

# Our Customary Lands

Community-Based Sustainable Natural Resource Management in Burma



A report by the Ethnic Community Development Forum



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## About the authors

The Ethnic Community Development Forum (ECDF), comprising seven community development organizations from Burma, was founded in 2004 to promote grassroots ownership, participatory, and sustainable development with participation. ECDF conducts community awareness workshops on land rights and develop community driven policy solutions on land and agriculture. The members of ECDF are Karen Office of Relief and Development, Karenni Social Welfare and Development Centre, Kachin Development Networking Group, All Arakan Students' and Youths' Congress, Mon Relief and Development Committee, Network for Chin Community Development and Shan State Development Foundation.

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## Executive summary

In January 2016 the government adopted a National Land Use Policy, which included the recognition of customary land management practices. While this is a welcome first step in the necessary integration of Burma's customary land management systems with the national-level system, there is an urgent need for constitutional reform and devolution of land management powers prior to any such integration.

This report by the Ethnic Community Development Forum (ECDF) presents how Burma's diverse customary land management systems in seven ethnic communities are structured, and provides ideas for how these systems could be supported and potentially integrated into a future devolved federal national land management system.

Customary land management systems have co-existed with the national land management system in Burma for centuries.

**The national land management system** is highly centralized and has facilitated widespread land grabbing for natural resource extraction and agribusiness projects, resulting in loss of livelihoods and environmental degradation throughout the country. Updated Land Laws adopted in 2012 were based on poorly defined land classification and despite some democratic reforms, the military maintains a central role in land management through the General Administration Department. Upland agricultural lands – mainly tilled by ethnic nationalities practicing shifting cultivation – are defined by law as either forest lands or as vacant, virgin and fallow lands. Lands defined as “vacant, virgin and fallow” are particularly problematic as these are designated for “State Economic Development” and contracted to extractive industries, agribusiness and infrastructure development projects.

**Customary land management systems** have operated independently of the national government since colonial days and independence, due to lack of government access into remote ethnic areas and decades of civil war. In recent years, ethnic resistance governments in Karen and Mon States have developed their own land registration and management systems in order to protect the land rights and interests of ethnic farmers in areas governed by these ethnic governments. These systems, in contrast to the national land management systems, are decentralized and have evolved/adapted to local situations and needs, prioritizing sustainable livelihoods and environmental protection.

The ECDF has conducted grassroots participatory research and issued publications on customary land systems in Burma's ethnic states since 2014. This has included: conducting a household survey in 26 townships; commissioning a report on international experiences with customary land management systems; and facilitating participatory community research in order to document the land management systems in seven ethnic villages located in six states. Summary findings of this research include:

**a) Customary practices have been passed on for many generations and have sustained strong connections between villagers and their lands:**

Communities that are practicing customary land management have been living on their lands for many generations, passing their lands and traditions onto their children and grandchildren. Community members regard land as more than just a commodity which has no spiritual connection to the nature that has produced these resources. The administrative and cultural institutions that have arisen among ethnic groups over numerous generations of living on their lands are tied closely to the geographic features of their lands, as well as the experiences about how to best

conserve surrounding natural resources in order to survive and prosper. Everyday customs and traditions, including the roles of those governing customary lands, are woven into the natural environment where communities are based and the corresponding worldview that community members have received from their ancestors.

**b) Customary practices provide sustainable environmental protection:**

Nearly all communities practicing customary land management reside in forests, and therefore are dependent upon the health of these forest lands for their survival and livelihoods. Customary communities have developed land use rules and regulations which have allowed sustainable use of the forest for food, shelter and medicine without endangering long-term ecological health. Villagers also preserve their natural resources by respecting the spirits of the trees, lakes, water resources, animals and lands on ‘auspicious’ days each year and through composing stories and poems in order to teach the new generations about protecting the community’s natural resources. Customary Land communities have established a number of land use zones (community forests, protected forests, reserved forests, use forests, watersheds, conservation areas and wildlife conservation zones) – each with explicit rules that regulate the use of the lands and natural resources. There is a wide range of classifications for these conservation areas.

**c) Customary practices provide self-reliant and ecologically sustainable livelihoods:**

A vast majority of community needs are produced or collected from local lands, forests and waters. Apart from organized production of foods – through lowland and hillside agriculture as well as livestock breeding – forest resources provide supplementary foods (wild fruits, vegetables and animals); materials for housing and clothes; and herbal medicines. These communities have regulations that prioritize ecologically sustainable, equitable and needs-based production rather than extraction for sales and profit.

**d) Customary practices provide local communities with effective decentralized and participatory governance and judiciary systems:**

Governance, judiciary and administrative systems exist in the communities that have evolved over generations and are both participatory and resilient. Community members view the rules and regulations as their own, and therefore adhere to them much more closely than a set of regulations imposed upon them by outsiders. Elected village committees (including specific committees for land, water and forest management) update, arbitrate and enforce village land regulations. Important decisions are made with the participation of a majority of the villagers. Customary land management systems are holistic and incorporate all lands, waterways and forests within specified village boundaries.

Customary land management structures and policies have been integrated nationally in countries on every continent. International institutions – including the World Bank – have stated the effectiveness and efficiency advantages of communal and customary tenure over formal individual titles. The World Bank has also urged caution about state-led intervention in land tenure systems, suggesting building on existing systems.

Protection and recognition of ethnic customary land management systems is an important component in **achieving sustainable peace** and must be enshrined in a future federal constitution and decentralized legal framework – one example of this is outlined at the end of this report. In order to protect these lands and systems until peace accords, constitutional amendments and new land legislation formalizing these systems have been finalized, there should **be a moratorium on land acquisition in areas where customary land management systems are being implemented or were implemented before displacement due to armed conflicts.**



# Introduction



*Dimlo Village, northern Chin State*



## Background

Burma is a country where many ethnic nationalities exist together, with each ethnic group maintaining unique linguistic, cultural, traditional practices and ways of living due to diverse geographical and ethnic backgrounds. Likewise, customary land management systems, although practiced by each of the ethnic groups for generations, also differ in different localities.

More than 70 percent of Burma's population works in the agriculture sector. People living in Burma have been making their living by cultivating the land for centuries and Burma used to be commonly known as Asia's rice bowl. Currently, however, small scale farmers' lands are increasingly being confiscated by large agri-businesses, in the name of 'agricultural development' and 'increasing food production'.

Ethnic communities treasure their ancestors' land and natural resources – their waters, forests, mountains and natural resources are their lifelines. However, the last sixty years have been extremely disruptive for customary land management systems due to the civil war that has been waged across ethnic lands. Ethnic farmers have struggled to survive in the face of land confiscations and have been devastated to see their farmlands turned into military barracks and the Central Burma Government's mega-development projects. Together with the cronies, the Central Burma Government has also been extracting natural resources from ethnic areas using top-down and non-inclusive approaches. Far from benefiting from this arrangement, ethnic communities are becoming homeless and landless.

In today's 'modernization' discourse, tradition and customs are viewed by mainstream development actors as 'out of date' practices that should be left behind for more mainstream development approaches. Meanwhile, a different perspective is gaining support – our 'modern world' needs to learn from the wisdom of indigenous communities who have lived sustainably across multiple generations. Indeed, there are a growing number of constitutions and national laws recognizing customary lands and practices.

Even though Burma is officially labeled a federal union, in reality it is a centralized system. When ethnic lands are confiscated, this is being done through orders from the Central Burma Government in Naypyitaw. Militarization has caused large numbers of communities to be forced off their ancestral lands. Even though there have been thousands of land confiscation cases, transparency and accountability regarding to the process is still extremely weak.<sup>1</sup>

Burma has recently completed the National Land Use Policy (NLUP) which does give some recognition of customary land rights, although this is within the framework of the existing centralized 2008 National Constitution. This policy development coincides with the current growing interest in land issues, and a number of international and Rangoon-based NGOs are conducting research and writing reports about land issues.

However, very little research or reporting has come from ethnic communities that have been practicing customary land management. Therefore, this report attempts to bring the voices and experiences of those practicing traditional land and natural resource management in ethnic areas of Burma into the discussions about how to move forward on the issue of customary lands. This report is not meant to be an academic study, nor an expert legal analysis, but it is hoped that the views of those practicing customary land traditions will be taken into account and will open up productive discussions about this issue.

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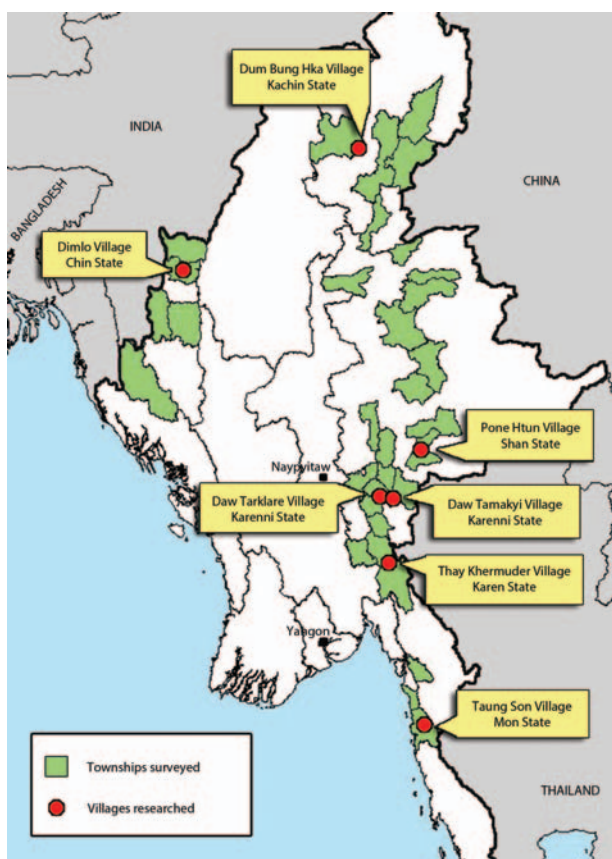
<sup>1</sup> New Light of Myanmar, "Thousands of farmland confiscation cases unresolved by previous gov't", April 27, 2016, Issue 11, Volume 3

## Research Sites

Customary land communities were identified over the course of more than three years of surveying and research (See Appendix A: Methodology).

Animist religious beliefs are core components of these cultures and among the seven villages where research was conducted. The governance and judicial systems in rural Karen and Kayah areas incorporate animist features. The Zomi and Kachin villages in this report have been influenced by Christianity and national structures interwoven with some remaining animist practices. The governance of the Shan and Mon villages in this report had a stronger influence from Buddhism and national structures, but also maintain some animist practices.

The map and chart on this page show the location and background information about the seven villages researched (see Appendix B for more details). Administrative control classification indicates which authority that the community has an administrative relationship with.



Customary Land Research Target Villages

Village	State	Ethnic group	Township	Administrative Control classification
Dum Bung Hka	Kachin	Kachin	Hpakant	Central Government
Daw Tamakyi	Karenni	Kayah	Demawso	Mixed (Central Government and Karenni National Progressive Party)
Daw Tarklare	Karenni	Kayah	Pruso	Mixed (Central Government and Karenni National Progressive Party)
Thay Kharmuder	Karen	Sgaw Karen	Papun	Karen National Union
Dimlo	Chin	Zomi	Tedim	Central Government
Taung Son	Mon	Mon	Ye	Mixed (Central Government and New Mon State Party)
Pone Htun	Shan	Shan	Lang Kho	Mixed (Central Government and Restoration Council of Shan State)

## What are customary land management systems?

Ethnic nationalities living in Burma have distinct customs and traditions due to diverse geographical locations, historical backgrounds, cultures, livelihoods and religious beliefs. The term *customary* encompasses all of these practices, and, as a result, can lead to misunderstandings. Other terms to describe customary include *ancestral*, *indigenous*, *traditional*, *local*, *naturally existing* or *habitual*. There is no agreed upon common definition for customary law. Although customary laws vary from location to location, the following are common themes regarding customary land management systems:

- Land management decisions are made by the communities – not from a distant administrative agency
- Common or communal land ownership and use
- Communal management and use of natural resources, including forests, grazing lands and water
- Regular adjustment of customary lands and territories to ensure most effective usage

Customary laws are often misunderstood as laws that were enacted hundreds or thousands of years ago. Even though in many cases these laws and regulations have existed for long periods of time, they need not necessarily be old in order to be legitimate. Some ethnic nationalities have been practicing customary land management system for centuries. For example, the Karen have long maintained a customary land management known as '*Kaw*'; the Kayah customary land management system is known as '*Khay*' and every Kachin tribe has their own system for managing community, residential and cultivated lands.

One of the most significant characteristics of customary law is its flexibility and ability to adapt in accordance with the changing social, economic and cultural circumstances. Furthermore, customary law is deep-rooted in the community and it reflects the historical background, values and needs of the community. Customary rules and regulations exist within these communities, and these laws are not binding outside of the community. Implementation is done through a bottom-up approach using a participatory decision-making process. For local communities, customary law acts like formal legislative law, while remaining accessible and subject to local adaptation and improvement.



*'Kanokinkla' Ceremony (praying for a bountiful harvest), Shan State*

### ***Customary perspectives on whether people can claim 'ownership' of lands***

Animist religious beliefs are core components of the cultures in these seven villages. In Animist beliefs, humans cannot *own* any part of nature, be it land, forests or water, as these resources belong to the spirits.

Instead, humans are merely the caretakers, with spiritual leaders taking the role of communicators between the community and the spirit(s). These beliefs have led to the development of regulations that prioritize the protection of nature while only utilizing the essential resources which for current needs – in order to ensure a sustainable future.

