisted of goats, pigs and chickens generally roaming free, with the responsibility for any damages they inflicted on home gardens resting on the gardener (Stevenson 1943: 55). For mithans, a village would keep the next field to be opened in the *lopil* rotation for grazing, called *sia-pil* (*sia* for "mithan"), and the sacrifice of *sia pil nam* was performed to protect the animals about to graze in it.

> *"[…] organized herding is necessary to protect the unfenced cultivated fields and to keep the animals in the field allotted for them, and […] less notice is taken of damage in the village gardens, where only subsidiary crops are grown, than of damage in the fields. As a result the rules in respect of mithan, which graze far and wide, are more complicated than those applicable to pigs and goats, which stay within the precincts of the village clearing."* (Stevenson 1943: 54)

In pre-annexation days, in autocratic groups, the compensation unit was the owner (irrespective of the number of animals), while in democratic Chin groups the unit was the individual animal. Animal found inflicting damage to cultivated fields were impounded and the owner had to pay a tax. Unclaimed animas were used for the village's ritual purposes. According to Stevenson (1943: 55), maintenance of large herds of mithans presented so many problems that owners would always give a feast and keep their stock numbers within reasonable limits. One household would rarely keep more than a few mithans, generally three, a mother and her two calves.

According to interviewees, cattle such as cows and buffaloes were introduced shortly after paddy terraces (1950s) for plowing. The development of paddy terraces led to a flourishing buffalo and cattle trade from Gangaw and Kalaw all the way to Hakha and Misoram (Frissard *et al.*, 2018: 71). With the end of chiefdom and associated ritual feasts, where the sacrifice of mithans used to indicate the owner's rank, these animals lost part of their value for the Chin. Mithans graze generally in *zo-lo* areas, far from paddy terraces and gardens, but close to cultivated fields. They can travel over great distances so that herding these animals

is more difficult than it is for other cattle species. For these reasons, cows and buffaloes, and later horses[52] used for transportation and trade over the Mizoram border (Danel-Fédou and Robinne 2007: 133), became dominant among cattle breeding activities.

According to interviews with current and former Hakha administrators, before New Hakha's installation in 1953 at its current location (see Figure 17),[53] which is the traditional *zo-lo* area, the upper part of the Falam road was set as grazing land and cultivation forbidden, and the lower part reserved for agriculture. If cattle trespassed into cultivated areas, the cattle owner was fined. Ward authorities set up a fenced farm for mithans and cows in the grazing area. Cattle owners used to keep cattle in that collective farm (which is now partly the office of the Irrigation Department, partly private and church land). U Ral Err, the headman appointed by the British colonial government just before independence, had a horse farm near Rung mountain and Chawbuk ward. British officers used to ride his horses. In 1954, after the shift to the current New Hakha location, ward authorities decided not to keep any kind of cattle within the inhabited area, with an exception of milk-producing cows. Grazing lands were relocated along the Thee river and Htantlang road. Since there were already paddy terraces, cattle were set free after harvesting time (November), and were taken back in May. Some cattle breeders started to move along the Htantlang road where they built cattle houses for breeding. They also started to fence permanent gardens to protect them from damage caused by cattle on cultivated areas. The largest-scale Hakha breeders still operate here. Large cattle owners practiced collective breeding up to the 1960s. Cattle were grouped in temporary grazing places and watched consecutively by the animal owners. A family member from each owner had to watch all animals two to four days in turn. Progressively, more inhabitants came to settle in New Hakha after it transformed into Chin State's capital. In 1976-7, New Hakha was officially created as a ward of Hakha City, and the government started implementing agricultural projects in the area. Because the then government's policy was to develop paddy and permanent agriculture in every place deemed suitable, grazing land rapidly decreased. Conflicts between

52. According to our interviewees, horses, brought by the Nepalese forces (known as Ghurkhas), who accompanied the British, were common in Chin after annexation. This meant that every house (at least in Hakha) used to have one horse. Horses were also used for labor on paddy fields. Horse breeding declined during the party council era (the '60s to the '80s), but there was a resurgence of trade over the Indian border starting in the 1990s.
53. The former village used to be situated downstream, near where the Minister's residences are currently located.

breeders and farmers intensified. In the period 1996-2003, the administrator tried to control free breeding of cattle by capturing animals at night.

Furthermore, interviewees commented that new needs for cash appeared rapidly, following the more systematic schooling of children, and also to fund the growing recourse to government health facilities. Because these services have to be paid for in cash, many families started to sell their cattle. Compensation (*lo hrawh man liam*) for damaging a farmer's field or garden also hastened the end of small-scale individual cattle breeding, as the allocation of an individual to look after livestock full-time imposed too great a financial burden. One informant told us that he once had to pay compensation worth 10 baskets of maize to a farmer. Some people took as long as one year to pay back debts that resulted from such compensation payments.

From the 1990s, the government started supporting cattle breeding, especially for mithans considered to be an endangered species as only a few households still bred them. Related to the land use changes described above, grazing lands had to be sought farther into what used to be Hakha's *zo lo* area, up to 15 miles away on the road to Htantlang (west of Hakha), around the villages of Lung Khar and Sapha. *Lopil* in this area were partly abandoned for the benefit of large-scale, income-oriented cattle breeding (mithans, cows and buffaloes). In 2001, large-scale breeders (with more than 100 head of cattle) applied for grazing land through the 1991 Waste Land Instructions (also called the "Prescribing Duties and Rights of Central Committee for the Management of Cultivable Land, Fallow Land and Wasteland") and, in 2002, the government allocated official grazing land in Saphar and Lung Khar (the latter being especially set aside for government departments). Households having cultivation plots in Saphar had to fence their plots from that time. The official grazing land area is 5 x 3 miles. Saphar grazing land was also fenced, with the cost covered by a contribution from each cattle owner of 100,000 MMK (around USD 14,000).

Some local elite, large-scale breeders also took the opportunity to apply for large tracts of land considered to be "fallow" under the law, although they were actually being used under the shifting cultivation system. Cattle breeding also extended in the South toward Nipi (Bualtak) and Loklung-Sakta. According to interviews with villagers, the entire Loklung village territory, up to Sakta village, was recorded as grazing land under the name of a single Hakha Chin individual.

Over the past ten years or so, herds of mithans have been regularly destroying cultivated areas in Loklung and have even been falling into pit latrines inside the village (see Box 5). In Loklung, a number of villagers have arrangements to care for the cattle and horses of Hakha inhabitants in exchange for one calf per year. Such events obviously hinder any form of village-based ownership, management of resources and cultivation. Currently, around 13 households in Hakha breed a total of 100 buffalos. About 15 households are involved in cow breeding for a total of 100 heads. Mithans are more numerous (about 130 heads), and bred by four individuals.

For several villages in this study, grazing land no longer exists as such within their boundaries. This is particularly the case for Nabual and Hniarlawn, due to the reduction in their initial village territory through the mapping of villages under the British. This was the case in Bualtak until 1983, before they reinstated the *sia-pil* system (see also III.3). This corresponds with the increase in the number of cattle needed for the cultivation of irrigated paddy.

Hniarlawn village has no dedicated grazing land, due to its relatively small territory, its proximity to the always-expanding Hakha Town, and the relatively important surface of paddy terraces.[54] However, Hniarlawn villagers manage to practice cattle breeding – currently 15 households –[55] thanks to an arrangement with the neighboring Chuncung village. Villagers formed a cattle breeding "committee" made of cattle owners, in charge of submitting a request to Chuncung's administrator for access to grazing land in their territory. This took place six years ago through the offer of a pig measuring 5,5 fists in girth to the administrator together with a small amount of money. The grazing land is also a *sia-pil*, hence it follows the *lopil*'s rotation. The agreement has to be renewed each time the *sia-pil* is transferred to another field. If Hniarlawn cattle damage cultivated fields or gardens, the animal is taken to a pen in Chuncung and the administrator informs Hniarlawn's administrator. The cattle owner then has to pay compensation set in crops, and a fine of between 1000 and 1500 MMK (around USD 0.70 to USD 1.05) for the use of the pen. The money received is contributed to a village fund used to receive guests in Chuncung.

54. With 200 acres of paddy terraces, Hniarlawn is the village covering the greatest surface area in Hakha Township.
55. Hniarlawn villagers made earlier attempts at commercial cattle breeding, although not always successfully (see Danel-Fédou and Robinne 2007: 96).