Common practices under customary land management systems include:

- Communal cultivation of lands using traditional methods (especially during harvest)
- Everyone living in the village uses the land equally
- Meetings are held to plan and prepare before the farming season
- Villagers communally manage natural resources such as water and forests using established rules and regulations
- A system of fines/punishments for people who have violated the rules
- Committees are formed in order to protect water, land, forest, mountain and natural resources. Committee members are elected through a democratic system
- A local judicial system resolves land disputes
- Selling land to outsiders is generally prohibited

## The 'Customary' vs. 'Communal' Land Debate

Customary land management is one of many types of communal land management systems. It specifically refers to communal land governance of *ethnic* groups who have been practicing these forms of management in their local areas across many generations. However, the communal management and use of lands has been – and continues to be – practiced by all societies, regardless of whether they are classified as 'ethnic' or not. Therefore, ECDF has concerns about restricting communal land tenure recognition solely to customary lands. Some of our questions regarding this issue include:

- In a multi-ethnic society like Burma, who should determine which ethnic groups would be eligible to be officially recognized as customary land use practitioners?
- Would another type of communal land tenure classification be needed in order to allow any community to register for communal tenure regardless of its ethnic make-up?

## Threats to Customary Land Management Systems

### Insecure land tenure due to large-scale investment and fragile peace process

Investment and related land grabbing has increased dramatically throughout Burma since the 2010 elections and the subsequent pro-investment strategies by the Thein Sein Government, especially in the areas of extractive industries, agribusiness and infra-structure development projects. While ceasefires between ethnic armed groups and the Burma Army in some areas of Burma have created increased security and trade opportunities, new threats such as large-scale investments



Photo Credit: Global Witness

*Hpakant Jade Mine, Kachin State*



and land grabbing have considerably increased in ceasefire areas. A 2014 study found that 55% of village tracts surveyed had been impacted by outside investments since the signing of cease-fires in 2012, including mining, logging, commercial agriculture and industrial estates<sup>2</sup>.

## 'Green-grabbing' in Kachin State

'Green-grabbing' is emerging as an increased threat for communities living in the remote forest areas of Burma. In June 2004, half of the Kachin village Dum Bung Hka became part of a newly established Hugawng Wildlife Sanctuary and villagers lost their right to engage in hillside rice cultivation, a significant part of their livelihood activities, and to expand any existing paddy fields or orchards.



*Hugawng Valley Tiger Reserve Government Sign*

The reserve had been set up by the government and the US-based Wildlife Conservation Society in 2001 and expanded to a total 21,890 sq km in 2004. Although the Dum Bung Hka villagers had detailed rules and regulations to protect forest and wildlife themselves, new 'reserve' rules were imposed without consultations. A Dum Bung Hka villager described the events, *"The Tiger Reserve organization never come alone. They come with police and use their guns to scare the villagers from going there."*



Photo Credit: KDNG

*Yuzana Company excavators in Hugawng Valley Tiger Reserve*

Bung Hka villager). On an even larger scale, the government in 2006 gave a 200,000 acre agriculture concession, most of which is inside the reserve, to the Burmese company Yuzana to produce tapioca and sugar cane, devastating tiger corridors and virgin forests.

Villagers had sustainably tilled hillside rice in the area for 80 years but would receive heavy fines if they were to continue. Paradoxically, logging companies have moved into the reserve and have cleared large areas which previously were protected by community regulations: *"Before, we could go to the forest to collect vegetables, mushrooms and bamboo shoots. Now they have destroyed the forest with their machines; cut down and taken away the trees"* (Dum

<sup>2</sup> The Border Consortium, *Protection and Security Concerns in South Eastern Burma/Myanmar*, November 2014

## Centralized ownership and control of lands

### *Legal Framework: National Constitution and Legislation*

Section 37 of Burma's 2008 Constitution states the following:

*The Union :*

- (a) is the ultimate owner of all lands and all natural resources above and below the ground, above and beneath the water and in the atmosphere in the Union;*
- (b) shall enact necessary law to supervise extraction and utilization of State owned natural resources by economic forces;*

Administration of lands is managed by the Central Government and while states and regions may utilize revenues from land taxes, these are collected by the Central Government departments and are redistributed to the states and regions. This centralized ownership, control and management over land and natural resources is one of the main challenges to a sustainable resolution to Burma's ethnic conflict.

The current national land management system is defined in multiple laws, some of which are conflicting, and are based on poorly-defined land classifications. Following the reinstatement of partially elected parliaments in 2010, two land laws have been ratified: the Farmland Law and the Vacant, Fallow, Virgin Lands Management Law, in 2012. Both these laws maintain centralized control and were the same year accompanied by a Foreign Direct Investment Law which simplified investment processes, and related land acquisition, in rural areas.

A National Land Use Policy was adopted by government in January 2016 and does provide recognition to traditional land management practices. However, the centralized governance structures stated in the policy, unclear wording and lengthy sections on government land acquisition has led to widespread criticism that the policy is incompatible with the realities on the ground and would facilitate continued centralized ownership, control and land grabbing in the ethnic states. The lack of a specific classification for customary lands would in practice mean that these lands would be administered by different ministries, which would create bureaucratic obstacles to the customary practice of managing all community lands concurrently and holistically.

### *Overly-complicated Administrative Systems*

***“Rural land classifications in the country often do not match with, or take into account, the actual land use on the ground”***  
(Myanmar Food Security Working Group, 2012)<sup>3</sup>

Although there are many ministries involved, there are three leading Central bodies which administer lands in Burma:

1. The Ministry of Agriculture and Irrigation (MoAI)
2. The Ministry of Environmental Conservation and Forestry (MoECaF)
3. Central Committee for the Management of Vacant, Fallow and Virgin Lands (CCVFV)

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<sup>3</sup> Obendorf, *Legal Review of Recently Enacted Farmland Law and Vacant, Fallow and Virgin Lands Management Law*, Food Security Working Group/Land Core Group, November 2012

Key implementing agencies under these ministries include the State Lands Records Department (MoAI), the Forestry Department (MoECaF) and the Farmland Administration Body (MoAI).

A majority of customary communities manage lands of all these official classifications within their village boundaries holistically through joint land, water and forest committees with all important decisions made with community consensus. For these communities it is therefore unnatural and ineffective to deal with separate government departments that prioritize and regulate lands within their respective mandate, rather than considering the entire land area as a whole.

Moreover, although MoECaF and MoAI appear to have the main land management powers, a more significant actor on the ground is the General Administration Department (GAD). The GAD is within the Ministry of Home Affairs and its directors are appointed directly by the Burma Army. At the Township level, a GAD representative heads each Farmland Administration Body (FAB), which is the authority that deals directly with village tract representatives. With the current rampant land grabbing taking place throughout the country, land demarcations and registrations conducted by Central Government and the Burma Army have raised suspicion and fear among the villages ECDF visited, heightened by the long history of civil war and related human rights abuses by the Burmese military acting with impunity. Furthermore, the corruption in the land registration and acquisition process has been widely documented, with officials from the State Lands Records Department (SLRD) and GAD in key powerful positions that lack proper supervision and accountability.







# Findings

*Dimlo Village, northern Chin State*



## Why customary land management is part of the solution

Community-managed customary systems are effective, holistic and adaptive to local situations and needs, prioritizing sustainable livelihoods and environmental protection. ECDF research shows that customary practices:

- Have been passed on for many generations and have sustained strong connections between people and their lands;
- Provide sustainable environmental protection;
- Provide and protect ecologically sustainable and self-reliant livelihoods;
- Provide local communities with effective decentralized and participatory governance and judiciary systems

In today's 'modernization' discourse, many development actors view customary traditions as 'out of date' and antiquated practices that should be left behind make way for 'progress'. Following this line of thought, traditional limits and controls on the use of natural resources are ignored, leading to the destruction of precious forest and water resources every day. In contrast, customary practices in ethnic areas provide critical protection for natural resources.

## Customary practices maintain cultural heritage

Ancestral land rights are a basic and fundamental right for all ethnic groups<sup>4</sup>. It is natural, therefore, that each ethnic group and family would seek to protect their ancestral heritage. Indeed, what would become of ethnic identity if ancestral heritages, language, literature, culture and traditions were not protected and conserved? Research findings regarding cultural heritages related to customary lands included:

- *Ancestral rights*: Communities practicing customary land management have been living on their lands for many generations, and have passed their lands and traditions on to their children and grandchildren. Most have been left undisturbed by any formal government intervention and have maintained the ecological integrity of their lands without need of any outside assistance. Therefore they have the right to remain on their ancestral lands.
- *Close ties to lands*: Community members regard land as more than a commodity; it is connected to the nature that has produced these resources. They have developed a relationship with their specific natural surroundings over generations; this cannot be replicated or reproduced if they were forced to move to a new location.



*'Khay Htoe Boe' poles, Daw Tarklare Village*

<sup>4</sup> Ancestral land rights are recognized in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the International Labour Organization (ILO) Convention 169

- *Land and culture are inseparable:* The administrative and cultural institutions that have arisen among ethnic groups over numerous generations are tied closely to the geographic features of their lands and the lessons they have learned about how to best conserve their surrounding resources in order to survive and prosper. Therefore, everyday customs and traditions, including the roles and responsibilities of those governing and administering communities, are linked to the natural environment where communities are based and to the corresponding worldview that community members have received from their ancestors.

## Ancestral rights

People living in Daw Tarklare village in Karenni State recounted that their ancestors established the village more than two hundred years ago. This is supported by the age of trees and *Khay Htoe Boe* poles<sup>5</sup> within the sacred grounds of the village, as well as accounts of a visit by *Sawbwa* Khay Po Du, a famous Kayah<sup>6</sup> clan leader.



*Centuries-old 'Dordi' Tree and Poles, Daw Tarklare village*

Since settling here, villagers have been relying on the natural surroundings for their livelihoods, and have worked together to preserve them. They regularly organize ritual offerings to pay respect to the spirits of the forests, mountains, waters, and lands. They do this not only to ensure the sustainability of these natural resources, but also to prevent outsiders from coming in and harming or removing plants or animals. Since the villagers have been exercising and preserving their customs and traditions for many generations, these practices are essential to their lives.



*Two Monuments of Remembrance. The stone on the left depicts significant animals from the past. This is the oldest Monument in Dimlo village.*

<sup>5</sup> *Khay Htoe Boe* poles are traditionally erected in Kayah villages to unite the community and pay respect to the spirit guardians of the lands

<sup>6</sup> The Kayah are the largest ethnic group in Karenni State

In Chin State, documents in Dimlo village detail its history and establishment in 1650. A Monument of Remembrance lies in the center of the village. Such monuments are usually erected in the village's central plaza and in the forest to commemorate ancestors, famous people, past victories, when a large animal was captured, as well as when someone in the village was awarded honorable status and other historical events. This practice has been carried on since the establishment of Dimlo village.

### Close ties to the land

Ethnic communities have, over the course of many generations, built strong ties to the lands around them. As a result, when they are forced off their lands, it is as though their very lives have been taken away from them. This is illustrated in the following examples.

#### *Daw Tarklare villagers return despite security risks*

In 1996, Daw Tarklare villagers in Karenni State were forcibly relocated after being accused of associating with the Karenni National Progressive Party (KNPP). At that time, the Burma Army was operating its “Four Cuts” strategy (cutting rations, funding, information, and new recruits to ethnic armies). Villagers from Daw Tarklare were forcibly moved to Htee Poeklo, Faelyar and Daw Kudwe villages in Demawso Township, and Htee Byarnyay village in Pruso Township. Everything that they had to leave behind, including buffaloes, cows, chicken, pigs, and rice, was lost.



*Karenni IDPs fleeing from Burma Army during its “Four Cuts” campaign*

In 1999, some villagers began to try to move back to their old village, although most did not dare because of killings of civilians in the area. Those villagers who attempted to move back were subject to a number of human rights abuses, including forced portering and spying, confiscation of livestock, and forced labor for the construction of Burma Army bases. Despite these difficulties and abuses, villagers continued to slowly return to their homes. Eventually by 2001, the number of human rights violations had begun to decrease, and most villagers had moved back to Daw Tarklare village.

Even though villagers were forced out of their village multiple times, they continued to come back and reclaim their ancestral lands in order to continue to use their lands, waters, and mountains, and to appease the spirits which they believe look after their natural resources. Despite years of civil war, they have managed to maintain their lands and their relationships with the spirits until today.



## Dum Bung Hka Sacred Mountain



Dum Bung Hka village in Kachin State is located near a sacred mountain. People of various beliefs have paid respect to the mountain for many generations, requesting safety of the village and its inhabitants, as well as the continued provision of their forests, waters, and land. Community members consider the mountain to be communal land and take turns conserving the natural resources

of the mountain, including establishing firebreaks and maintaining the area. There are written rules and regulations guiding land use and management of the communal land. These include prohibition of cutting trees, hunting, or burning anything on the ‘Mountain of Faith.’ There are also restrictions on the amount of hillside cultivation allowed on grazing land. When regulations are violated, usually by people from outside the community, the Dum Bung Hka Cultural Committee decides the punishment.

### Land and culture are inseparable

Land and natural resources are inextricably tied to the spiritual worldview and cultures of ethnic communities. Agriculture must be practiced in harmony with the specific spirits embedded in their territories; therefore, if a community were moved from their land, they would not be able to simply reproduce the existing livelihood practices on the new lands.

The traditional *Khay*<sup>7</sup> system of the Kayah people illustrates this. *Khay* includes farmlands, hillside cultivated lands, grazing lands, orchards, caves, as well as all parts of the forests – trees, watersheds, water springs, streams, mountains, animals, birds, bamboos bushes, and all other natural resources.

Land classifications within the *Khay* include sacred areas, where no natural resources can be removed and where regular rituals and ceremonies are conducted to appease the ‘spiritual guardians’ that villagers believe inhabit and protect these areas. They also include hunting lands, where hunting is allowed but offerings must be made to the forest and mountain spirits; and watershed (*Suhtay*) zones.

Each land area has a set of rules and regulations detailing how resources can be used. If the rules are violated, villagers believe the perpetrator will become sick or the forest areas will be struck



*Karen Spirit House on ‘Kaw’ lands*

<sup>7</sup> *Khay* can be translated as ‘customary land’, ‘State’ or ‘territory’ depending on the context



by lightning. For example, if a villager were to cut a tree in the *Htayeilu* Zone (protected by the wetland spirit), they would become very sick. Therefore, no villager dares to cut trees or bamboo inside the sacred areas. In addition to these consequences, there is also a judicial system to determine punishments for the violators.

In *Kayah* culture, the *Khaybyarseh* and *Eelubyarseh* are given the responsibility to protect the *Khay* for future generations. In order to qualify to take on the role of *Khaybyarseh* or *Eelubyarseh*, the candidate must be married and possess a high moral character. The *Khaybyarseh* is responsible for managing the community's lands and natural resources within the *Khay*, as well as maintaining a good relationship between the spirits that villagers believe protect the *Khay*'s forest, water, land and natural resources. The rituals and practices that the *Khaybyarsae* conducts have been carried out for centuries.

The *Khaybyarseh* is prohibited from consuming certain foods, including dog meat and the meat of a chicken, pig, duck or goose that has been killed by a tiger, as well as fruit such as figs. Villagers believe that a violation of one of these rules will result in infertility, poor health, and bad business. Even though the *Khaybyarseh* has the responsibility to protect the entire community's land and forests, he or she cannot own an area of land any larger than that which they alone can work on.

The *Eelubyarseh* is responsible for leading the *Khay Htoe Boe* ceremony that pays respect to the traditional Village Pole. It is believed that paying respect to the sacred pole will lead to greater unity among villagers, good health, and large harvests. *Kayah* people have been conducting this ceremony for as long as they can remember.

More details and photographs of the customary spirit offerings and traditions that are currently practiced in Daw Tamakyi village can be seen on the *Sacred Areas Map* on pages 18-19.



'Khabyarseh' from Daw Tamakyi village



'Khabyarseh' from Daw Tarklare village

At the *Khaydu* Sacred Area, villagers offer clay bowls filled with crops from their fields. In order to enter this area, villagers must pass under a holy string and then drink holy water. Next, villagers sing a unity song and then vow to be good community members – and not to break community rules. This ceremony is performed to gain good harvests and fortune in the village. Additionally, this is the time for recently divorced women to receive compensation that is decided upon by all community members present.



*Khaydu Sacred Area*

At the *Dordi* Sacred Area, an animal is sacrificed and its head and legs are placed on the platform. This ceremony is led by the *Khaybyarseh* and is done to gain good weather, abundance of food, and good health in the village. After the ceremony is completed the meat from the sacrifice is distributed equally among the villagers.



*Dordi Sacred Area*



**Daw Tamakyi**

The *Khaydoh* Sacred Area is located on a small mound in the forest. The ceremony is led by the *Eelubyarseh* to gain protection for the humans on this land and to bestow wisdom on the people. Chicken and pig organs are placed in clay bowls and then the bowls are placed upside down on the platform.



*Khaydoh Sacred Area*





Sofredu Sacred Area

The *Sofredu* Sacred Area is located before the village entrance. The *Eelubyarseh* conducts pig and hen sacrifices here to gain protection from fire, drought, and natural disasters, as well as protect forests and maintain village security.



Village Map



Ngudu Sacred Area

At the *Ngudu* Sacred Area two chickens, some beef, rice and rice wine are placed on a platform under the *Ngudu* tree at the entrance of the village. Each family puts rice seedlings in small bowls around the main offering. This is done to gain village security – to stop evil spirits, bad people and harmful insects from entering the village.



Htayeilu Sacred Area

The *Htayeilu* Sacred Area is in the watershed forest. Offerings of rice, chicken and pig parts and rice wine offerings are placed in the small bamboo basket tied to the tree. This is done to gain clean water and protection for living things in the water. The *Khaybyarseh* perform this ceremony, and while it is being conducted the *Eelubyarseh* and women are not allowed to enter.

## Customary practices provide sustainable environmental protection

Forest cover maps of Burma clearly show that the areas in Burma which contain the greatest amount of healthy forests and natural resources are located near communities which continue to practice customary land management. From the perspective of persons living in cities and lowland ‘developed’ areas, communities practicing traditional and customary land management may appear to be ‘under-developed.’ However, people living in communities that practice customary land management have maintained the abundant natural resources that they inherited from their ancestors and – if they are allowed to continue their way of life – will be able to pass these onto their children and grandchildren.



*Demarcation Team at Daw Tarklare Protected Forest*

Nearly all communities practicing customary land management reside in forests. They are dependent upon the health of these forest lands for their survival and livelihoods. Therefore, they have developed land use rules and regulations which have allowed sustainable use of the forest for food, shelter and medicine without endangering the long-term ecological health. Villagers also preserve and conserve their natural resources by respecting the spirits of the trees, lakes, water resources, animals and lands on certain ‘auspicious’ days each year and composing stories and poems in order to teach the new generation about protecting the community’s natural resources.

Customary Land communities have established a number of ‘zones’ where explicit rules and regulations govern the use of the lands and natural resources located within the boundaries of that designated area. There are a wide range of classifications for these conservation areas, including community forests, protected forests, reserved forests, use forests, watersheds, conservation areas, wildlife conservation zones – a few of which are highlighted in the following case studies. Two of the most common forms of ensuring ecological integrity are the establishment of **Protected Forest Zones** and **Water Conservation Areas**.



## Protected Forest Zones

### Thay Khermuder Wildlife Conservation Area

The Wildlife Conservation Area of Thay Khermuder village in Karen State covers approximately 1,000 acres. These forests contain a large number of old growth trees and according to the villagers have been taken care of by the village since its settlement five to six generations ago. Although villagers had been following traditional customs to conserve and protect this forest, in 2010 the village chief declared that they needed to establish more formal regulations about hunting wildlife in this forest area. Villagers had multiple meetings at which they discussed and developed rules, regulations and punishment for violators. Rules and regulations were only established after villagers had a chance to openly discuss and share ideas about the issues.



*Oriental Pied Hornbill*

Special protection was given for two species: the Oriental Pied Hornbill and gibbons. This was based on the belief that killing an adult hornbill would lead to the death of any young hornbills left behind in tree hollows and the observation that, similar to human beings, it is extremely difficult for gibbons to give birth. Villagers believe that if they kill a gibbon, they will face similar difficulties when giving birth to their child. Since the establishment and enforcement of these prohibitions, villagers can once again hear gibbons and hornbills singing in the forest, and tiger footprints have also recently been observed.

Hunting wildlife in the Wildlife Conservation Area is punishable by up to 150,000 Kyat. This fine must be paid to the village committee, which uses the money for funerals, village meetings, and to loan to people who cannot pay taxes on time. The treasurer of the Village Committee manages these funds in consultation with other Village Committee members.

### Daw Tarklare Protected Forest Area

*“Because our village is located on top of the hill, water is very scarce. In order to ensure a steady water supply, we came together and planted pine trees. The whole village planted them together. We took small pine trees from the river bank and replanted them on top of the hill. We did this in order to leave the forest for our future generations and we have a duty to protect our lands. ” (U Shwe Lin from Daw Tarklare village)*



In Daw Tarklare in Karenni State, villagers planted pine trees to improve the environment for future generations. It was very difficult work for the villagers to plant the pine trees and it has taken many years to establish them. In order to ensure that their efforts will not be wasted, the villagers established a set of rules and regulations about forest use. Those rules include:

1. Cutting and selling trees within the protected area is prohibited.
2. Removing orchids from the forest is prohibited.
3. Use of smoke to chase out bees and other insects living inside trees is prohibited.
4. Starting fires within the forest is prohibited.



*Daw Taklare Protected Forest Sign*



*Daw Tarklare villager demarcating the Protected Forest Boundary*

5. The Village Committee must approve any request to cut trees for house repairs or other uses.

If a rule is violated, the Village Committee will give a first warning to the offender. If the violation occurs for the second time, the offender will be fined twice the price of the item obtained. Villagers must gather and jointly agree upon a harsher punishment for any third time offender.

### Protection and Conservation of Water Resources

Water is one of the most important resources for any rural community. It provides irrigation for crops; household water for washing, drinking and cooking; and sustenance for the wildlife and plants living in and around communities. In some areas, mini-hydropower projects have been implemented, enabling water to provide community members with electricity. Because it is so fundamental to their everyday lives, communities have developed many methods to manage water in order to provide benefits fairly among its members. Some examples of successful water resource management and usage being implemented in customary lands that were surveyed are outlined below.



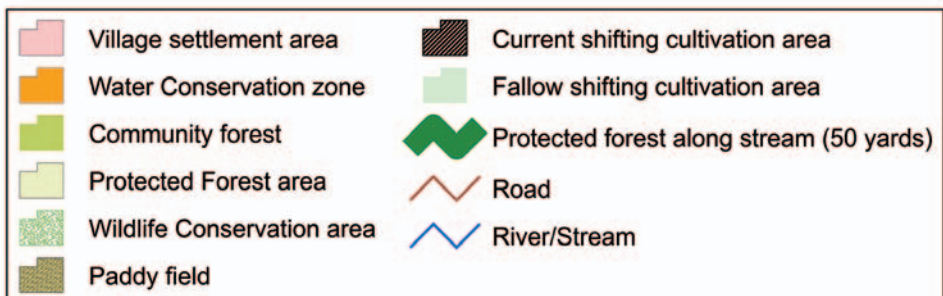
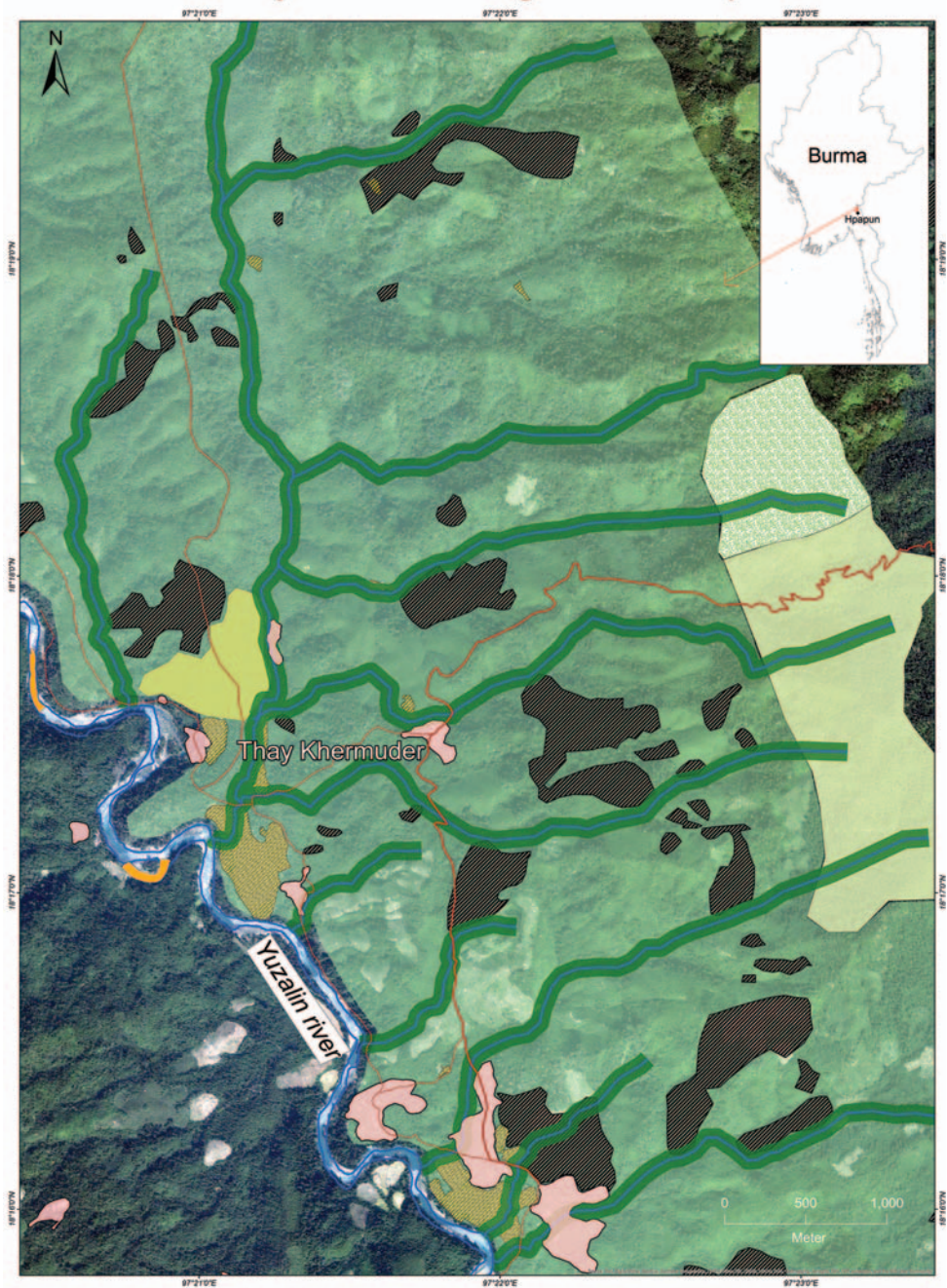
*Protected Forest along streams, Thay Khermuder village*



*Hgawlawgwee Water Conservation Committee Member at the protected zone, Thay Khermuder village*



# Thay Khermuder Village land use map



### ***Thay Khermuder Water Conservation Zones***

Thay Khermuder and many other villages in Papun Township in Karen State rely on the wide Yuzalin River for their livelihoods. Villagers have long discussed about writing down the already existing traditional practices to protect the Yuzalin River. Most recently, in March 2012, villagers representing 3 villages in the larger Thay Khermuder village tract gathered together and shared information about water sources in their community, including streams, river and lakes. After this, the Village Administration Officer and Village Committee members discussed and drew up a draft list of updated rules and regulations for fishing regulations. Following a 6-month period of review by the villagers, these rules were formally adopted on September 14, 2012.

Regulations were adopted in order to protect watershed zones within the village boundaries. Villagers are prohibited to cut trees within 50 yards on each side of the streams that flow down from the watersheds located above the village into the Yuzalin River at the base of the village.

Restricted-use areas in the Yuzalin River are located at two places: Hgawlawgwee and Tamaegwee. Each of these zones is 15 yards wide and 200 yards long, according to the latest measurements by the Village Committee. Thay Khermuder villagers host a fishing festival every three years and invite neighboring communities to gather together and fish from the Yuzalin River Conversation Zones.

Thay Khermuder villagers have formally submitted their written rules to the Township Administration for recognition and approval from the Karen National Union (KNU) Government. The township level then submitted this document at the district level, after which the district sent the document onto the KNU headquarters. A few months following that, the KNU approved the rules and informed other villages about the adoption of the regulations.