BOX 5: THE LARGE-SCALE BREEDING OF MITHANS, THE CAPTURE OF RESOURCES AND CULTURAL PRESTIGE

Pa R. C. is a Hakha-born large-scale livestock breeder, owning dozens of mithans. As discussed earlier, home cattle breeding progressively disappeared with the development of permanent gardens since the 1970s. Furthermore, in the 2000s the Myanmar government, seeing the potential value of mithans for trade with foreign countries, launched a funding scheme for Chin State's mithan breeders. Under a "Chin State development" rationale, the then Prime Minister, Khin Nyunt (2003), promoted the breeding of "domesticated wild ox" – in the junta's terminology – at the same level of development as improving roads and introducing new cultures such as tea plantations. However, mithan breeding for commercial purposes is incompatible with traditional practices:

"This is not only because of the possible damage they might cause to the environment, but also because the profit return and the investment [...] are not balanced."[56]

Therefore, the government was more likely to promote a large-scale shift from small, family-owned, forest-ranging herds of mithans for local use, to commercialized herds for export use. Interviews with Loklung villagers support the above statement: when some villagers applied for breeding loans from the Hakha government, Pa R. C. would capture the associated money for his own purpose of breeding mithans, giving the excuse that Chin villagers were inept at managing such a business and sum of money. Through close connections with the regional government, he also submitted an individual claim on so-called vacant, fallow and virgin land, a large tract of 6,000 acres including the whole village of Loklung (and its associated territory) and part of Sakta village. Such a capture of land – as is the case with other land confiscations observed in the area – directly emphasizes the lack of land tenure security in the Chin agricultural landscape dominated by shifting cultivation fields and fallows, not recognized by the 2012 Farmland Law. Furthermore, under the VFV Law 2012, the regional government can allow claims on surfaces smaller than 50,000 acres without scrutiny from the central level. Supported by the government, Pa R. C. breeds dozens of mithans, horses and cows on the *zo lo* running south of Hakha, up to Loklung and Skata villages. Mithans repeatedly inflict damage on permanent gardens in Loklung, destroying fences within and outside the village. Pa R. C. not only refuses to compensate the villagers, but also threatens to sue them for extracting timber from *his* land. Although Pa R. C. is not directly involved in timber extraction, his sister is a major trader from Hakha, buying from the timber contractors operating in Loklung. Amazonia has already provided a number of instances where cattle have been used to further appropriate timber resources.[57] However, this may not be the only reason for keeping mithans that do not earn much income – at least set against the damage inflicted by this practice. Although mithans are sold locally for ritual purposes among Hakha families (notably for offerings at wedding ceremonies), Pa R. C.'s activity can hardly be likened to commercial breeding: the mithans are poorly managed and in more than 10 years of breeding, he has sold only once on a large-scale basis to Mandalay (apparently for the Chinese market). His breeding activity is in no way comparable to the organized commercial production of Falam, for example. However, mithans have a strong social value in the "ritual economy" of Chin, in which these animals bring much prestige to their owner (Lehman 1963: 79-80).

"While a man may have numerous other kinds of livestock, it is by the number of his mithans that his wealth will be judged, for the mithan is the supreme unit in the economic sphere, in the payment of tribute in pre-annexation days, and in the scale of sacrificial offerings." (Stevenson 1943: 47)

Mithans in pre-Burmese times were the sole trading item produced in the Northern Chin Hills (Lehman 1963: 169), which may give them even more importance now that access to goods produced by Burma (and India) are much more easily transported. In other words, while the trade in goods once produced on the plains, far from the Northern hills, was essential in the "supra-local" social organization of Chin societies (Lehman 1963: 44), nowadays mithans may act as a marker of Chin identity in a more nationalized – and burmanized – politico-economical context.

56. Mithuns sacrified to greed. The Forest Ox of Burma's Chins. Project Maje, February 2004. https://www.projectmaje.org/mithuns.htm

57. See for example Pacheco and Heder Benatti 2015.

Highlight

CHANGES IN LIVESTOCK MANAGEMENT: THE COUNTERPART OF LAND USE CHANGE AND URBANIZATION

According to Frissard and Pritts (2018: 71-72), livestock management was strongly impacted by the emergence of paddy terraces and permanent gardens. As number of paddy terraces and permanent gardens increased, it became too challenging for livestock to travel through cultivated areas every day to reach the dedicated sia-pil. *Livestock management thus became seasonal: collective grazing on a 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. Therefore, rules for herding livestock were reversed with the introduction of paddy terraces and permanent gardens. Whereas before livestock were kept in the village with little thought given to the damage they inflicted on home gardens, this is no longer the case. Since the preference is for paddy terraces and permanent gardens to be situated closer to the village – and for home gardens to also serve for growing cash crops - greater care is taken of plantations close to the village than of the shifting cultivation plots situated farther away, where staple crops are mostly cultivated. The same reasoning favored large livestock breeding practices for just a few households. Changes in livestock management and in agricultural practices are closely linked, and both can be seen as a response to Hakha's urbanization process. The case of livestock, in particular, is explained by 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 Waste Land Instructions.*

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 framework interfering from the outside via the introduction of new economies based on an exclusive land use: large-scale cattle breeding, but also timber extraction and stone mining, as we should see in following sections.

4. Non-agricultural land uses and tenure

4.1 From sacred forests to watershed areas

In pre-annexation days, there were no designated "watershed forests", although the integrated relationship between humans and land provided for a similar resource management framework. The nature of this relationship was deeply affected by the shift to Christianity:

> *"Then there are the potentially dangerous effects on agriculture of the rapid disappearance of animism before the Pau Chin Hau cult and the Christian religion. One of the most unforeseen effects of conversion from animism was an immediate reduction of the water supplies in many villages. The villagers having lost their fear of the* ti huai, *or evil spirits of the springs, proceeded to cut down for firewood the large shady trees which animism had preserved over all their village springs. This is particularly noticeable at Lotsawm, where the well above the village almost dried up altogether when the trees were felled, and some houses have had to move."* (Stevenson 1943: 45)

Furthermore, the firm establishment of Chin village locations changed the set of available responses to demographic growth. Before the British, mobility of the whole village, or the creation of sub-villages to redistribute the demographic pressure on land, was the most common response. Since then, the decrease in fallow periods (San Thein 2012: 3) created new issues: the capacity of the soil to retain water, and the availability of firewood and timber for building and repairing the houses. Schemes of resource exploitation have evolved accordingly, supported through the 1990s by NGOs and UN organizations; for example, the establishment of watershed forests and timber forests. Each of these areas has a special tenure regime, varying from one village to another, again, in accordance with the needs of the population and demographic pressure on resources.

In some cases (Hniarlawn for example) watershed forests were formalized by the DALMS under Form 105. In most villages, use of watershed forest resources is highly restricted, even with respect to NTFPs, as in Bualtak and Hairawn. Increasingly, villages rely on mini hydropower plants to provide electricity, so these watershed forests are also sheltering these installations, as in Bualtak.

BOX 6: THE DISPUTED WATERSHED AREA OF HNIARLAWN: OVERLAPPING TENURES AND OF MULTI-PURPOSE LAND USE

While the delineation of the Hniarlawn watershed area was requested and granted by the Old Hakha administrator in 1998, according to Hniarlawn respondents, New Hakha claims exactly the same area as its own watershed forest. Actually, the administrators of Hniarlawn and New Hakha are in possession of exactly the same document produced by the DALMS. The only difference is in the document's title, mentioning either the Hniarlawn or New Hakha watershed area (see Figure 19). The signatory is the same person, a DALMS staff member who is also a Hniarlawn villager. Despite being the object of conflicting claims, as long as it is for water source protection, the situation could endure. As the current New Hakha administrator commented, "land disputes between Hniarlawn and New Hakha have existed since I was young." In 1998, the New Hakha administrator had already submitted an objection to the Township administration about Hniarlawn's claim, stating that the requested land fell under their authority, not under that of Old Hakha. Although Hniarlawn villagers offered a pig – as Chin custom requires for such a request – Old Hakha's administrator sent a letter answering New Hakha's objection, in which he maintained that he was never asked for this land to create the Hniarlawn watershed area. Instead, he writes, he was asked only for the right to extract firewood and to cultivate on his own inherited land that is located in the same area. Only later, in 2003, did New Hakha apply for the same land to establish a watershed area, which resulted in the replication of the document formerly produced for Hniarlawn. The conflict arose again in 2007 when New Hakha sent a letter objecting to Hniarlawn's claim on the watershed, and accusing a Hniarlawn villager working for the State administration of illegally extracting firewood from this area. In that letter, the New Hakha administrator sets out his understanding of the chronology of events linked to this land:

1. In the past [year is not included] New Hakha administrator sued Hniarlawn villagers for felling timber (300 pine trees) and opening *lopil* without asking his permission. The judge decided that Hniarlawn should pay 200 MMK to New Hakha as compensation.

2. In 1985, Pa H.K. [a Hniarlawn villager] took 15 tons of firewood for commercial purposes from this area and the then New Hakha ward council confiscated it. When the villager complained to the police, it was judged to be New Hakha's property.

3. In 2002, Pa N. H. again extracted three tons of firewood. When New Hakha ward council informed Hniarlawn village that they were going to take action against it, the man went to the then Hniarlawn administrator to apologize and New Hakha fined him 1,000 MMK (around USD 140).