The fishing methods that are allowed under these regulations include:

- The use of fish traps
- Use of throw nets
- Catching frogs by attracting them with a flame
- Fishing during the day only

The following practices are prohibited and violators are subject to the fines listed:

- Using stationary fishing nets: 100,000 Kyat
- Fishing at night: 100,000 Kyat
- Altering water channels: 100,000 Kyat
- Digging new water channels: 100,000 Kyat
- Catching frogs with flashlights: 100,000 Kyat
- Fishing and catching frogs using explosives: 100,000 Kyat
- Installing fish nets across the streams: 100,000 Kyat
- Using electric shocks to catch fish: 150,000 Kyat
- Using sedatives to catch fish: 150,000 Kyat
- Beating on the surface of water with sticks: 150,000 Kyat



### ***Dimlo Water Resource Management***

Dimlo village is located in the Chin hills at 6,000 feet above sea level. Water is the most essential resource for Dimlo, since wells cannot provide enough water for the entire village. Hence, villagers have united to preserve their water resources most effectively for long-term use. Every household contributed money and 4 quarts of corn to a fund that was used to purchase watershed lands from a private landowner. The funds were then used to purchase water pipes for distributing the water supply throughout the village. Villagers then agreed on community regulations for the Watershed Zone. These included the prohibition of cutting of trees and bamboo in the watershed area.

#### **Dimlo Village Water Resource Regulations (enacted since 2000)**

##### **Purposes**

- To preserve forests in order to prevent water shortages
- To promote good climate conditions
- To provide clean water to the whole village
- To have adequate water supply for the whole village
- To provide electricity for the village
- To get funding to support teachers in the village
- To provide education for children in the village

##### **Rules and Regulations**

- Tree cutting is prohibited in the protected area.
- Installing water pipes without the knowledge of the water committee is prohibited.
- Hillside cultivation is prohibited in the protected area.

##### **Penalties**

- Illegal logs will be confiscated and a fine of 500 kyat will be imposed.



*Dimlo villagers discussing water use systems*

Eleven members of the voluntary Water Resource Committee (WRC) administer the regulations. The WRC not only manages water distribution and protects the Watershed Zone; it is also responsible for a mini-hydropower project which utilizes surplus water to provide electricity to the village. Income from the hydropower electricity bills is used to pay the salary of the WRC Chair and the local teacher. Villagers pay 10 Kyat/Watt, and villagers who have a television have to pay an extra 500 Kyat/ month. The Hydro-Generator Manager receives one bucket of corn from each household annually in return for their services.

## Customary practices provide and protect self-reliant livelihoods

The vast majority of what a community needs to survive is collected or produced from local lands, forests, and waters. Apart from organized food production, such as lowland and hillside agriculture and livestock breeding that provide for carbohydrate and protein needs, forest resources provide supplementary wild fruits, vegetables, and animals, materials for housing, transportation, and clothes, and herbal medicines. As such, the communities surveyed for this report have regulations that prioritize ecologically sustainable, equitable, and needs-based harvest and production over extraction for sales and profit. These villages mainly practice a traditional economic system in which money is rarely used.



*Betelnut, Durian and Mangosteen orchard, Taung Son village*



*Collecting hillside beans, Dimlo village*



*Storage of dried corn, Dimlo village*



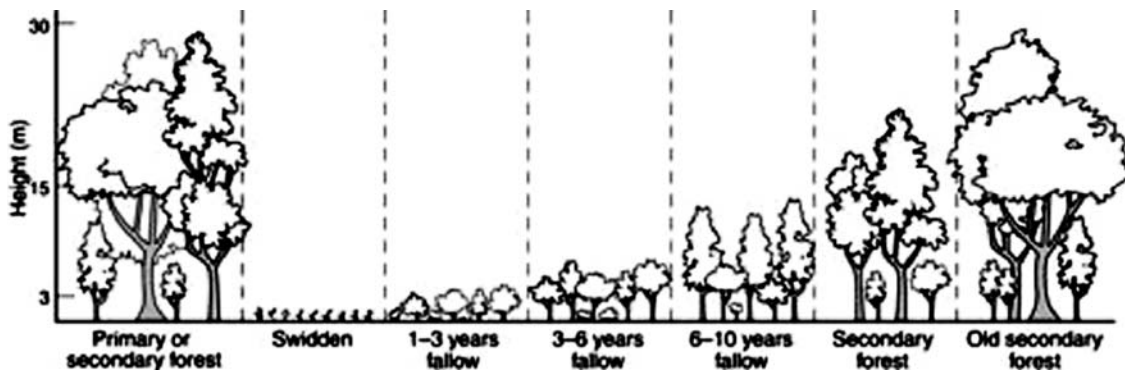
*Threshing rice in Daw Tarklare village*

*“We rely on this forest. We eat vegetables that we gather from this forest every day. We drink water from this stream every day. If this forest and water are gone, our lives will also be gone.” (Saw Say Htoo, Thay Khermuder villager)*

While nature provides much, rice farming is the main livelihood activity and takes considerable organization. Although some of the villages visited for this report practice lowland rice cultivation, most people engage in hillside shifting cultivation, producing one crop per year.

### Hillside shifting cultivation

In hillside shifting cultivation, each rice plot is only used once every 5-10 years, depending on the population and available land area. Leaving fields fallow is done to preserve nutrients in the soil, and produce higher harvest yields. The length of the cultivation cycles depends on the size of the population and the security of villagers. Communities as a whole organize the fallow and cultivation periods and field rotations through detailed customary rules and regulations.



*An illustration of typical forest cover growth during successive fallow cycles<sup>8</sup>*

Although there are many diverse forms of community-managed hillside shifting cultivation, the following two types are the most common:

1. Family lands: Each family manages a clearly marked area. One smaller plot is farmed each year while the remaining plots lay fallow.
2. Community lands: The entire community manages all the hillside cultivation, designating areas which are to be cultivated or fallow, at the beginning of the year. The designated annual farming area is shared between families through community meetings.



*Current and fallow shifting cultivation, Dimlo village*

<sup>8</sup> Fox, How Blaming “Slash and Burn” Farmers is Deforesting Mainland Southeast Asia, East West Centre Analysis #47, December 2000.



### ***Thay Khermuder community managed lands***

In the Karen community of Thay Khermuder, the rice cultivation season starts with a village meeting in which the entire community participates to decide where and when to clear and cultivate the year's rice fields and which lands will be left fallow and used for grazing livestock. The selected areas are divided into household farming plots, but the actual farming is often done communally.<sup>9</sup>



*Clearing fallow plots for hillside rice cultivation, Thay Khermuder village*

Strict customary regulations prohibit cutting trees or farming in hillside watershed areas, which is defined as any area 50 feet on either side of any stream. Regulations regarding the burning of cleared plots of land and the establishment of six-foot wide firebreaks are also decided as a community.

As the rice plots are close together, community members work together to fight insects, rats, or wild animals that may threaten their crops. Villagers usually demarcate family-managed lands using rocks, waterways or plants. These do not mark land ownership but distinguish between the crops. Fences are also used sometimes to protect crops from roaming buffaloes, cows, and horses.

Planting and harvesting always include traditional communal ceremonies, to pay homage to spirits of the land for the bounty that they provide, and to deepen the belief that these lands are alive and need to be sustained to provide sustenance (see *Agri-Cultural Calendar* on pages 30-31).

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<sup>9</sup> Everyone, men, women and older children, join in during the initial clearing of lands. Women and children begin by cutting smaller trees and bushes around the plot and men are responsible for cutting larger trees.

## **Facts vs. fiction: the need to correct false assumptions on shifting cultivation<sup>10</sup>**

Government policies on shifting cultivation are usually based on lack of proper knowledge and understanding of the livelihood systems of indigenous peoples, and the social and cultural values attached to it. Often, stereotypes rather than scientifically established facts have guided the development and implementation of these policies. Research over the past decades has produced ample evidence that counters the prevailing prejudices against shifting cultivation embodied in states' forest policies and programs. Key findings include:

### **Shifting cultivation is not a major driver of deforestation**

According to the FAO, UNDP and UNEP, the main causes of deforestation and thus carbon emission in Asia have been intensification of agriculture and large-scale direct conversion of forest for small-scale and large industrial plantations, and not shifting cultivation.

### **Shifting cultivation contributes to biodiversity enhancement and food security**

Shifting cultivation is a complex land use system that typically relies on a large number of crops planted both simultaneously and successively during the cropping cycle. Under long-fallow systems of shifting cultivation, a highly diverse forest landscape is created. The presence of secondary forests of different ages along with remaining primary forests results in an overall increase of biodiversity. Growing a large number of crop varieties and the increased availability of edible wild plants in secondary forests, as compared to primary forests, contributes significantly to food security.

### **Carbon emission and sequestration under shifting cultivation**

Shifting cultivation systems practiced by indigenous peoples are rotational systems, which means that after harvesting a cleared field it is left to revert to natural woody vegetation during the fallow period, which is cleared again after some years as a new cycle begins. The amount of carbon dioxide released through burning and decomposition during the preparation of the field and the cropping period is sequestered through natural restoration of the forest during the fallow period. The Intergovernmental Panel on Climate Change (IPCC) has also acknowledged the contribution of fallow to sequestering carbon.

### **The carbon sequestration capacity of shifting cultivation is higher than for other forms of land use**

For a just assessment of the impact of shifting cultivation on climate change it is important to treat it as a form of agricultural land use and therefore not to compare its impact on carbon emission and sequestration with that of undisturbed forests only, but above all with other forms of agricultural land use. Comparison of different forms of land use in tropical forests has shown that traditional long-fallow shifting cultivation at the landscape scale is able to sequester more carbon than most other forms of land use.

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<sup>10</sup> Excerpted from: *Drivers of Deforestation? Facts to be considered regarding the impact of shifting cultivation in Asia*. Submission to the SBSTA on the Drivers of Deforestation by Asia Indigenous Peoples Pact (AIPP) and International Work Group for Indigenous Affairs (IWGIA)

Woman farmer giving thanks to the *Kyo Do* Spirit by pouring rice wine over the first rice crops of the season.



## Daw Tarklare



Farmer showing the *Pa-Rar-Mar* bamboo container holding chicken organs, vegetables, and rice used to pray for a bountiful harvest.



The *Khay Htoe Boe* Pole where families bring vegetables to offer to the *Tya-Ee-Lu-Boe Plya* Spirit.





## Agri-Cultural Calendar



The *Ee-Lu-Phu* Pole, which is a smaller pole built each year for this ceremony.



The chicken bones used to predict future weather and crops at the *Khay Htoe Boe* ceremony.



These bamboo baskets contain rice plants, vegetables, and seeds from village fields which are used in the *Pet Loot* ceremony. This pole hangs over the road leading to the shifting cultivation fields.

## Lowland cultivation

Although the majority of the rice produced in these villages is cultivated on the hillsides, valley floors provide space to cultivate paddy rice, vegetable crops, or fruit orchards. These lands are often individually managed by villagers who have lived in the area for many years, with user rights passed down through generations. In the Karen village of Thay Khernmuder, villagers follow the customary rule that the first person to work the land can continue to use the lands. While hillside farms rarely have formal land titles, some lowland areas are titled through the land departments of the Karen National Union, the New Mon State Party, or Burma's national government.



*Rice paddy farming, Shan State*



*Fruit orchards, Taung Son village*

Water from streams is usually diverted to lowland farms, which requires careful management in order to be distributed equally and sustainably. Customary governance in all villages visited entail the definition, arbitration and enforcement of their respective water management regulations. The Shan village Pone Htun has a small stream flowing through the village and is used to water lowland crops, such as sesame, beans, peanuts, mustard, corn, soybean, areca nut and rice. The village has a separate Water Committee that ensures equal and adequate water supply for all farmlands. There are three different committee members responsible for the upper, middle and lower parts of the stream and they establish a timetable for the use of water within the village and plantations. Committee members are volunteers and elected at the village meeting.

## Livestock breeding

In the Kayah village of Daw Tarklare, cows are allowed to graze on communal lands, including fallow lands that are not fenced. According to village regulations, if cows enter fenced lands and destroy plantations, the owner of the cow is responsible to pay the value of the destroyed crops. This is arbitrated and enforced by the Village Committee. If the plantation is remote, the owner of the cows must also pay for the expenses incurred by the village committee to commute to the plantation.



*Mithun ox, Dimlo village*



Rules for domestic pigs state that they must be held captive during the rice cultivation season, from planting to harvest (usually May to January). If pigs destroy any field, the owner of the field has the right to put the pig down. The meat is then distributed among all villagers except to the owner of the pig. These written rules were established at the village meeting and revisited at every village meeting held before rice cultivation.

## Forest resources

### *Sustainable collection of wild fruits, vegetables, herbs and insects*

Rice and vegetables form the staple diet in these communities. Vegetables for consumption are either grown in kitchen gardens or collected in the surrounding forests, where there is always an abundant supply of seasonal vegetables and fruits.



*Cardamom bush, Thay Khermuder*

In the Karen village of Thay Khermuder, villagers earn income from selling wild *Cardamom* and *Djenkol* bean to complement their production of rice. To ensure sustainability, there are regulations on the harvesting of these plants. Every year, the Village Committee holds a village meeting at which dates are set for the harvesting of cardamom, ensuring that the seed is not collected until it is fully ripe and also that all villagers will have equal opportunity in the harvesting. Any person violating these set dates and rules are punished by village sentry duty.

In the Karenni village of Daw Tamakyi, villagers mainly grow annual rice, corn, sesame, and peanut crops but yields have been decreasing in recent years due to water shortages. Farmers therefore now complement their income by collecting the *Kwee* insect. It can be collected in December every year, and after being sun dried can sell for 2,500 to 10,000 kyat per peithar (1.6 kg). The insect can only be found in the *Joot* tree, which can only be found in Daw Tamakyi village. The insect lives in the tree bark during the wet season and comes out to live in the branches during the dry season. In order to protect this type of livelihood, one of the village regulations states: “*Burning or cutting trees in order to collect bees, flies and other insects living under tree bark are prohibited.*”



*‘Kwee’ insects collected from the ‘Joot’ tree, Daw Tamakyi village*



### ***Housing***

In addition to providing a sustainable source of foods, the forests can provide all components for houses, from posts, floors, and walls to thatch roofs. The Sgaw Karen word for Teak is translated as “tree for our house” (*Thay beu hee*). Bamboo is the most common material used for housing. It is quick to regrow and easy to dis- and re-assemble when needing to flee from the Burma Army.

### ***Medicines***

As villages are often far from health centers, traditional herbal medicines are used as a crucial first-line protection or relief from many diseases, injuries, or discomforts. Findings in all seven villages show an enormous wealth of knowledge generated over centuries in using indigenous plants and roots that often are found in the forests.

For example, local grasses *Cheybaelae* and *Fasaebulae* have the capacity to treat common colds and pains; juice from the grass can also be used to treat flesh wounds. Villagers from the Dum Bung Hka village in Kachin have used wild vegetables and roots for medicine for generations, and traditional stories and poems refer to the sun spirit as the source of herbal medicines. Furthermore, Zomi villagers from Dimlo in Chin State have documented a long list of herbal medicines and the diseases they treat from basic ailments to diarrhea, dysentery, and hepatitis B.

### ***Weather prediction***

The ability to predict weather is useful for any farmer to know when to plant or harvest. In Daw Tamakyi village of Karenni State, villagers follow a long tradition of forecasting weather by observing certain flowers and mangos. When the *Dajomaw* flower blooms, for example, bees from the east bank of the Salween River cross the river and extract nectar. The flower only blooms every ten years, and villagers have observed that there are droughts the year after the flower blooms. The traditional annual reading of the wild mango seed Daw Tarklare suggests which time of the year will have the most plentiful rainfall, guiding villagers on what type of plants will be most useful to cultivate.



*'Dajomaw' flower, Daw Tamakyi village*

## Customary systems provide participatory governance and fair judiciary

Customary land management includes **governance systems** that have evolved over many years and are both participatory and resilient. Strong cultural beliefs, values, and norms have led to the creation and updating of rules and regulations inherent among the villagers. Community members embrace the rules and regulations as their own, and therefore adhere to them much more closely than a set of regulations imposed upon them by outsiders. The customary systems for managing these lands are known to all community members, but were in some cases known only orally until ECDF assisted them by transcribing these customary land management systems, as formal village by-laws.

Governance in many villages has in recent decades changed from inherited to elected village leadership. Elected village committees, with specific committees for land, water, and forest management, update, arbitrate, and enforce village land regulations. Important decisions are made with the participation of a majority of the villagers.



*Htay Khermuder village meeting*

**Administrative systems** define how communities manage their lands, including details about land inheritance, the sale or transfer of land tenure, and land titling/ registration mechanisms. These systems are holistic in that they incorporate all lands, waterways, and forests within specified village boundaries, in contrast with the multiple, overlapping ministries and departments responsible for land registration and administration in the national system (see Appendix C). Communities govern their own lands according to actual use, therefore avoiding the arbitrary land classifications of the national land system.

**Judiciary systems** have also been developed and implemented over many generations to resolve a wide range of disputes occurring both within and between communities, including boundary disputes.

## Representative governance

A common feature in the villages we studied is the participatory nature of decision-making. Every household must be present at a village meeting when any important decision that affects the whole community is to be made. This practice of direct democracy is a customary procedure that has been in place for generations.

According to customary practice, village elders or animist chiefs, who assume their post either through elections or inheritance, administer day-to-day affairs and religious ceremonies under the guidance of village meetings. This has changed in most cases to administration by committees that are elected by the community.

Villagers elect both chiefs and committees by secret vote, the showing of hands, or a mixture of both. Specific criteria describe the experience or background of potential candidates, such as knowledge about the surrounding forests and mountains or length of residency in the community. Both men and women must attend meetings to discuss candidates and vote in the election.

The village chief and committee members in the researched villages are volunteers. They do not receive payments for their additional work in the community and generally do not farm more land than other villagers. Smaller costs of the committee are covered by general village funds, generated from community projects, household collections or fines from villagers breaking village regulations.

Under the directives of village meetings and/or a village chief, a village committee or land, forest, and water committees manage agricultural lands. Land management systems, however, vary widely between the villages, covering both individual and communal agricultural lands. Sacred areas are considered the most revered and may often be managed by animist leaders even if a committee or committees manages all other lands in the village. Committees arbitrate and enforce the village land and forest regulations and also update them when necessary.



*The village meeting is the highest authority at which all major decisions regarding village affairs are discussed and decided, including the elections for members of administrative committees*



*Village Committee meeting, Dum Bung Hka village*

The Karen village of Thay Khermuder, where shifting cultivation is mainly practiced, offers an example of how representative governance within the customary land management works. Before each rice farming season starts, all villagers meet to jointly decide which plots will be cultivated and which plots will be designated for grazing. There are no written records of these annual plot selections, but they are clearly understood by the community and are formally overseen by the Village Land Committee.



### *Daw Tarklare village - evolving governance in a civil war area*

In many ethnic areas traditional customary governance mechanisms are under pressure from outside actors involved in ongoing conflicts to establish sovereignty over ethnic lands. This case study in Kayah State provides an example of how customary systems have been forced to navigate these external forces.

Until 1990 the Kayah village of Daw Tarklare was completely managed by direct governance and administered by traditional animist chiefs, called *Eelubyarseh* and *Khaybyarseh*. The *Khaybyarseh* had until then managed land, forests, natural resources, and the general development of the village. The *Eelubyarseh* was the main authority in organizing animist ceremonies that were not related to land. Traditionally the village chief (a different position than the *Eelubyarseh* and *Khaybyarseh*) sounded a traditional buffalo horn to call a meeting to gather all villagers to collectively decide on important matters.

In 1990, the villagers decided to elect a village chief to communicate with the Burma government and the Karenni resistance group (the Karenni National Progressive Party (KNPP)). Daw Tarklare had for decades been affected by civil war; the Burma Army regularly called village and chiefs for interrogation or to facilitate orders of forced labor and in 2005 the village chief was executed for suspected ties to the resistance. The position has therefore always been seen as dangerous and is unpopular among villagers.

In 2013, in accordance with the 2012 Farmland Law the Ghaylehya Village Tract Administrator<sup>11</sup> position was created. This official has the duty to communicate with township administrators to carry out orders from Pruso Township. Nine village chiefs representing each village in the Ghaylehya Village Tract then elected the Ghaylehya Village Tract Administrator. Following this, the power of the community to manage their lands and natural resources, including that of the village chief, the *Khaybyarseh*, and the village committee has been significantly reduced.

Recently, the Farmland Administrative Body (with the Village Tract Administrator as the representative of Daw Tarklare village) has been ordered to register individual land titles within Daw Tarklare village. However, villagers do not want their lands individually titled, which is creating conflict both within the community and between Daw Tarklare and the Farmland Administrative Body.

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<sup>11</sup> Ghaylehya Village Tract is composed of 9 villages, including Daw Tarklare village

## Holistic approach to land management

The customary perspective of interconnectedness between land, forest, and water is reflected in the management structures developed by the communities. Rather than creating specific land, water, and forest committees in line with national systems, most of the communities have developed inter-connected committees to delegate administrative work within the village:

Village	State	Village Committee	Forest Committee	Water Committee	Land Committee
Dum Bung Hka	Kachin	✓	✓		✓
Daw Tarklare	Karen	✓		✓	
Daw Tamakyi	Karen	✓		✓	
Thay Khermuder	Karen	✓		✓	
Dimlo	Chin	✓		✓	
Taung Son	Mon	✓ *			
Pone Htun	Shan	✓ **		✓	

\*In Taung Son, all village lands and natural resources are administered by the Village Committee

\*\*In Pone Htun, forest and lands are administered by the Village Committee

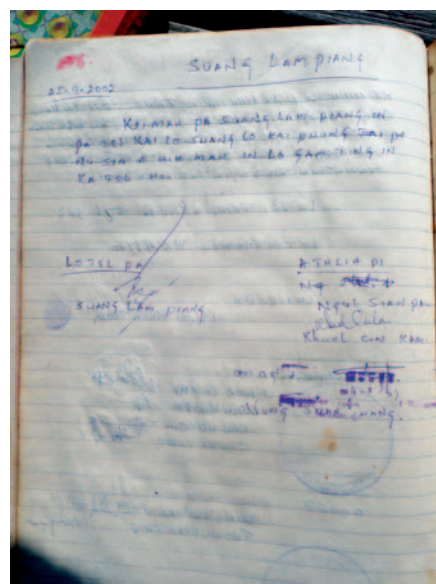
## Community land administrative systems

### Community-issued land titles

The vast majority of the lands in the researched villages are administered by the communities themselves. In these communities, households have clear agricultural lands demarcated and recognized within the communities, but without formal land titles.



*Dimlo village chief sharing the community land register and individual land title*



In 1986 the Zomi village of Dimlo decided to change from communally managed rotational cultivation (practiced in Thay Khermuder village) to individual ownership of lands. They did this by developing local land titles. Community leaders and village territory experts demarcated the village farm lands into plots of two acres each, grading them based on soil quality and distance from the village. They gave each plot a number with an accompanying registration book. Using a village household list, the villagers then chose the land they liked in the order of who had lived in Dimlo the longest. No map was drawn to indicate who owns which plots, but there is a village register and people with plots next to each other invite other villagers to be a witness in establishing the borderline between the plots.

Before the lands were officially distributed, villagers were required to take an oath stating that they would protect the land and not intrude on other peoples' lands. At the oath ceremony, each household contributed 3,000 kyat to buy a pig for sacrificial rituals, and everyone consumed the meat together to recognize the land distribution ceremony. Each landowner received a land record with a copy held by the village chief and managed by the land committee. Due to increased population, in year 2000 the villagers extended the farmlands into an area with smaller trees and bushes, in accordance with the village regulations.

Although the land titles were issued by the Dimlo villagers, residents do collect and send national land taxes according to the directives of the Tedim Township authorities. The village committee does not collect lands tax, but receive a small fee when asked to demarcate lands or solve disputes.

#### ***Land titles issued by external authorities***

Only 3% of the households in the seven villages (36 families) claim to have a Central Burma Government land title (Form 7). Over three times that many (127 families) have land titles for some limited lowland paddy fields and orchards registered with the ethnic resistance governments, the Karen National Union (KNU) and the New Mon State Party (NMSP).

In the Karen village Thay Khermuder, no villagers have Central Burma Government Land Title, as the area has been affected by civil war since Burma got independence. The local land authority in the region is the Karen National Union's Agriculture and Forestry Departments (KAD and KFD), which have issued land titles to the 28% of the village households that tenure lowland rice paddies and orchards. Owners of the KNU land titles pay a small tax on the rice harvested to the KNU district office on an annual basis, similar to the level paid at the national level. The KNU Land Policy and regulations recognize customary land management committees and practices, such as the shifting cultivation conducted by a majority of the villagers. In response to outsiders cutting teak trees from a forest within the village boundary, the Thay Khermuder villagers have made a formal request to the forestry department of the KNU to receive a community forest title covering an estimated 60 acres.



*Land title issued by the Karen National Union (KNU)(names blurred)*





*Land title issued by the New Mon State Party (NMSP) (names blurred)*

In the Mon village of Taung Son, approximately 76% of the villagers have land titles issued by the New Mon State Party (NMSP). There are no lands with two titles or overlapping jurisdictions. However, government recognition of the NMSP land titles has not been formalized in national laws or official agreements between the two political entities. Taung Son villagers claim that they find the NMSP more efficient and easy to work with, as land titles and interaction with the Mon authorities are in Mon language. NMSP allows the villagers to take part in the land demarcation process, which they believe results in fewer disputes between villagers. They also claim that the NMSP responds quicker to requests, such as land measurements and administration of land transfers, than the government land department.

### **Management of village boundaries**

All the villages researched have clear village boundaries that include all family and community managed lands, farmlands, sacred areas, waterways and forests. In the Kayah village of Daw Tamakyi, special rituals are conducted with neighboring villages in order to manage the boundaries and prevent territorial conflict. For example in April every year there is a joint ceremony at the village border with the neighboring village of Daw Ku. Community members from both villagers carry bamboo poles, tie them into one-foot-long bundles of three and place those on the borderline, signifying unity and the maintenance of the common border.

Despite traditional precautionary measures such as cutting fire lines, sometimes forest fires spread beyond the village boundary when fields are burned in preparation for shifting cultivation planting. If this happens in the Karen village of Thay Khermuder, villagers traditionally organize a spirit ceremony together with the neighboring village at the site of the burning. Chicken, pigs, and traditional wine are offered to the local spirits. Firewood from each of the two villages is brought and chicken blood is poured on top to appease the spirits and prevent future incidents.



*Daw Tarklare village map*

### ***Sale or transfer of lands***

The strong ties that these communities have to their lands and ancestral history is reflected in regulations that either outright prohibit or strongly discourage the sale of land to outsiders in six of the seven villages researched. However, individually owned land for farming or housing can be sold at any time to other villagers.

When selling lands that have no written land titles, such as in the Kayah village of Daw Tarklare, the traditional practice is to organize a ceremony between the buyer and seller. The ceremony must have outside witnesses and includes the sacrificing and eating of a pig and drinking local wine. In the Karen village Thay Khermuder, customarily the land must first be offered to a member of the close family, then to more distant relatives. If none of these are interested, other people in the village may purchase the lands. Finally, if there are no interested buyers within the community, land can be sold to outsiders, but this transaction requires approval from the Village Committee and the KNU Agriculture Department (KAD).

According to regulations in the Zomi village Dimlo, if any family moves away from the village, they have to either sell the lands to another villager or the land title must be handed back to the land committee, after which the land becomes communal property. Sale of land is managed and witnessed by the village land committee.

Despite the above restrictions, communities often allow new people to move in to the villages. According to regulations in the Kachin village Dum Bung Hka, newcomers are not allowed to buy lands but they are allowed to rent and cultivate lands. Such arrangements are also informally made in Karen and Karenni areas to accommodate for internal refugee communities displaced by war.