4. Since Hniarlawn took water from that area without asking permission from New Hakha, New Hakha called Hniarlawn's administrator and church elders to discuss the issue in 2004. Finally, Hniarlawn signed a document stating they would only take water from the area and not try to appropriate the land.

5. However, since Hniarlawn villagers repeatedly violated the agreement, the New Hakha administrator informed Hniarlawn's administrator that they were going to sue him. As a result, Hniarlawn's administrator and elders came to New Hakha in order to apologize according to Chin customs by killing a pig. Hniarlawn also had to sign a document stating that the Hniarlawn villagers would never extract resources above and under earth without requesting authorization from New Hakha.

However, this case has never been settled and is likely to cause further conflicts.

III. PERSISTENCE AND CHANGE IN LAND TENURE

Here, again, the firm establishment of village locations under the British led to the development of new arrangements for accessing freshwater in the context of an increasing population. Thus, the drinking water source in Hairawn is in Chunchung village. The clans' representatives – as in the case of *lopil* management – went to Chunchung offering a pig measuring four fists in girth. The customary nature of such arrangements must be underlined here, where decisions involve clan representatives rather than the "10 household leaders" acknowledged by the State. As the Hniarlawn administrator explained, the clan representatives are the best choice to present the interests of the village as a whole.

Hniarlawn also relies on an arrangement with Hakha for drinking water. There are actually two water sources and associated watershed forests in the village. While one of them is located within Hniarlawn's territory, the other is in that of Hakha Town. This source was the subject of a request in 1987 made by Hniarlawn to the Old Hakha administrator and land committee. The UNDP supported the whole process, particularly by covering the associated costs. The agreement was reached according to Chin customs – i.e., by offering a pig measuring six fists in girth – and formalized through State tenure by the DALMS. It should be noted

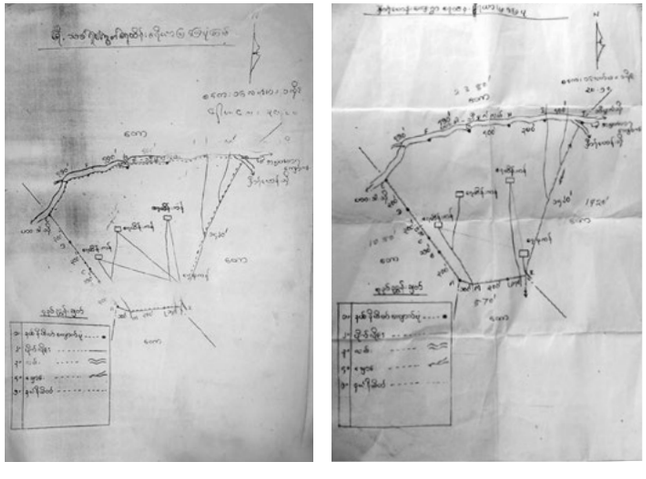


FIGURE 19: Two documents showing the same contested watershed area, bearing the name of Hakha (left) and Hniarlawn (right), with the same DALMS staff member's signature and stamp

that the formalization process may have been eased by the fact that the DALMS staff member in charge at that time was born in Hniarlawn village. Ten years later, Nabual village was also supported by the UNDP to improve irrigation in the village. As in Hniarlawn, the water source is in Hakha territory, located not far from Hniarlawn's water source. In contrast to Hniarlawn, Nabual submitted a request for access to the water source to the New Hakhka authorities, instead to those of Old Hakha. An objection was sent to the Township court by Old Hakha. The case was examined based on British-drawn village boundaries, showing the exact line between Old and New Hakha, and the ruling was in favor of Old Hakha. Therefore, since that time, despite being registered under DALMS cadastral maps as Hniarlawn's watershed forest, the land is administered by Hakha, although it follows the restrictions imposed by Hniarlawn for the area's conservation. This plural, and somewhat conflicting, conception of tenure regularly leads to misperceptions and conflicts (see Box 6).

Highlight

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 these areas are managed under inter-village arrangements, contrary to agricultural land (shifting and permanent) managed at the village level. This can create conflicts over management, 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 allowed uses must be set out clearly.

4.2 Forest products

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 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. This is closer to 1 ton in villages.

Tenure with respect to firewood varies from one village to another. Tiphul is the sole village studied that still has a perennial forest dedicated to firewood. In other villages, there are defined areas for firewood collection within the village forest, rotating on an annual basis. However, because this is not enough to provide for the needs of the whole village, firewood is also harvested from individually held plots or "inherited" plots (*lo hmun*) by requesting authorization from the plot holder. The payment of one can of condensed milk and 100g of sugar is generally demanded for such an arrangement. A similar situation exists in Hniarlawn where villagers also contract arrangements on individual plots held by Hakha dwellers. Until the end of the 1980s, Nabual used to reserve the less fertile plots

FIGURE 20: Household firewood stock, essential for cooking and heating

Celine Allaverdian

III. PERSISTENCE AND CHANGE IN LAND TENURE

for firewood cutting, using a lottery among villagers to pick those allowed access to these plots. This is still the case in Hairawn and Hniarlawn. The common limitation is one ton per household in these villages. However, as stated above, firewood can represent a good source of income, so that in Loklung, for instance, people are authorized to cut firewood only during the months of October to December, but in unlimited quantities. Our interviews show that some households will actually cut as much as possible during these three months and sell the products to Hakha, while they will then meet their own firewood needs in a more "discreet" way for the rest of the year. According to the headman, Hairawn allows three or four households per year from Hakha to extract firewood from its forest. In those cases, the farthest plots found in the direction of Hakha are chosen. The money asked from Hakha dwellers goes to a village fund.

In Bualtak and Loklung, charcoal making is another income generating activity, serving the Hakha market. The production of charcoal, like firewood, has met the great demand from Hakha for fuel since approximately 1990, according to our interviewees. Among the villages studied, charcoal is mostly produced in Bualtak and Loklung by the poorest segment of households. In Loklung, there are no restrictions on charcoal production while in Bualtak, production almost ceased in 2012-2013 following the awareness campaigns by the Community [Christian] Rural Development Association. Currently, only three households in Bualtak produce charcoal and their collection activity is restricted to unfertile plots (generally far from the village).

Timber

For timber, most commonly used for house building, Northern Chin villages rely on pine trees found in villages' *zo-lo* areas. Depending on the village's location, those are more or less abundant. Bualtak village, which has only one *zo-lo* far from the village (on Nipi side), used to request supplies from Zokhua village (situated on its southern border). Villagers said that they also sometimes cut young pine trees from their own forest, but this does not seem to be the case anymore. 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. For this reason, Loklung was transformed into a timber producing village on the eve of the National Students Sport Festival, which was hosted in Hakha in 1998. In the 1990s, after the accession of SLORC government, State governance became

more predatory and saw the rise of State-backed individual claims (cronyism). The appropriation of Loklung land for grazing by a wealthy and well-connected Hakha individual took place during the same period.

Loklung village has two different forests for timber extraction. One is reserved for village needs, the other for commercial timber extraction. The former is regulated, at least in theory, by the headman who gives authorization to villagers, and use is restricted to housing construction. The second is reserved for commercial use. There have been no restrictions on either the period of tree felling, or on the volumes cut, since 1996 – a measure that was adopted, according to the headman of that time, in preparation of the Students' Sport Festival. Regulation is imposed only by the Township Department of Forests' (DoF) practice of issuing licenses for timber extraction. Timber extraction was authorized in Loklung in the 1990s by the Prime Minister, the DoF and the Police in accordance with the rationale that Hakha Town needed good housing, given that it was the State capital. The headman of that time (the current pastor's father) was the main person involved in trading timber for Loklung in order to build the stadium needed for the 1998 festival. He had actually been involved in timber extraction since the 1970s, although this former period was characterized by tighter regulation and control by the State. After 1988 (the date of the nationwide students' protests), village headmen were empowered in their role as representatives of the State, which created more space for predatory practices, especially close to Hakha. The then headman of Loklung is reported as saying: "*I'm the police, I'm the DOF, I'm the prime minister in the village.*" During the period 1990-2003 (Khin Nyunt's government), Loklung headmen started to sell large quantities of timber to Hakha. There are now five or six timber contractors who have settled in the village and are selling to Hakha.

Timber provides an important source of income for the poorest section of Loklung's villagers. Some work directly with timber contractors, receiving advance money they repay through a sale price (2000 MMK (around USD 1.40)/ cubic meter), which is lower than the market price (3000 MMK (around USD 2.1)/ cubic meter). They are also provided with chainsaws from the timber contractor (workers provide the fuel), so that they can produce more. Working with a timber contractor also protects them from DoF/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 DoF/police in case of a check.

An enduring strategy was developed to bypass official regulations on timber extracted for house building. It involves building a house in Loklung, on-site, before taking it down to be sold to Hakha. This serves to bypass taxes imposed on timber by the Department of Forests. Those involved in such trade use double residences in Loklung, and Hakha to allow, on the one hand, access to timber under the control of the village, and, on the other, the right from Ministry of Construction to build a house in Hakha.