The Mon village Taung Son is the only village researched that does not have any regulations prohibiting lands being sold to outsiders.

### ***Land Inheritance***

In the researched villages there are no strict regulations on who has the right to inherit lands and it is therefore up to each family to manage the process. Cultural practices and norms guide the process and differ widely between ethnic groups. Kachin and Zomi tradition prioritizes the eldest sons to inherit the main lands while other siblings, regardless of sex, divide up the remaining property. In the Karen village of Thay Khermuder, on the other hand, the eldest daughter receives the main inheritance of farmlands while other siblings receive the livestock and other property. In Mon, Shan, and Kayah communities, inherited farmland is shared equally among siblings regardless of sex. Housing and related lands are usually passed on to the youngest child, as this person traditionally is the primary caretaker of the ageing parents, also regardless of sex. Potential disputes regarding inheritance are resolved through the Village Committee in most villages, and in the case of the Kachin village of Dum Bung Hka, the Cultural Committee.

## Community judicial systems

Traditionally, a community's animist chief was the judge who arbitrated in cases of breaches of village regulations and disputes that could not be resolved between or within families. With the emergence of Village Chiefs and Committees, this work has generally become integrated into their duties. Cases that cannot be resolved within village administration are referred to the judicial systems of either ethnic resistance governments or the national government.

This is also the process for disputes relating to land, forest, and water regulations within the researched villages. However, disputes or breaches related to animist sacred areas in Karen and Karenni villages are still arbitrated by the traditional animist chief. As the animist chiefs are considered the moral and religious authority in these communities, they play a role in informally resolving smaller disputes between families before they become cases for the Village Committees.

Although the governance and judicial systems among the researched villages are similar in structure, they have different enforcement regulations and practices. In the Kayah villages for example, if someone harvests a forest product against village regulations, they are first given a warning and fined for twice the price of the resource for a second offense. The fine is used either for the village celebration and funeral fund or for the village committee fund.

There are rarely breaches against regulations relating to sacred areas, as cultural beliefs and stories of bad luck or sickness befalling the perpetrators usually deters villagers from violating the rules. Punishment for a violation involves religious ceremonies at which the violator must sacrifice one of his or her animals as an offering for forgiveness from the spirits. The animist chief is not above the regulations and has in the past also been subject to similar punishment in order to appease the village spirits.

According to written regulations in Dimlo village of Chin State, the Village Chief and Land Committee must be informed of disputes regarding land. A person appointed by the committee is then responsible to investigate and report his or her findings back to the whole village. Both parties are then, in front of all villagers, required to take an oath to tell the truth while biting a rock before the proceedings start. If anyone refuses to bite the rock, the immediate assumption is that he or she is at fault. If a person is at fault in reality, but went ahead and bit the rock, villagers believe that some kind of accident will happen to that person. This practice has in recent years been extended to the choice of biting the rock or holding a Christian Bible while speaking the oath.



*'Kawkusah' – the traditional leader from Thay Khermuder village who plays a key role in the community judicial process*



## Gender roles in customary land management systems

During this research, ECDF has observed that women and men work side-by-side on their farms, starting from early morning until late evenings. Women and men were also both equally outspoken and active participants in many meetings and workshops conducted during the ECDF community work.

As discussed in the previous ‘Land inheritance’ Section, land is inherited by women and/or men according to the different traditions of each culture. In Kachin and Zomi cultures, men attain the main farmlands while in Karen society, female inheritance is prioritized. Inheritance of lands in Shan, Mon, and Kayah villages generally do not prioritize any particular gender.

Political power in animist affairs is nearly exclusive to men, as customary chief titles are inherited from father to son, giving men formal arbitrary powers in the management of sacred areas. However, women in Karen and Kayah animist traditions have the leading role in some customary ceremonies, such the *Jodote* Kayah harvest ceremony. The *Jodote* ceremony is managed by a senior woman in the community and always starts off by a senior woman cutting the first bundle of rice for the season, to pay gratitude to the land.

However, in analyzing the gender breakdown among Village Chiefs, Village Committees, and Land, Forest, and Water Committees, it was found that only 6% of elected members are female (compared with the figure of 0.25% female Ward/ Village Tract administrators nationwide<sup>12</sup>). At the time of research, there were no women on the Mon and Kayah Village Committees.



*Daw Tamakyi woman showing video footage of customary land practices to friend*



*Thay Khermuder teacher explains about Water Conservation Zone regulations to ECDF staff*



*Daw Tarklare community leader facilitating discussions*

<sup>12</sup> See report published by Namati: *Gendered Aspects of Land Rights in Myanmar: Evidence from Paralegal Casework* (April 2016).



## Customary Land Practitioners:





# Portraits from the communities





## Customary Lands- what does this have to do with the population at large?

As explained in the previous ‘Findings’ Section, community-managed customary systems are functioning throughout ethnic areas across Burma. They have evolved over generations to effectively provide direct support for local communities’ livelihoods in an ecologically-friendly manner. Besides the benefits for local communities, however, these customary systems have also served larger societal needs as well.

First of all, customary practices have enabled local communities to protect the rich natural resources that have been maintained in the hill regions outside of Central Burma for multiple generations. Sustainable low-intensity agricultural practices have reduced the carbon footprints of these communities, and, as a result, provided mitigation against climate change.<sup>13</sup> Without needing large amounts of money to buy foods and medicines that can be found in the surrounding forests, the communities have been able to remain self-sufficient and, as a result have not needed government interventions to work towards poverty reduction.

Finally, and most critically during this transition period in Burma, formal recognition of customary lands can support a sustainable and inclusive peace process – as it will empower those very people who have suffered the most during the armed conflicts and bring about justice and closure as Burma moves forward along the path to a more democratic society.



*Rush hour scene in downtown Yangon – Burma's most concentrated urban area*

<sup>13</sup> In a Northern Thailand Karen community, participatory research found that local rotational agricultural practices resulted in a net positive carbon offset. See: Northern Development Foundation and the HuayHin Lad community. (2011). "Climate Change, Trees and Livelihood: A Case Study on the Carbon Footprint of a Karen Community in Northern Thailand".





Customary land management structures and policies have been integrated and recognized in the modern world on every continent. An increasing number of international institutions recognize the advantages of communal and customary tenure over formal individual titles with regard to cost effectiveness and equity, and have urged caution about state-led intervention in land tenure systems, suggesting that building on existing systems is desirable.

Burma's customary land management systems need to be recognized within the national system. This is not possible under the current national constitution and legislation that enshrine centralization of ownership and control of resources.

Protection and formal recognition of ethnic customary land management systems are important components in achieving sustainable development, protection of the environment and peace. Therefore, ECDF proposes the following:

## RECOMMENDATIONS

### Long-term Recommendations

1. Ethnic customary land management systems must be enshrined in a future federal constitution and decentralized legal framework. This would include formal registration of customary/community land titles based on village boundaries, incorporating ownership and management of all natural resources, including those under the ground.

### Short-term Recommendations

2. In order to protect customary lands and systems until peace accords, constitutional amendments, and new land legislation have been finalized, there should be a moratorium on land acquisition in areas where customary land management systems are implemented.
3. Every village practicing customary land management should without harassment from authorities be allowed:
  - a. to protect and promote these practices
  - b. to title and map their own village boundaries
  - c. to reject individual land titling by any authority, where these titles are incompatible with the local system without harassment from authorities
4. The Central Government should practice non-interference with existing Ethnic States' customary land administrative structures and policies until new structures have been created.
5. All land management systems in Burma should ensure that:
  - a. women have the right to inherit and own land and participate in decision-making
  - b. international human rights principles are followed and enforced
6. Interested organizations/agencies/NGOs, both within Burma and internationally, should support community-managed initiatives to document and advocate for legal recognition of customary land management systems.



## Components and processes necessary for the formal recognition of customary land management systems in Burma

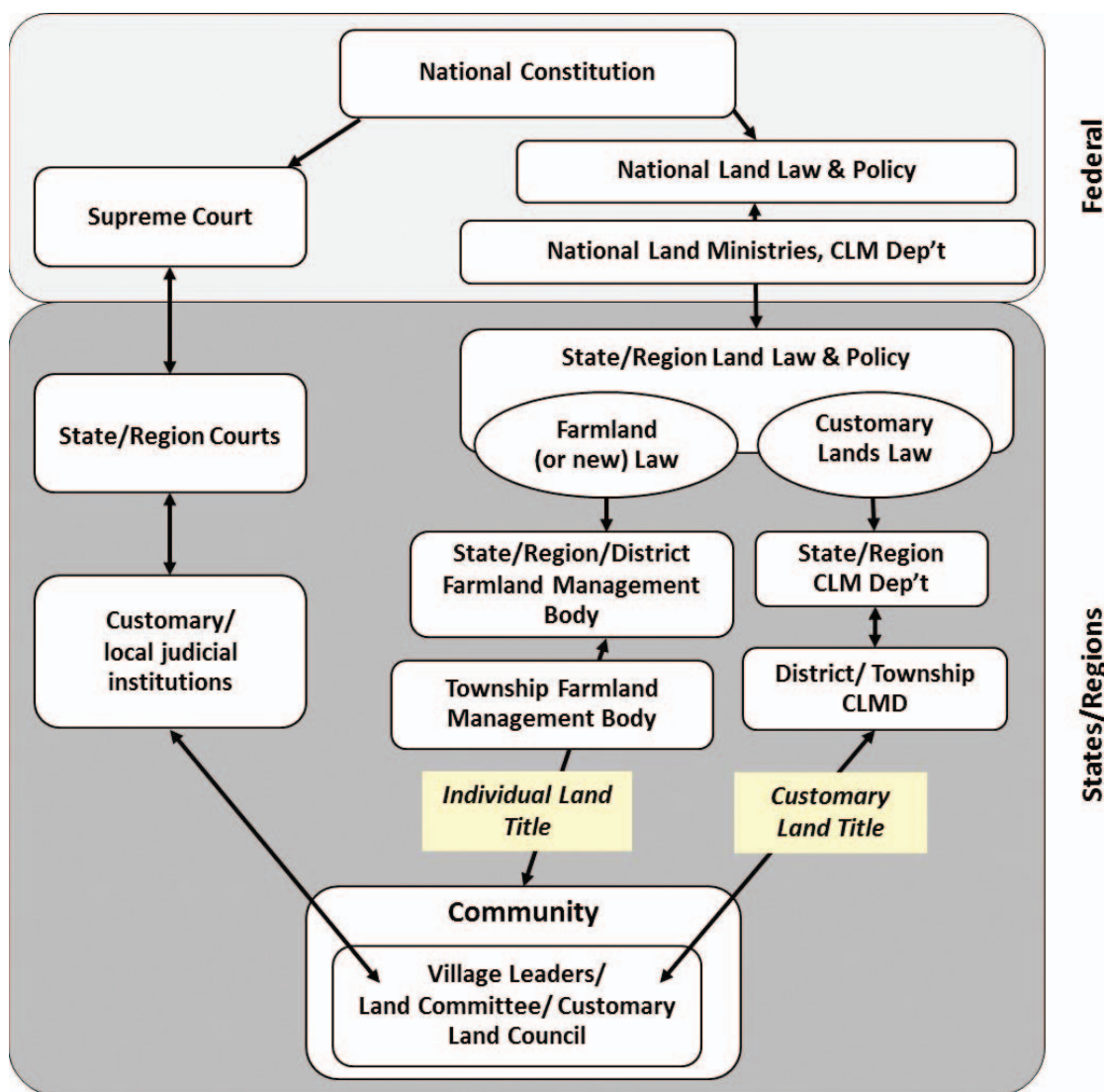
Based on extensive research of customary land management systems in Burma and internationally, ECDF proposes that the following components and processes be included in the formal recognition of Customary Land Management Systems in Burma:

1. Customary Land Management Systems should be protected in areas where they are practiced. In areas where practices have been discontinued, or not fully implemented due to war and displacement, local communities (including previous landowners and resettled ‘new’ communities) should be given the right to decide whether they want to re-establish their customary practices under customary land laws.
2. In places where written local by-laws have not yet been recorded, they should first be transcribed verbatim from the communities themselves, rather than just translated into legal terms.
3. Communities that desire community/customary land titles should be able to apply to obtain one, based on village boundaries. Customary land classification should be a multi-use, flexible classification, allowed to encompass sacred areas, protected forests, rotational upland agriculture, lowland permanent agricultural fields, forest gardens, village sites, and so on as determined by local communities themselves within their village boundaries. Community representatives would have to confirm boundaries with neighboring communities and sign such applications.<sup>14</sup>
4. A specific administrative unit in the Central/State governments should be set up to administer customary land titles. Suggestions on how this could be done follow:
  - Establish a ‘Customary Land Department’ (CLD) accountable to future state and regional governments within a federation: The rules and regulations of this department should be detailed in state and regional legislation; CLD staff should be familiar with local ethnic language and customs; relevant ministries should sign off on any CLD application to avoid future jurisdictional disputes.
  - Local Administrative/ Governing Bodies (whether they are named Land Boards, Village Councils, Sub-district Customary Land Committee, etc.) would fall under the CLD’s administration. These Local Administrative Bodies must be participatory and efficient – they should contain a mix of local elected leaders/ elders/ community members/ CLD officials. They should incorporate local practices into their formal regulations and procedures.
  - Guarantee at least 30% representation of women on Local Administrative Bodies
  - Establish both upward and downward oversight and accountability mechanisms for the Local Administrative Bodies
  - Roles of the Local Administrative Body should include:
    - ◆ Coordinate Customary Land Application process, including powers to approve or deny applications
    - ◆ Coordinate Customary Land boundary demarcation
    - ◆ Register Customary Lands Registration (including review and renewal)

<sup>14</sup> Appendix E contains an example of the Thai Community Land Title Application form. Thai-Karen communities have obtained the right to manage customary land and natural resource management under the Community Land Title Cabinet Decree issued in May 2010.

- ♦ Manage Customary Land Documents and Records
- ♦ Provide final approval for leasing and or transferring family plots of Customary Lands
- ♦ Coordinate Land Use and Development Planning
- ♦ Administer Customary Land taxation procedures
- ♦ Ensure the enforcement of Land Regulations (including penalties for violations)
- ♦ Coordinate with Judicial Body in cases of land dispute arbitration
- Ensure the Judicial System upholds both upward and downward oversight and accountability and integrates existing customary judicial mechanisms at the local levels.

### Possible Customary Land Law Implementation in a Federal Structure



## Appendix A: Report Methodology

The origins of this report occurred during the Natural Resources Policy Development Workshop conducted by the Burma Environmental Working Group (BEWG) and ECDF in Chiang Mai in 2012, Thailand. This workshop was attended by civil society organizations based on the Thai-Burmese border.

**1. Initial Survey:** Following this, the Ethnic Community Development Forum (ECDF) conducted surveys about customs and traditions of six ethnic nationalities beginning in July 2013. Survey topics included:

- community customs and traditions;
- property classifications;
- land protection mechanisms;
- and record documentation.

The ECDF secretariat staff and member organization representatives went to the respective communities and conducted the surveys and interviews. A total of 1,264 people, 428 women and 836 men were interviewed in six ethnic States (see map on page 6). This survey provided baseline information/data about existing customary land practices, how many customary lands have been titled, local persons' knowledge about customary land regulations and practices, and how to move forward for customary land advocacy.



*ECDF and partner organization staff conducting survey in Ye Township, Mon State*

**2. International Customary Lands Report:** Simultaneously, ECDF published a report “Customary Land Practice Management and Legal Frameworks: Experiences from Around the World” in order to gain further insights of how customary land management systems have been successfully intergrated with statutory law around the world.



*Small group discussion at ECDF Customary Land Workshop in Loikaw, Karenni State*

**3. Customary Land Workshop:** The survey and published report were used in a 3-day workshop by ECDF held in Loikaw, Karenni State, in August 2014, with 52 civil society organizations and farmer networks from various ethnic and national civil society organizations. The input from ECDF and experience sharing among participants contributed to joint analysis and strategic planning for community documentation and advocacy on customary land management systems in Burma. A Customary Land Protection Committee was established, which issued a statement calling for the recognition of customary land management systems by national law.



**4. Pre-research Training:** In October 2014, in preparation for the planned field research, a team of 2 Mon, 1 Shan, 1 Kachin, 1 Karenni and 1 Karen from Burma were selected and joined a 6-week ECDF workshop at which the participants studied customary land management systems in Burma and internationally; developed community questionnaires, Participatory Learning and Action (PLA) methodology. The workshop was followed by exposure trips to three Thai-Karen Communities to learn about how they have recorded traditional land use practices and regulations within their villages as well as how they interacted with Thai authorities.



*Pre-research Field Visit at Ban Nong Tao village,*



*Thai villager demonstrating rice harvest in Mae Kong Kha village, Thailand*

**5. Field research:** In December 2014, ECDF secretariat staff and representatives of its member organizations began to document customary land management systems and practices in the areas listed in the table below. Target communities were selected by local ECDF member organizations. ECDF research staff joined with member organizations to visit villages and collected documentation together with villagers. The teams spent from ten days to two weeks in each village collecting information using a wide range of methods, including:

- conversations with elderly community members to learn about the village history;
- meetings with groups or persons responsible for water and land management, community youth groups, village leadership, and religious leaders;
- interviewing elderly women in the community in order to collect diverse perspectives;
- conducting participatory community workshops and mapping with villagers;
- visiting protected lands/waters/forests, plantations, sacred zones, and village landmarks;
- visiting cultivated lands, farmlands, orchards, and agro-forest zones;
- conducting land demarcation together with villages using GPS;
- and conducting night-time meetings to accommodate villagers who could not attend day meetings.

Customary Land Research Target Villages

Village	State	Ethnic group	Religion(s)	#HH	Population
Dum Bung Hka	Kachin	Kachin	Christian	230	1,000
Daw Tamakyi	Karenni	Kayah	Buddhist, Animist	358	1,756
Daw Tarklare	Karenni	Kayah	Animist, Christian	130	673
Thay Khermuder	Karen	Sgaw Karen	Christian, Buddhist, Animist	42	259
Dimlo	Chin	Zomi	Christian	86	603
Taung Son	Mon	Mon	Buddhist	151	700
Pone Htun	Shan	Shan	Buddhist	50	150
				<b>1,047</b>	<b>5,141</b>



*Daw Tamakyi village elders sharing their village history with ECDF staff*



*ECDF staff interviewing villager in Dum Bung Hka village*



*ECDF and partner organization staff learning about Chin culture in Dimlo village*



*ECDF staff teaching villagers about how to use a GPS positioning device for demarcation in Daw Tarklare village*



*ECDF staff learning from the Pone Htun Village Committee*



*Former Khaybyarseh explaining to ECDF staff about Sacred Poles in Daw Tamakyi village*



**6. Community actions during research:** While ECDF was conducting research in the communities, committees to protect customs and traditions were established by villagers in Daw Tamakyi and Daw Tarklare due to the enthusiasm of villager members when discussing their traditions. In other target communities, these committees already existed.

As most of the village rules and regulations regarding customary land management systems in the seven villages were only known orally, villagers requested ECDF to assist them in documenting their own village land by-laws. These documents are now in the hands of the communities and contributed to the ECDF research in this report

This report on customary land management systems, therefore, is the result of a joint effort among ECDF secretariat staff, member organizations and local community members.



*ECDF staff discussing with the Taung Son Village Committee*



*Documents containing village history and regulations that were produced during the field research*



*Villager drawing the Daw Tarklare community map during field research*



*Dimlo villager using chalk to sketch the location of his Spirit House*



## Appendix B: Target villages profiles

<b>Village Name:</b>	<b>Dum Bung Hka</b>
<b>Township and State:</b>	<b>Hpakant Township, Myitkyina District, Kachin State</b>
<b>Current Population:</b>	<b>230 families, approx. 1000 people</b>
<b>Administration:</b>	<b>Central Government</b>
<b>Major Religions:</b>	<b>Christianity</b>

### Background

In 20 A.D, the Laphaing ethnic group (a sub-group of the Kachin) lived in Wa Nga Bum before moving to paddy fields at Ka Dun. The Laphaing earned their living by agriculture. Historically, the Laphaing administered their territory through leaders called “*Duwa*,” similar to Shan *Saopha*. The *Duwa* traditionally administered the forest, hill areas and villages according to Kachin practices. In 1885, during the colonial era, the *Duwa* of Ka Dun territory was designated controller of the hill area. At that time, there were 50 families residing in the area of the village.



In 1930, when British army constructed a new road, they built temporary quarters for the workers to sleep in, which was the founding of what was known as Dum Bone Village at that time in Ka Dun territory. Later the village came to be called Dum Bung Hka. The name is a combination of three words: Dum (rhinoceros), Bung (sound of moving water) and Hka (stream). Even today, the community relies on this stream. In 1999, the Burma Army founded a camp nearby and forced the local people to act as porters and do different tasks for them.

Dum Bung Hka Village has twice faced natural disasters. In 1963, the homes of 20 families were destroyed by a major storm. The community cooperated to fix the houses. Later, between 1976 and 1977, the village’s agricultural land was destroyed by a infestation during the cycle of bamboo flowering. In 1985, the villagers fled because of fighting between the Burma Army and the KIA but later returned.

In 2001, part of the Hugawng Valley was set aside as a tiger reserve, including uncultivated land belonging to Dum Bung Hka. The Hugawng Valley Tiger Reserve now includes the area from the Ledo Road into the Hugawng Territory, around 21,890 km<sup>2</sup> in total. Half of Dum Bung Hka Village lies within the Reserve area. Therefore, the members of the community no longer had free access to use these lands or the natural resources on them anymore.

### Customary Land and Natural Resource Management

The Village Committee administers the village lands according to traditional law. Even during the British government’s colonial regime, customary laws to be allowed to be practiced in this area. Those caught breaking rules can be punished with fines and to admit their wrongdoing. In cases where the Village Committee cannot resolve land disputes, they have to pass these cases up to the Administrative Office Committee.

The communal lands in this area cannot be claimed by individual villagers. The community has a tradition each year to join together to manage fruit orchards beside a protected ‘sacred mountain’. They also work together to create a firebreak. Rules prohibit the burning of anything on the ‘sacred mountain’, cutting down trees and hunting, as well as imposing restrictions of hillside cultivation or grazing lands.



<b>Village Name:</b>	<b>Daw Tamakyi</b>
<b>Township and State:</b>	<b>Demawso Township, Karenni State</b>
<b>Current Population:</b>	<b>358 families, 1,756 people</b>
<b>Administration:</b>	<b>Mixed control (Central Government and Karenni National Progressive Party)</b>
<b>Major Religions:</b>	<b>Buddhism/Animism</b>

## Background

Daw Tamakyi village has no written history, only oral history. The current inhabitants of Daw Tamakyi trace their roots to *Sawbwa* Bo Pho Du who established the village in Baw La Khae during the 18th century. The tamarind trees and Kay Hlo Bo flag pole in the village are evidence of its old age. At the time of its founding, the village had 15 families. By World War II, the population had risen to 100 families. *Tamakyi* means ‘big sands’ which alludes to the sandy soil that is found in this village. *Dawtama* is a *Kayah* word, while *Kyi* comes from the Burmese language.



Originally, the villagers were Animists and worship Nats. Later some of the villagers converted to Buddhism. In 1993, the entire village converted to Buddhism at a festival. Currently, they incorporate aspects of both Buddhist and Animist traditions in their daily lives.

The people who live in Daw Tamakyi mostly wear traditional clothes and still follow many old traditions.

## Customary Land and Natural Resource Management

In the past, the village used the traditional system led by people appointed as *Khaybyarseh* and *Eelubyarseh*. At that time, the land and community affairs were administered by the *Khaybyarseh*.

More recently, the village was administered using the *Khaybyarseh* and *Eelubyarseh* systems in conjunction with a Village Headman. After 1998, the village only used the headman system to administer the village. Little by little, the *Khaybyarseh* and *Eelubyarseh* roles have diminished, but they still are in charge of conducting the Land Festival and Nat worship in the village.

There is no permanent designation of paddy fields or hillside cultivation areas – villagers decide each year how their lands will be used according to the villagers’ consensus. This community members use natural resources from their community forest (1,005 acres) and other lands near the village.





<b>Village Name:</b>	<b>Daw Tarklare</b>
<b>Township and State:</b>	<b>Pruso Township, Karenni State</b>
<b>Current Population:</b>	<b>130 families, 673 people</b>
<b>Administration:</b>	<b>Mixed control (Central Government and the Karenni National Progressive Party)</b>
<b>Major Religions:</b>	<b>Animism, Christianity</b>

## Background

The village dates back ten generations, to the late 1700s, during the reign of the Kayah *Sawbwa* Khay Po Du who lived in the nearby village Ghaylehya. Originally formed by ten households, the village had doubled in size by the mid-1800s and at the time of the Second World War 50 families lived in the village.

In 1996, villagers were forced to leave the village as a result of a massive forced relocation program of approx. hundreds of villages in eastern Karenni State. Most villagers were moved to Htee Poeklo, Faelyar and Daw Kudwe villages in Shadaw Township, and forced to leave livestock and food behind, while some fled to Thai refugee camps or became Internally Displaced Persons, hiding in the surrounding jungle. Villagers recounted dangerous trips back to Daw Tarklare during this time to perform ceremonies for the spirits, who they believe would protect their natural resources, during the villagers absence.

In 1999, some people began returning to the village and by 2001 most had come back to rebuild the village and their lives. The villagers have vivid memories of human rights abuses by the Burma Army during the past decades, including the murder of the village head man ten years ago, accused of cooperating with the KNPP.

Although approx. 70% of the villagers are Animist, the remaining Catholic and Baptist Christians also participate in the traditional ceremonies.



## Livelihoods

A majority of the Daw Tarklare villages engage in hill-side shifting cultivation growing rice and supplement this by growing vegetables, pulses, fruit and raising livestock. The surrounding forests provide additional seasonal foods, medicinal herbs and housing materials.



The villagers have initiated several community agriculture projects to raise community funds for healthcare, community events and other needs.

## Customary Land and Natural Resource Management

Located on the top of a hill, water is relatively scarce and as such they have detailed community regulations to manage water and have established protected forests around watersheds. With the participation of all households, the community has also planted Pine trees to extend forested area around the village.

A vast majority of the agricultural lands are community managed and only four families have cleared lands for fruit orchards, growing Mango and Jackfruit trees, which then are considered individual property. These lands have been handed down through generations. Village regulations state that it is only permitted to sell lands and houses within the community.

Housing land is commonly handed down to the youngest child, regardless of sex, as he or she is the main care giver to the parents at old age. The oldest gets to inherit the family rice barn while the remaining household goods is divided evenly among the other children.



**Village Name:** Thay Khermuder  
**Township and State:** Hpapun Township, Karen State  
**Current Population:** 42 families, 259 people  
**Administration:** Karen National Union  
**Major Religions:** Christianity, Buddhism, Animism

## Background



Thay Khermuder is in a Karen National Union (KNU) controlled zone in Mutraw District, although according to the Central Government it is located in Hpapun Township. The majority of residents are ethnic Sgaw Karen. There are a number of different religious groups: 22 Roman Catholic families, 10 families of other Christian denominations, 7 Buddhist families, and 2 Animist families.

This village was founded over a century ago by three Karen sisters named Naw Thay Kher, Naw Haw Phwee and Naw Lae Na. The eldest of these sisters, Naw Thay Kher, remained in the village her entire life while the other sisters left. The name of the village, Thay Khermuder combines the name of the village founder with the Karen language word “muder” which means beehive. The idea is that the people live together like bees in a hive.

Since its founding, the village has continued to grow. In the early days there were only four houses. Naw Thay Kher’s descendants now comprise 17 of the village’s families. After World War II, the village had around 26 families, and the population continued to expand until today. Some residents found it difficult to earn a living in the village and moved to the nearby dense forest, establishing new communities named Htee Sweni, Maw Yuni and Sar Lawpu. These new villages continue to cooperate with Thay Khermuder.