Maxime Boutry

FIGURE 21: Timber from neighboring villages sold in Hakha

Apart from the case of Loklung, the only other village that relies on timber extraction for income generation is Sakta (neighboring Loklung), although to a lesser extent. With the exception of a few poor households in Nabual and Hniarlawn that cut timber in the private holdings of other people for remuneration – generally on Hakha lands – other villages do not have reserved forests for timber and apply the same rule of allowing timber extraction for housing construction only after authorization has been obtained from the village administrator. As Bualtak villagers explained, timber extraction has been strenuously discouraged by taxes imposed by the Department of Forests since the 1970s. While control is tighter

FIGURE 22: A house compound which is too small to have a latrine (Hniarlawn)

Maxime Boutry

in some villages than in others, in Bualtak, villagers said that people were taxed by the Department of Forests every time and everywhere a house is built. 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 from the Department of Forests brings administration of this resource closer to State tenure, as exemplified in the case of Loklung. 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, Hniarlawn's elders cited the case of a timber extraction company that had tried – without success to date – to appropriate one of their *lopil* where the forest consists mainly of pine trees.

Non-Timber Forest Products (NTFPs)

The main NTFPs include orchids, yams, more recently elephant foot yam and even more recently "*u phyu*" (white tubers). In most villages, every household is allowed to collect NTFPs without restrictions. The only village where NTFPs have been subject to limitations is Bualtak, apparently following a call for the better conservation of forests by a Christian association named Community Association for Rural Development (formerly Christian ARD). It seems that since their call in 2000-2002 for the collection of orchids to stop, no one has been allowed to do this. The rationale takes into account the fact that some households fell entire trees just to collect the orchids growing on them. However, the administrator acknowledged that it was difficult to control such activity and that, furthermore, orchids represented an important source of income, especially for the poorest people who had no access to paddy fields or permanent gardens. Another important NTFP in Bualtak is a plant (*hmunphiah kung*) that is an element in the fabrication of broom-sticks sold to the Hakha market.

4.3 Housing land

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. In the case of a villager moving from one location to another, as witnessed in Tiphul, the decision is taken

collectively and agreed on by killing an animal (pig or cow). In the case of Tiphul, a committee was then formed with elders, and plots measuring 80x60 feet were delimitated in the new location. The first households to move have the right to choose their plot. Choices about location may depend on proximity to the church, water, road, and so on. Another point to be underlined is that, depending on the village land that is available, housing land may not be sufficient for the whole population or, at least, it may not be of equal quality and size. This is the case in Hniarlawn, where poorer households do not even have enough space to build latrines. This was the case for a woman (originating from Nabual) who was left by her husband, but was still living on part of his father's land. The lack of space for new families to settle is among the triggers that persuade people to move and/or split villages, as in the case of Hniarlawn (see Chapters III.5 and III.6).

Although such regulations apply in most villages, the peri-urban dimension that affects some villages more than others (Loklung, Hniarlawn) progressively overcomes the customary framework and transforms administration 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 (see Box 8 for Hakha housing land commoditization). This is the case in Loklung, where the housing land market developed in the 2000s, following the National Students' Sport Festival. During the years 2005-6, the then administrator organized the sale of the land along one mile of the road going to Hakha. Plots measuring 60 x 80 feet were sold at between 30,000 (around USD 5400) and 50,000 MMK (around USD 9000) each to Hakha City dwellers. Other pieces of land were sold by Loklung administrators throughout the 2000s, including gardens and grazing land of a size ranging from 1 to 8 acres. Some plots being sold were even situated in the designated watershed forest area.

A housing land market is also developing in Hniarlawn. Indeed, since the 2015 landslide, the regional government allocated land for relocating the victims, which is situated along the Hakha-Tiphul road. The settled area of New Hakha is thus extending to the east in the direction of Tiphul, at the very border of Hniarlawn's territory and in the contested watershed area. Accordingly, speculation plays on the fact that soon this area could become part of Hakha City's land – i.e., administratively under the management of Hakha City Development Committee (HCDC) – and thus its value is rising dramatically. The landslides also affected Hniarlawn (as they did many other villages), making many housing

lands unstable. In response to this situation, villagers held many meetings to decide whether or not the village should move, and, if so, where. The roadside going along the contested watershed area as well as through the former government tea plantation (see Box 7) was designated as a possible location. In Hniarlawn, many power struggles took place around this issue, and it was not settled at the time of this study. However, some households had already started to move while others have marked the land and posted signboards bearing the name of the household leader (see Figure 23). A former administrator of New Hakha told us that during informal conversations with Hniarlawn villagers, they expected that HCDC would bring the area sooner rather than later under its administration. According to the latest updates, this could go even further with a plan voted on by the municipality to further extend Hakha into a Hakha New City (different from the already existing New Hakha), under a Green City Urban Plan on 500 acres more. Out of these, 100 acres have already been taken and it is planned to redistribute land plots by lottery to the landless and homeless (households currently renting), widows, pensioners and pastors,[58] while remaining land needs to be given clearance by scrutinizing previous land claims. This could further exacerbate tensions around land in the area and will not help to resolve Hniarlawn's conflicts.

BOX 7: THE 2015 LANDSLIDE AND THE NEED FOR HOUSING LAND REVIVING OLD CLAIMS

Pa H. T. is a former Old Hakha resident whose house and land were swept away by the landslide. He claims having bought part of the land of Hniarlawn's contested watershed area (also coveted by some Hakha villagers to build their houses) from a family who inherited it from the last Hakha Chief Kio Mang.[59] In 2013 he asked Hniarlawn's administration body the permission to cut firewood in the watershed area, on his inherited land. The village's clan representatives and Hniarlawn

58. The Hakha Post (16 February 2018) "The announcement of lottery for the extension of the new Hakha Town has been released and 704 households have been given permission to participate in the lottery".
59. Chief Kio Maung was among the three representatives of the Chin people who attended the Panlong conference in February 1947 (Sakhong 2003: 211-212).

administrator denied the request, in order to protect the watershed area. This case highlights the intricate set of legitimized claims on land and associated resources. In 2016, Pa H.T. sent a letter to the Township administration, mentioning that Hniarlawn's elders had come to him in 2013 with the killing of a pig to ask permission to take water from his inherited land within the watershed area. The letter mentioned that he had allowed them to do so - but that they should have no other claim on the land and its resources- and asked permission to rebuild his house that had been destroyed during the landslide and settle there. Pa H. T. says having bought this land for 30,000 MMK in 1999 with a stamped contract. A pig was killed to legitimize the transaction in the eyes of Hakha and Hniarlawn villagers. Pa H. T. estimated it at 500 acres. When the government grabbed around 700 acres from Hniarlawn village for a State-run tea plantation, he got the idea to plant his land, and the Township administrator also encouraged him to do so. He planted green tea on about one acre and fenced it in 2015 after hearing that landslide victims would be relocated to this area. Since then, he has delimitated small plots for his children and landslide victims who are not taken care of by the relocation plan. About 10 families of former tenants living in Old Hakha, whose houses had been swept away made an agreement with Pa H.T. to build houses on his land. By the end of this study, four houses had already been built on 60 x 80 feet plots. Lands were purchased at a price of 5 to 10 lakhs, based on oral arrangements and Pa H.T. did not require immediate payment. Since the land is not registered as residential, Pa H.T. told the newcomers to seek proper registration by themselves. Some officials from HCDC have also already enquired to build their houses on this land and have threatened to sue them for failing to comply with official land use regulations. Pa H.T. intervened by explaining that it was Chin custom for a household to build its house on a farm plot – Pa H.T.'s daughter developed a potato field near her house located in the same area most probably to support this discourse. Pa H.T. argued with HCDC officials about the fact that no one had asked him for permission to cut wood on his land so he did not see why he should apply for a permit in order to build houses on his land.

FIGURE 23: The fencing of a housing plot in the possible new location of Hniarlawn with nominative individual claims posted at the entrance (i.e. "my plot [khua ram], Mr. X, 14/Hniwarlawn")

Pyae Sone

Highlight

URBANIZATION BRINGS A NEW VALUE TO RESOURCES

The development of a town, 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. Housing land went from a resource freely accessible to any household in a village setting, to one shaped by urban extension projects that increase economic value and rapidly push such land outside CLS. We saw this in the case of Loklung and the same is happening in Hniarlawn. While not generalizable to other villages in Hakha Township, these examples underline possible trends in the context of urbanization and greater control from the State. This greater integration 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 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.

4.4 Stone mining

Given the perpetual need for road repair 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. Stone mining started in 2010 in Nipi. There is also one stone miner in Bualtak (the former administrator of the Village Tract). He submitted a request to extract stone along the road within the village limits to the administrator of Nipi (who is the current Village Tract administrator). He received a concession and started in late 2014. As in the process of transforming shifting plots into permanent gardens, some villagers feel the decision process for authorizing mining concessions in the village should involve the whole village, or at least the elders' council. But currently, stone mining benefits only the village administrator and those who directly undertake this activity. It is even more problematic when contractors come from outside the village, as in the case of Hairawn. Villagers have raised the issue of a large stone (see Figure below) sold out by the village administrator for only 20,000 MMK (around USD 18) to a road building company in 2015-2016. Besides having not been informed, villagers believed that the stone sheltered *Keu Chia*, the evil spirit, who might now have no home and might bring trouble to the village. In fact, the company first tried to employ Hairawn villagers to break the stone into smaller pieces, but they refused because of this belief. Therefore, the company turned to Chuncung villagers to crush the stone.

Maxime Boutry

FIGURE 24: Top of the stone – alleged to shelter a spirit – which was sold for mining

Highlight

EMPOWERMENT OF VILLAGE TRACT ADMINISTRATORS

Recently introduced activities, such as stone mining or charcoal making, which are outside the sphere of "traditional" Chin land use, rely 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 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 misgiving 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.

5. Commoditization of land and change in inheritance patterns

5.1 Land markets

According to our interviewees, before the 1990s, there were few monetized land transactions in Hakha and virtually no transactions in surrounding villages. Although inherited plots (whether shifting or for permanent gardens) have long been transferred between individuals, these transactions took place principally through inheritance, and secondly through barter, for example of livestock. While many of these bartered plots were later sold between different families, we cannot actually talk about commoditized land.

Most cases of monetized transactions – in the sense of land as a commodity –[60] seem to have happened after the advent of the SLORC government (after 1990), with the noteworthy exception of paddy lands, developed through much expense

60. Since the introduction of monetized trade, land transfers through "inheritance" (often the purpose of allegiances or alliance between clans) have been the focus of currency exchange, although they have had a symbolic rather than an economic value.

for terracing, and strongly supported by the Upland Reclamation Department under the Ministry of Agriculture and Irrigation (MoAI) in line with the national "paddy policy." This period is marked by the accession of Hun Ngai (a Mindat Chin) as regional commander, who later became PaYaKa chairman was Chin Chief Minister under Thein Sein. Under his rule, land was commoditized through registration to the DALMS. It also gained some value through the development of Hakha: the value of housing land progressively increased to become the focus of economic and power appropriation by elites. As illustrated by the case of Pa D.C.'s land (Box 8), the superposition of State tenure on the Chin customary land framework led to conflicts because some individuals exploited the State-based land tenure framework to claim land against customary, legitimate, owners. Other interviewees acknowledged the fact that they had profited from the blurriness existing between the State-based and customary land tenure frameworks to extend pieces of land they originally owned through customary tenure, obtaining land use rights from the DALMS.

BOX 8: LAND SPECULATION UNDER THE GUISE OF DEVELOPING PERMANENT ORCHARDS

Ram-uk Bawi represents a land situated in what is now Cawbuk ward, southwest of Hakha Town. Pa D.C., the land's hereditary holder, had 40 acres confiscated by the Chin regional government in 1992. He had received this land from his father, Ram Kham, who was the *kawi* – the best friend of the groom – of Swei Mang. The *kawi* tie is very strong, notably implying that two *kawi* look after each other's family in case, for example, one dies. Swei Mang was the son-in-law of the Hakha Chief Ral Mom of the Sengthe chief clan. Swei Mang, who received this land from Ral Mom, transferred about 150 acres to Ram Kham to seal their *kawi* relationship. This land transaction was officially recorded in 1945, shortly before independence, on a contract bearing the Revenue Stamp of the Government of Burma (see Figure 25). The rough plot map made at the time of the transaction added some 40 acres. This land was later transferred by Ram Kham to his son Pa D. C.

Pa D. C. gave around 150 acres of his land to form a watershed forest that now dominates the Chawbuk ward of Hakha (south of the town in the direction of Loklung-Sakta, Figure 17). The remaining 40 acres were confiscated by the Regional Command based in Hakha in 1992, supposedly to plant apple trees, lime trees and white mulberry (Morus Alba) trees to feed silkworms. None of these were cultivated by the government on the grabbed land, and the 40 acres were "redistributed" to local elites.

Among those who received part of this land is Hakha Baptist Association's general secretary. He allegedly resold part of the land, selling several plots to the Senthang Christian fellowship – the religious congregation covering the south of Hakha region in the direction of Sakta village. The second beneficiary of Pa D. C.'s land confiscation is the Chin Baptist Convention's Reverend. Whether he resold part or all of the land is unknown. Another beneficiary is an elder from Sakta village who used to consider Pa D.C.'s father, also from Sakta, as an "elder brother". He also resold part of the land he received. In an interview in the local media he acknowledged that, at that time, land could be easily acquired by giving 2 lakhs per plot to the DALMS (SLRD at that time).

Yet another beneficiary is a "Hakha crony" originating from Khuapi village, not far from Sakta. Finally, the previous Chief Minister (under Thein Sein's government), Major General Hung Ngai – a Mindat Chin, formerly Chairman of Chin State Peace and Development Council – acquired part of the land in the 2000s.

Apart from the beneficiary listed last, all of those who received part of Pa D. C.'s land were from the Senthang area (Sakta, Khuapi). Interestingly enough, the first Christian convert in Hakha (back at the beginning of the 20th century) was a former slave of the Sakta chief (Sakhong 2003: 157). We should recall here that before annexation Hakha and Sakta were two powerful strongholds in the Chin landscape. Sakta and Khuapi were the most important Lai villages of the so-called "independent villages" south of Hakha (Carey and Tuck 1896: 162). It seems that old socio-political organizations are still active in the capture of resources but that elites emerging from this organization have moved, as exemplified in the above case, from former clan chiefs to religious and State authorities over the course of 60 years (1940s-2000s).

FIGURE 25: Land title of Pa D. C.'s land dating back to the British era

Land progressively became the focus of monetized transactions between "commoners" due to an increasing pressure within Hakha, at least for the most fertile tracts. To illustrate, while one interviewee from Old Hakha developed a *dum* on his inherited plot, another had to buy a piece of land since his inherited plot, situated in a *zo-lo*[61] area, was not suitable to be a garden. He bought land from an individual from his own clan (Kan Lawt) in the 1980s, paying 3000 MMK for 2 acres in the *lai lo* area below current Old Hakha Town. There, he used to grow mostly fruit trees (avocados, bananas, grapes) and some vegetables until his land was destroyed by the July 2015 landslide. The other elder who transformed his inherited plot into a *dum,* grows corn, mangos, and *Duabanga grandiflora*, as well as tomatoes as main cash crops. Both started to sell their produce in the 1980s. It is noteworthy that the price of land transactions relates to the social structures that have existed in Hakha society since pre-British times. The price is indeed fixed depending on the degree to which the two contractors are related. One interviewee summed it up as: "I might today sell my land at a price of 50,000 MMK (around USD 35) to a relative, or of 5 lakhs (around USD 350) to a Burmese outsider."

BOX 9: EXAMPLES OF LAND TRANSACTIONS IN HAKHA IN THE CONTEMPORARY PERIOD

1999: a staff member (Department of Forests) relocating from another town bought housing land measuring 80x160 feet from a pastor in the new market ward of Hakha. The land already had a housing license. In **2002**, the same individual bought part of the same owner's garden land next to his housing land for 100,000 MMK (around USD 14,000) and now his housing land is 1 acre wide. In 2011, he bought a 60x60 feet plot in the new market ward for 14 lakhs (around USD 210,000).

2002: An interviewee from Old Hakha sold his inherited paddy terrace (0.7 acres) for 10 lakhs (around USD 140,000). One of his neighbors – a relative – who owned paddy terraces in the same area bought it.

2015: a large area of housing land (more than 1 acre) was sold to outsiders for 100 lakhs (around USD 9000) (19 lakhs were deducted to cover the cost of registration).

61. Colder and not suitable for growing fruit trees.

Highlight

LAND TRANSACTIONS IN URBAN AREAS

The 1990s, through greater penetration by the State, saw a shift in land value within Hakha Chin society. The monetary value now attributed to land tends to outweigh its social significance, especially when it is situated within the urban area or at its peripheries. This tendency also depends 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 larger tracts of land captured by the elites through the land legal framework (VFV Law), although it can serve to regulate relationships within traditional supra-local realms, such as between the Hakha and Senthang areas (see Boxes 5 and 8).

5.2 Changes in inheritance patterns

As explained in Chapter II.1.1, inheritance in Northern Chin society is highly codified. In the past, in cases of polygamy, only sons of a major wife would inherit the father's estate. However, sons by other wives could share indirectly in the estate since the father often gave a portion of his holdings to them during his lifetime. Among the sons of a major wife, there were also non-inheriting sons, since the eldest and the youngest shared the whole of the father's estate. Polygamy has disappeared but this last feature in inheritance persists, with variations according to clans. Interviews show that whether the eldest or the youngest inherit the cultivable land, or the whole land, or whether they share it, depends on each village and clan. In Sakta tradition, for example, the eldest still inherits the land and livestock while the youngest inherits the house and its associated compound. In a number of cases, non-inheriting sons (whether they are from minor wives or are middle children) are left without any estate

(no inherited plots or house). They are, therefore, more likely to try to change their status by founding new villages – as seen in the case of Bualtak/Nipi and Hniarlawn – or to migrate to third countries (see Chapter III.6.3.). However, migration, notably to third countries, has been massive and has not exclusively involved 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,[62] it is not surprising that inheritance rules in relationship to gender are also evolving. There are now cases of women inheriting.

6. Livelihoods and evolving dependency on land access

6.1 Farming: a strategy for food security and resilience

Putting the findings of this study into perspective with the farm typology (see Annex 2) elaborated by the Farming System Analysis conducted by Frissard and Pritts (2018), enables us to highlight several essential points about agriculture in Hakha.

Although cultivation may not currently be as essential for Chin rural households' livelihoods 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. According to our interviewees, farmers who cultivate paddy owned on average 0.5 to 1 acre of terraces and this rarely extended beyond 1.5 acres (Frissard and Pritts, 2018). Similarly, for permanent gardens the acreage cultivated remains very small: 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

62. 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 26: Home gardens for year-round self-consumption of households

Maxime Boutry

Town. Farmers try to combine paddy terraces with gardens whenever possible. 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 Frissard and Pritts's typology, the non-ownership of large livestock (cattle, buffalos, mithans and horses) is the most essential feature of those relying 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 to invest in permanent cultivation. These households are also probably the most affected by changes in livestock management triggered by the shift to permanent cultivation (as described in Chapter III.3), and the dramatic increase in crop destruction by free grazing. The typology also shows that the vast majority of farmers own large livestock. A look at the table below shows that livestock ownership is substantial, particularly in villages closer to Hakha such as Loklung and Bualtak.

TABLE 6: Population and large livestock

VILLAGES	POPULATION	NB OF HH	LARGE LIVESTOCK	AVERAGE LL/HH
Bualtak	139	36	190	5.3
Chuncung	1709	375	979	2.6
Loklung	759	148	1200	8.1
Nabual	230	50	70	1.4
Tiphul	473	107	240	2.2

(source: MIID Baseline data 2017)

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

Considering crops, livestock and aquaculture altogether, households' agricultural income remains quite low, even when the value of self-consumption is taken into account. These incomes vary from USD 300 to 1900 per year per family member.

This is considerably lower than in other parts of Myanmar (Allaverdian *et al.*, 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.*"

6.2 Off farm activities

British injection of cash into the Chin's barter economy through road maintenance work contributed to the development of wage labor, although this, along with trade, remained marginal for rural households at that time (Stevenson, 1943: 101-102). Nowadays, the injection of cash into Chin's economy through road construction is still significant.

Interestingly, the creation of a road network developed for military purpose after independence promoted the relocation of villages generally near to these communication axes. This phenomenon accelerated through the second half of the 20th century with developing trade and burgeoning work opportunities on the roads,

FIGURE 27: Road construction and mobility

Céline Allaverdian

which constantly needed to be repaired due to the annual landslides triggered by heavy monsoon rains. This income opportunity is still relevant for Chin society, especially with respect to the on-going Kalay-Hakha road renovation project supported by the World Bank and the Japan International Cooperation Agency (JICA). Under President Thein Sein (2010-2015) and the NLD-led government, Northern Chin State witnessed new development projects, particularly for road rehabilitation. These projects generated many income opportunities both for the rural poor (labor in stone mining, road construction, and so on) and for local elites (for instance, machinery rental business and construction companies). A number of machine operators come from Mizoram while other road construction laborers are from Hakha Township. However, even there, fresh competition has arisen with Burmese workers coming from the lowlands and ready to work for lower wages than the Chin workers (4,000 to 5,000 MMK/day (around USD 2.8 to 3.5) compared with 8,000 MMK/day (around USD 5.6) for Chin laborers).

The exploitation of "new" resources such as stone, charcoal, firewood and timber for the growing demand of Hakha, is also part of the new livelihoods equation, particularly for the poorest fringe of the population.

Highlight

ROAD CONSTRUCTION: A STRONG DRIVER OF LIVELIHOOD CHANGE

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 seasonal and permanent migration. They also live in different places. On several occasions, we met village 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.

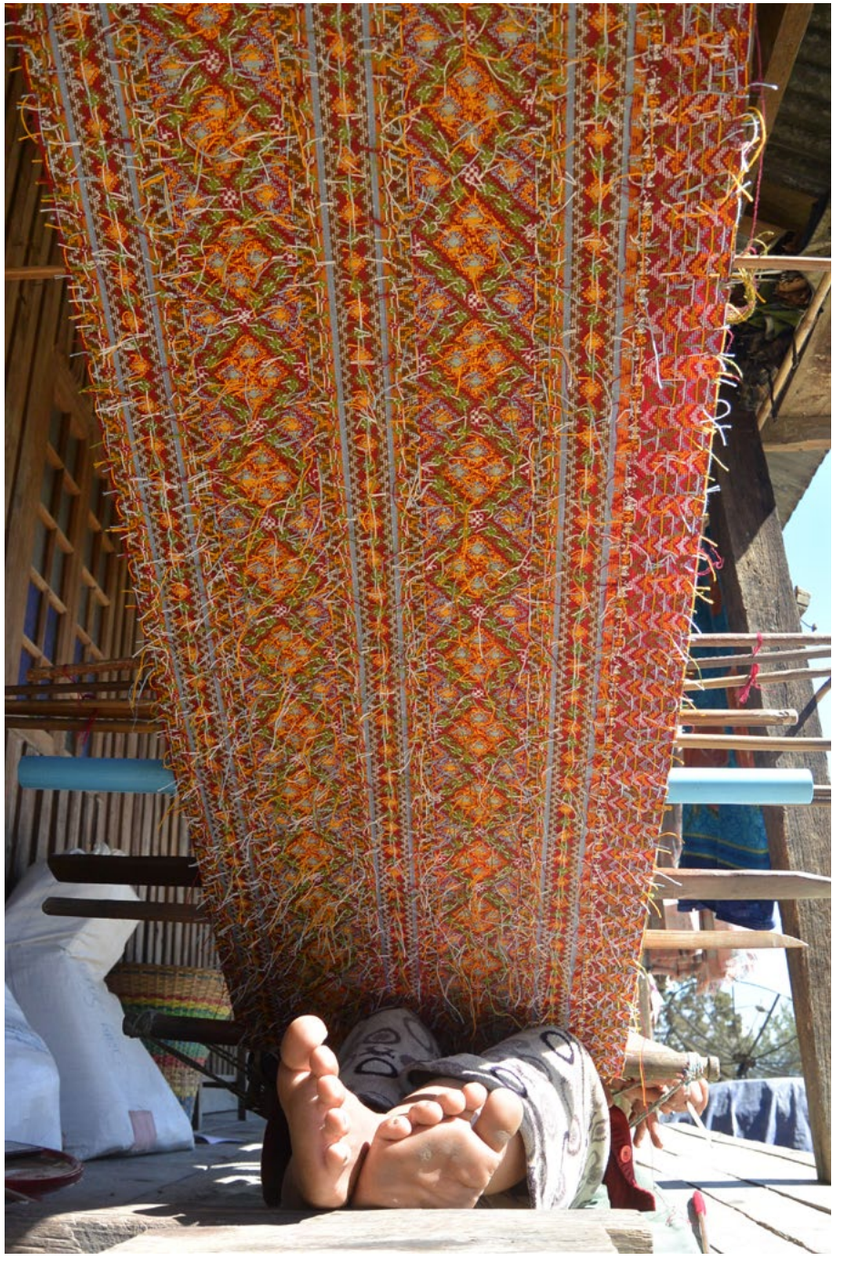
Common pool resources from the forests and shifting cultivation fallow areas are also essential for poor households. These bring critical additional income and are a source of food for the poorest, although they remain marginal compared with gardens. Hence, socio-economic differentiation with respect to access to paddy terraces and permanent gardens pushes the poorest to rely on firewood and NTFPs for which, as we have already discussed, CLS often has weaker regulations (than for agricultural land).

We have also already seen (in Chapter III.4.2) that the extraction of firewood and NTFPs (charcoal, orchids, different types of yams, plants used for broomsticks, and game animals) is generally loosely managed at the village level.

Finally, weaving is also a source of income, particularly for women. A weaving that takes 25 days of work and 8,000 MMK for initial material is sold for around 60,000 MMK (USD 1 = 1300 MMK at the time of the study). The net profit for a day's labor is quite low (2000 MMK/day) compared with that of farm labor (3000 MMK/day for women, 5000 MMK/day for men up to 7000 MMK for plowing) and other wage labor. Yet it is particularly relevant for families who lack male laborers and allows for the flexible management of labor, since weaving can be done at any time.

Maxime Boutry

FIGURE 28: Hunting implements and mouse traps (left), and non timber forest products (right)



Celine Allaverdian

FIGURE 29: Weaving in the village

6.3 Migration and mobility

The oppression following the 1988 uprising, and the regular accounts of human rights violations, extortion and forced labor conducted by the Burmese army, led to a sharp increase in international migration to countries such as Malaysia, India, the United States and Australia. Migrants were illegal or legal, or were official political refugees. For the majority of households we interviewed, at least one – if not several – members of their family were outside of the country at the time. According to some studies, migrations in the region of Hakha involves between 70 and 80 percent of households (Rual Lian Thang 2012, and Cung Lian Hu 2018). The economic hardship during these times also made seasonal migration to Mizoram (India) popular among general workers during the period 1990-2010 (Danel-Fédou and Robinne 2007). It was reported by an elder that in the 1990s, 80 percent of young men from the village would migrate seasonally (from September to December and January to April) to Mizoram to work as laborers in timber felling or road construction.

Remittances have gradually become an essential contribution to those remaining in the villages. According to interviewees, remittances 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 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 investments. The same author (*ibid.*: 48-49) notes that children who 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.

The diaspora also plays a significant role not only through remittances, but also in collective actions, notably those conducted through religious organizations. For example, in Sakta, the four-mile long fencing to separate grazing lands from

the permanent cultivation areas was funded (100 lakhs (around USD 7000)), by the children of a noble clan family who migrated to Canada.

Mobility of settlements

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). As opposed to the fixed map of people and resources for taxation purposes, geographical mobility in Hakha society is related to the need to secure access to intertwined economic and social resources. The nature of the resources (access to land or access to the work opportunities such as road construction) may change, but the reasons behind mobility persist. A parallel can be drawn with the contemporary movements of the villages in this study. Indeed, we have already seen the recent split of Bualtak village into a second village, Nipi, and that Hniarlawn village was caught up in a complex decision about whether or not to move to a new location situated close to the relocation site chosen for victims of the July 2015 landslides. Although the current situation of Hniarlawn is partly due to the fact that the expansion of Hakha Town brought a new economic value to land, in both cases – in Bualtak-Nipi and in Hniarlawn – mobility and correlated tensions in the village also reveal a socio-economic struggle between the upper and lower classes of these communities. Indeed, in the case of Bualtak, interviewees revealed that the first households willing to move to Nipi were those who had no access to paddy terraces. In Hniarlawn, too, most of the people willing to settle by the Hakha-Tiphul road were poor casual-worker families, with no space to make gardens in their own housing area. In contrast, most households who did not want to move from the current settlement had permanent gardens, terraces and fishponds next to their house, and a large housing area generally close to their plots. Therefore, village mobility can still be considered to be a strategy adopted by the poorest fringe of the population to overcome socio-economic differentiation.

A traditional Chin meal

Celine Allaverdian

IV. Discussion and recommendations

1. Urbanization, customary land tenure systems and the State's land framework

1.1 What kind of land uses and resources, what kind of tenure?

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, notably regarding inclusion/exclusion, whether being titled – through the State-based land framework – or not. In the very few cases where land use rights on permanent plots are still held by individuals who have left the village,[63] management, access and alienation rights escape the village's land administration. This was an issue raised by Tiphul elders about some plots titled under the statutory land framework, whose rights holders are now absentees (see Chapter III.2.1). There is, however, little interest for individuals (even living in Hakha, which is close to those villages) in managing far away plots since those 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. Apart from land in Hakha City directly appropriated by the State, and sold to individuals, State and customary land

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

tenure cohabit quite smoothly. 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 compensation: a pig, a cow or simply a bottle of condensed milk and a pack of sugar depending on the quality of the land and the status of the customary holder. Second, he would seek the administrator's authorization and possibly proceed with titling. In the case of the Hniarlawn watershed, the different letters issued by the stakeholders put more emphasis on customary agreements than on the formal documents produced by the DALMS. In that sense, legal pluralism is quite well managed regarding the original agreement with respect to the use of water from the area.

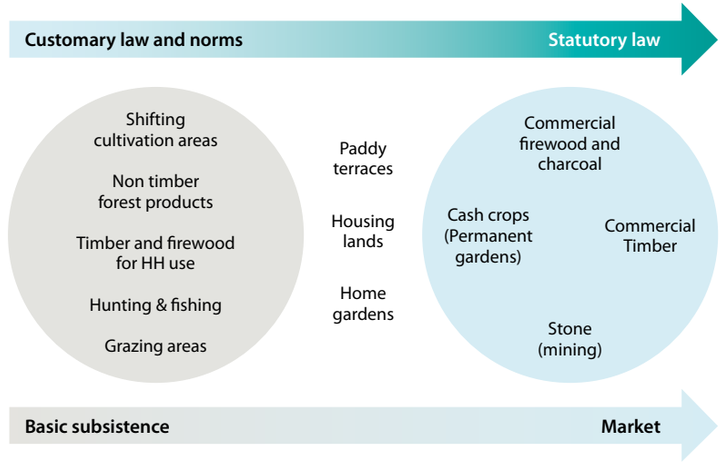
In fact, conflicting interpretations between customary and statutory law often arise with these emerging financial interests. As land and natural resources become commodities, customary systems are put under pressure. Land may be directly appropriated by the State or sold to individuals. Increasing individualization of tenure affects other resources that were always loosely controlled by the Hakha Chin CLS, either because they were not used before for commercial purposes (timber and firewood) or because they were not "useful" resources until recently (stone).

Here, contrary to permanent cultivation plots, the proximity to Hakha Town puts greater focus on these resources. As seen in the case of Hniarlawn village, timber extraction was repeatedly the motive behind conflicts about land ownership between the village and Hakha, both at collective (village territory) or individual (hereditary claims) levels. In Loklung, too, a few individuals had been deeply involved in timber extraction since the time of the National Students' Sports Competition (1998).

Therefore, 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 (see figure 30). In other words, customary tenure applies to the least economically profitable and non-commercial forms – at least in its current setting –[64] of land use and resources.

64. After more than a decade supporting the development of permanent cultivation, local and international organizations, including GRET, are now shifting their focus to the development of agro-forestry which is more compatible with traditional shifting cultivation, more adapted to the Chin landscape and possibly also more profitable.

FIGURE 30: Land uses and main legal framework for administering them



1.2 Customary land systems and equity

Mention has been made throughout this report about socio-economic differentiation operating with respect to land access. We must first note here that access to agricultural land (whether shifting, permanent gardens or paddy terraces) is, with few exceptions, very equitable in terms of surface area at the village level. This is confirmed by Frissard and Pritts (2018:100). However, our observations and interviews support findings from other studies in Northern Chin State (San Thein 2012, Danel-Fédou and Robinne 2007) that owners of paddy terraces – and we should also add here permanent gardens – most often belong to the upper economic category of households within a village. This seems to be a widespread process throughout Southeast Asia including in Southern Chin (Mertz *et al.* 2009, Vicol 2018). Although a majority of households in each village have access to paddy terraces, not all lands are of the same quality. The development of inundated paddy cultivation has to be disaggregated into two different periods. Beginning in the 1960s-1970s, the first terraces were developed by wealthy individuals (traders and officers). As underlined in Chapter III.2.1, the possession of paddy terraces served to establish one's higher status over those relying mainly on shifting cultivation. Inundated paddy plots were developed in riverbeds at first, then on terraces having sustainable access to irrigation. Then

came the highland reclamation projects of the 1990s and 2000s that aimed to systematically develop the cultivation of inundated paddy wherever possible throughout the country – rather than wherever suitable. Through this period, access to paddy terraces was democratized although not everybody was able to benefit from the same land quality since in most cases the more fertile lands (*lai lo*) with better access to irrigation water were already held through inheritance (*lo hmun*). Such holders took the best plots for their own profit, then gave plots of inferior quality or those that were in colder, less fertile areas (*zo-lo*) to those without inherited plots. Paddy cultivation necessitated the introduction of new techniques, such as plowing with buffalos. The capacity to purchase and keep buffalos or cattle is also a factor in economic differentiation. As a result, the number of abandoned terraces observed in every village casts doubt on figures suggesting that a majority of households have access to paddy terraces. These developments elevated rice to be the most valued crop in the Chin diet. However, only in very rare cases was paddy production enough for a household's consumption throughout the whole year.

Maxime Boutry

FIGURE 31: Abandoned paddy terraces in Chuncung Village

Although they are a marker of wealth, paddy terraces do not serve aswealth differentiator. In this respect they differ from permanent gardens and orchards that are geared to produce cash-crops for income generation. Our interviewees pointed to the fact that those with access to garden land had a greater income and better socio-economic situation than those who did not – a point supported by the agrarian analysis of Frissard and Pritts (2018: 100). Besides the capacity to access land for permanent orchards, the land quality and the household's capacity to invest in seeds, fertilizers and labor remains crucial. Access to the most fertile plots, just as for irrigated paddy, was greatly shaped by previous distinctions between villagers holding individual claims on inherited lands and those who had access only to communal plots.

Therefore, we could conclude that the introduction of new uses for agricultural land in the form of paddy terraces and permanent gardens, did not profoundly change the modalities of socio-economic differentiation in Hakha Chin villages, where aristocrat families were generally those having access to the best plots through inherited land use rights.

Changes actually pertain to other kinds of land uses introduced from the 1990s onward, such as timber, firewood or stone mining, and access to valued housing land in the proximity of Hakha. These resources are indeed increasingly subjected to capture by better-connected individuals, whether from within the village-sphere or from Hakha. At the same time, such resources are the least regulated through CLS.

2. 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.

2.1 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[65] 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.

2.2 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 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

65. 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).

Maxime Boutry

FIGURE 32: Elephant foot yam (raw in the foreground, sliced to dry in the background), an emerging crop

source of income for villagers. What mechanisms will regulate land tenure for this type of cultivation under forest cover?

2.3 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.

2.4 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/outsiders occurs.

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[66] 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 tenancy in the chiefdom 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.

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

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*

2.5 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.[67] One may wonder whether

67. 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).

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.

2.6 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 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.

2.7 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.

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Chin sickles in a harvested paddy field

V. Conclusions

This report has shown that contemporary tenure of land and land-based resources in Hakha Chin (peri-urban) 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 word, 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 designation as Chin State's capital (1964).

However, as mentioned throughout the report, although shifting cultivation may be declining with the gradual conversion of lands to other uses, it represents the main way for poorer households to access lands and maintain an agricultural livelihood and remains a crucial activity to cover food subsistence needs.

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, as exemplified in the case of Hakha's Ram Uk Bawi land (Box 8), 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 (e.g., between the Hakha and Sengthang area, which remained independent from Hakha's realm until annexation). A variety of ethnographic examples support the idea of understanding the changing relationship between humans and land as a product of the cultural processing of modernity. Furthermore, these examples show the differential impacts of urbanization observed in villages around Hakha.

The weakening of customary land tenure systems has to be understood as a changing relationship between humans and land. In other words, customary rules and the State-based framework relating to the use of land and land-based resources may well cohabit where the economical stakes are limited. But, as seen in the urban and peri-urban context, when land begins to be commoditized, pressure is put on specific resources such as forest products. Under these circumstances, the State-based land framework becomes useful as a means to achieve a transformation in social and moral norms and values rather than being the cause of the decline in CLS. Customary systems are dynamic and perpetually adapt, so that access to paddy terraces and permanent gardens is restricted to village residents to avoid, as far as possible, the capture of land and associated resources

by outsiders. A historical approach shows that customary tenure has continuously changed and adapted to political, ideological/religious, demographic and economic circumstances since colonial times – in other words, it 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.

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 sense of communal ownership over land and land-based resources in each village depends partly on historical factors (for instance, in Loklung not being recognized as a proper village), but mostly it relates to their proximity to Hakha. Nipi (individual *lopil* management), Hniarlawn (land commoditization and speculation) and Loklung (extractive, individualized timber production, commoditization of housing land and individual management of agricultural plots) are villages where CLS are the most challenged. The proximity to Hakha town also fosters differential changes such as the development of permanent gardens that benefit from 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. If this is the case, 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.

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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Millet, sulphur beans, “mung” grain and tree tomatoes

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VII. Annexes

Annex 1: Activity calendar

DESCRIPTION	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Paddy cultivation												
Seed nursery					x	x						
Land preparation					x	x	x					
Transplanting						x	x					
Weeding							x	x	x			
Harvest											x	x
Transportation												x
Other crops												
Corn			x	x	x	x	x	x	x	harvest	harvest	
Pigeon pea	x	x	x plant	x harvest	x	x	x	x	x	x	x	x
Khamphe	x	x plant	x	x harvest	x	x	x	x	x	x	x	x
Potato			x	x	x	x	x	x				
Onion	x	x	x	x							x	x
Garlic	x	x							x	x	x	x
Cabbage						x	x	x	x	x	x	
Peanut				x	x	x						
Millet			x	x	x	x	x	x				
Sesame	x		x	x	x	x	x	x	x	x	x	x
Chili	x	x	x	x	x plant	x harvest	x	x	x	x	x	x
Sweet potato							x	x	x	x	x	x
Carrot				x	x	x	x	x	x	x	x	x
Bitter brinjal				x	x	x	x	x	x	x	x	
Banana	x	x	x	x	x	x	x	x	x	x	x	x
Other activities												
Stone mining	x	x	x	x	x	x	x	x	x	x	x	x
Road construction				x	x							
Broomstick (NTFP)	x										x	x
White bulb (NTFP)										x	x	x

Annex 2: Farm typology developed by Frissard and Pritts (2018)

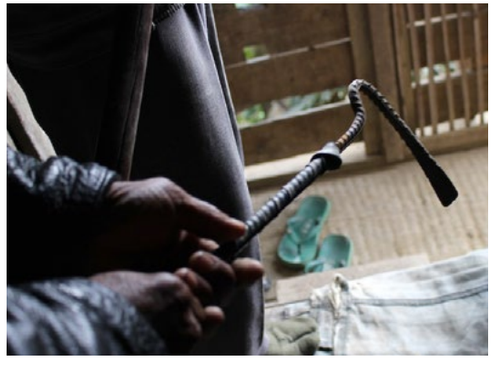
TYPE	Farming systems	Cropping system	area (acres)	Animal husbandry systems	Average nb of active mb	Acreage/ active mb	Annual agric. income/ active mb*
Type 1- a	Cash crops (permanent vegetable garden), Rice terrace, reproductive large livestock	vegetable garden	1	buffaloes: <10 heads mythons: <5 heads cows: <5 heads [pig fattening: 1]	2	1.0	1,918
		rice terrace	1				
Type 1- b	Cash crops (orchard), Rice terrace, reproductive large livestock	orchard	0.75	buffaloes: <10 heads mythons: <5 heads cows: <5 heads [pig fattening: 1]	2	0.9	1,390
		rice terrace	1				
Type 2	Cash crops (permanent veg garden), reproductive large livestock	vegetable garden	1	cows: >20 heads	2	1.0	1,699
Type 3	Cash crops (permanent veg garden), Rice terrace, Shifting cultivation (SC) with staple crops (corn & millet) and vegetables for home consumption, reproductive large livestock	vegetable	0.5	buffaloes: <5 heads horses: <5 heads	3	1.0	558
		rice terrace	1.5				
		SC: corn	1				
		SC: millet	1				
Type 4	Cash crops (orchard), Rice terrace, Shifting cultivation with staple crops (corn & millet) and vegetables for home consumption, reproductive large livestock	orchard	0.5	buffaloes: <5 heads horses: <5 heads	3	0.9	287
		rice terrace	1.5				
		SC: corn	1				
		SC: millet	1				
Type 5	No cash crops. Only Rice terrace and reproductive large livestock	rice terrace	1.6	buffaloes: <5 heads horses: <5 heads cows: <5 heads [pig breeding: 1 sow]	4	0.4	683
Type 6	No cash crops. Rice terrace, SC with staple crop (millet) and vegetables for home consumption and reproductive large livestock	rice terrace	1.1	buffaloes: <5 heads [pig breeding: 1 sow]	5	0.5	352
		SC: millet	1.5				
Type 7	No cash crops. Rice terrace, SC with staple crop (millet) and vegetables for home consumption and reproductive large livestock	SC: upland rice	2	pig breeding: 2 sows chickens: flock of 20	4	0.5	481
		SC: millet	2				
		SC: pigeon pea	2				

*(deducting church donations)

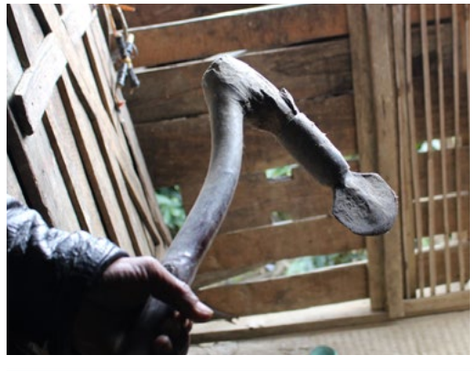
Annex 3: Chin traditional agricultural tools

CHIN HOE *(lai tuhmui)*

IRON HOE *(thir tuhmui / namt awng tuhumi)*



CHIN AXE *(lai hrei thlung)*



SICKLE *(fa-ah)*

RAT TRAP *(cep)*

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PERSISTENCE AND CHANGE IN HAKHA CHIN LAND AND RESOURCE TENURE

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