Despite being located in a KNU controlled area, the Central Government’s military continues to visit from

time to time threatening the local people. When villagers hear the sound of gunshots, they become extremely frightened.

## Livelihoods

Villagers depend on both the forest and farming to earn their livelihood. The community members help one another with the different tasks of the village, whether it is at home or outside the house. When the men go to the forest, the women maintain the household. But men also can look after the house when needed. People share the jobs of feeding the pigs, bathing children and carrying water.

## Customary Land and Natural Resource Management

Presently, the village follows the traditional *Kaw* system of living and social relations, although these traditions are disappearing little by little. The villagers administer both household and communal lands in the village – which include community forests, fish ponds, protected forests and watersheds. The residents of the village have agreed to follow community rules which have been adopted by the Village Committee. If a villager breaks one of these rules, they must pay a fine as their penalty. The Village Committee collects the money from these fines.

## Customary practices and beliefs

Rice is cultivated at the time of year that the lark begins to arrive and sing. The villagers have a song about this event. After harvesting, the villagers have another song to see the lark on its way. When the birds take to the sky, the villagers pray for the bird to fly safely. They pray for the bird to fly straight to many places, to avoid traps, not encounter obstacles, to avoid sleeping in another creature’s home. They pray that the bird will fly from a white tree stump and land on a black tree stump. After the villagers see the bird off they return to their homes for the evening and invite friends to participate in a celebration ceremony where they drink alcohol together and recite songs to ensure that the bird flies off happily.

## Inheritance

Generally, the parents give priority to their daughters when they pass on cultivation lands, while the sons inherit the household goods.

**Village Name:** Dimlo  
**Township and State:** Tedim Township, northern Chin State  
**Current Population:** 86 families, 603 people  
**Administration:** Central Government  
**Major Religions:** Christianity

## Background

Dimlo Village is situated high in the mountains, about 6,000 feet above sea level. Dimlo is combination of two words: Dim (an ethnic group) and Lo hillside farming. The village contains 603 persons (301 M/ 302 F) and a total of 86 families. Most of the people who live in the village are ethnic Zomi. Later, the Dim lineage emerged from the Zomi lineage. The Nau Lak family was born from the Dim lineage and in turn led to the establishment of three families: Hen Zom, Tual Tung and Do Thang.



Before settling in Dimlo, the ancestors lived in Dimpi village. In 1500 A.D., Dimpi was founded by the Hat Zaw and Hat Leng lineage. In the past there was a pool of salt under the Dimpi village. The salt in the pool of salt was called “Dim Ci.” Loving the salt of Dimci, other villages moved near Dimci village. The population increased in Dimpi village and after that there was not enough wood or room for hillside cultivation, so they moved to Dimlo to cut wood and practice hillside cultivation.

Later in 1650 A.D. the village of Dimlo was established. At that time, U Khup Vungh settled with 7 families. In 1889, the British took control of the Chin Hills and the local people fought back with axes, knives and Chin guns. The British government confiscated these weapons. On November 20, 1950, a Catholic priest named Reverend Father Dixnual stayed at the house of Pu Phung Khai in Dimlo and Phung Khai converted to Ro-

man Catholicism and left the American Baptist Church. In 1990, the village history was finally written down after years of not having a written record- previously, only oral histories had been passed down through the generations.

The people in Dimlo make their living mainly as corn farmers and also grow several types of beans and vegetables.

## Customary Land and Natural Resource Management

When the village was first founded, the villagers called the headman of the village by the title of *Hau Sa*. In 2010, the military government changed this position’s title to be an administrator.

In 1985, land near the village was distributed with each family receiving two acres. In 2000, because of population growth, the land was distributed a second time. This is the customary practice of this village: they are the authority that has the power to distribute their lands, not the government. When problems or disputes over land occur, the local people pass judgment by placing a special stone in their mouth. The villagers still depend on hillside cultivation, when the community grew it became difficult to buy consumer goods. The land has been protected in keeping with the regulations given during land grants and hasn’t been significantly degraded.



<b>Village Name:</b>	<b>Taung Son</b>
<b>Township and State:</b>	<b>Ye Township, Mon State</b>
<b>Current Population:</b>	<b>151 families, 700 people</b>
<b>Administration:</b>	<b>Mixed control (Central Government and New Mon State Party)</b>
<b>Major Religions:</b>	<b>Buddhism</b>

## Background

Village history has not yet been recorded on paper, only through oral tradition.

Taung Son village was founded in the Buddhist Era year 1322 (1960 A.D.). Before it was founded the area where the village now sits was crowded with big trees. People from other villages also come to practice hillside farming. Originally, the village of Taung Son was called Ba Yi Oite and there were seven families in the village. Later, the population grew. In 1986, village's name was changed from Ba Yi Oite to Taung Son. Taung Son refers to the protrusion at the top of Kyaung Hill. The name of Taung Son is Burmese language and in Mon language it is called "Mu Day."



Many years ago, the Karen National Union (KNU) had an office in Taung Son. Then, New Mon State Party (NMSP) Major Nai Kyaw Ain gained control of Taung Son from a KNU Major. At that time, the people who lived in Taung Son feared being robbed and moved to the temple. While residing at the temple, the abbot told the villagers to make a hut to live all together. U Kyaw Shine, the person who owned the land, donated them to the abbot and the abbot distributed the lands to the villagers for their living. Nowadays, the lands close to each other because the huts have been replaced by houses.

## Livelihoods

Originally, the people of Taung Son earned their living through hillside cultivation. As the population grew, villagers earned their money through other types of agriculture and later, the garden lands were distributed.

## Customary Land and Natural Resource Management

Although most families tenure land, few have official Government land titles.

The land is cultivated according to decisions made during discussions among villagers together with the village headman. In 2004, the New Mon State Party (NMSP) issued land titles in this community. Before the issuance of New Mon State Party land titles, there were many problems related to land in the village. When land disputes occur, the villagers first will discuss them with one another to find a resolution. If they cannot come to an agreement, they will then consult the village headman. If they still are not able to agree on the best course of action, they will then consult with the NMSP at Htar Wei District. If an agreement cannot be reached at the District level, an investigation will be conducted by the District officials to consult other witnesses.





<b>Village Name:</b>	<b>Pone Htun</b>
<b>Township and State:</b>	<b>Lang Kho Township, southern Shan State</b>
<b>Current Population:</b>	<b>50 families, approx. 150 people</b>
<b>Administration:</b>	<b>Administration: Mixed control (Central Government and Restoration Council of Shan State)</b>
<b>Major Religions:</b>	<b>Buddhism</b>

## Background

Pone Htun was founded in 1935 by Tun Aung, Lone Puak and Lone Mat -- three friends who established the community with their families. As of the 1935 census, the village already had about 150 residents. During World War II, the residents of Pone Htun fled because of fighting between the Japanese and the revolutionary army.



In the last several decades the village has had to deal with displacement because of ethnic conflict. In 1995 a leader of the Mong Tai Army surrendered to the government, but many Shan fighters did not follow his lead. Because of this, the military decided to begin the ‘four cuts’ policy to cut off services to these communities. They relocated the villagers of Pone Htun to nearby Lang Kho town and Nam Teing village. In 1997, the military government allowed villagers who had left Pone Htun to return.



## Livelihoods

Since its founding, the villagers of Pone Htun have produced limestone, which is why the name of the community is “Pone Htun,” meaning “limestone” in the Shan language. Today, most of the villagers are cultivators, many of them growing millet and areca nuts. They farm hillside and lowland fields in the style of their ancestors and are deeply attached to their traditional culture. Pone Htun residents struggle to this day because Shan ethnic militants and Myanmar troops come to the village to extract supplies.

## Customary Land and Natural Resource Management

The villagers have established a committee whose duty is to settle disputes over land or other subjects. There have been some issues with hillside cultivation, which rotates year to year. This leads to contention when after three years, the farmer returns to find others cultivating the land. When problems such as this arise, the local people discuss the issue with one another and with the village headman to resolve the problems. When the person at fault is identified, they need to pay restitution.



## Appendix C: Main types of rural land classification, management and actual land use

Official land classification	Relevant laws	Land use permitted by law	Actual community land use	Responsible Ministry and implementing agency
Reserved Forest	Forest Law -1992	Commercial forest products	Hillside rice, cultivation of vegetables, grazing, orchards, housing, religion etc	MoECaF/ Forestry Dept
Protected Public Forest	Forest law -1992; Protection of Wildlife/ Conservation Law -1994	Conservation of forest and wildlife	Hillside rice, cultivation of vegetables, grazing, orchards, housing, religion etc	MoECaF/ Forestry Dept
Vacant, Fallow and Virgin land	VFV Law -2012	“State Economic Development”	Hillside rice, cultivation of vegetables, grazing, orchards, housing, religion, etc	CCVFV/MoAI
Farm land	Farmland Law -2012	Paddy, orchards, vegetable gardens etc	Paddy, orchards, etc	MoAI
Freshwater	Multiple laws	Rivers, streams, lakes, ponds etc	Fishing, irrigation consumption, etc	MoAI/MoECaF Forestry dept

## **Appendix D: Dimlo Village Land Law, Chin State**

### **Duties of Land Committee**

- Land demarcation
- Hold land affairs meetings
- Keep record of land registries
- Resolve land disputes within the village

### **Villagers' opinion on land grants recognized by the people**

- Land grant recognized by the villagers is the most important for villagers
- It is evidence of villagers' rights to work on the land
- Sale of lands is done by transferring land grant.
- They believed that their land grants are more reliable than government issued land grants because for the past 30 years, there has not been any confiscation of lands. Had the government conducted the land demarcation, they would no longer have those lands. In addition, they would also have to pay land taxes if they had the land grant issued by the government.

### **Selection of Land Committee**

Must be approved by the majority. Must have expertise in village territory. Must be one of seven or eight village administrative committee members. Only village administrative committee members can serve as land committee members. Instead of selecting different people, seven land committee members are recognized at the same meeting for selecting village committee. There is no term limit and committee members are volunteers.

### **Rules and regulations**

Village land law was enacted on June 6, 1986 by the Dimlo village party council with the consent of the villagers in order to ensure the ownership of cultivation lands and farm lands as well as promoting food security for future generations.

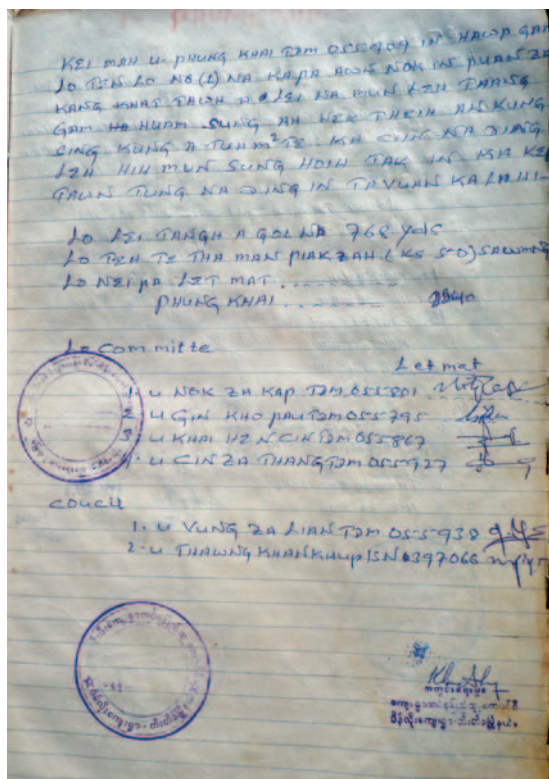
1. Lands were distributed to villagers in order to preserve the lands as well as manage fire and livestock
2. Agreed to choose the plots of lands starting from the households who have lived in the village the longest
3. The plots are measured and their borders are marked by a stick with the consent of owners of both plots. If one of the plots' owners installed the stick without another plot's owner and disputes arose, land committee measures the plots again and sticks were placed with both owners' consent. The plot's owner who caused the incidents is responsible for paying daily wage to the committee members.
4. Plot's owner is responsible for taking care of the land and protecting the soil nutrient in order to produce high crop yield in their cultivations.
5. There is enough cultivation lands for everyone and villagers are not allowed to request for more cultivation lands without working on every part of the land that he/she already owned.
6. If someone caused destruction to the land distribution process, his/her plots will not be registered and will be put in prison.



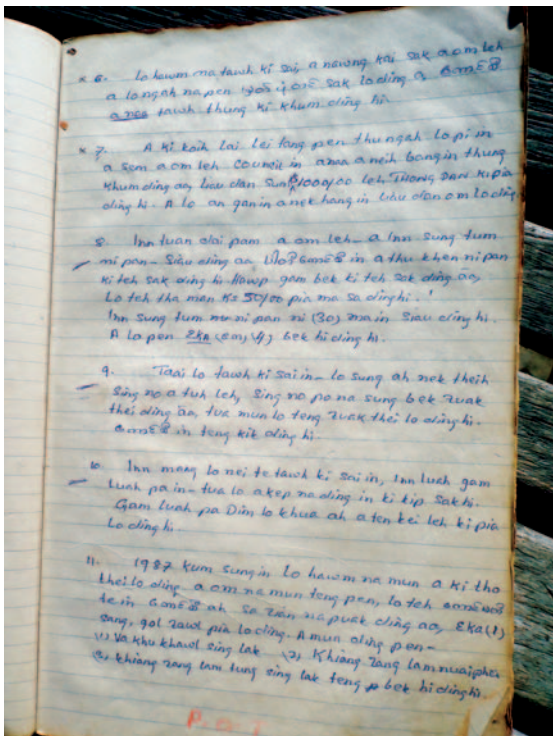
7. No one is allowed to work on the cultivation lands that have not been distributed to anyone and doing so will result in imprisonment and 1,000 kyats fine by the council. Moreover, no compensation will be made if livestock destroyed crops that are growing on the unauthorized land.
8. When a newly wed family moved into their new house, they must request for cultivation land from the party council within 30 days. Once the party council made the decision, cultivation land is measured from the Hawp [one sector of Dimlo village] side. There is a 50 kyats application fee and each family is entitled to get four acres of land.
9. For villagers who are moving out of the village, they are allowed to sell their land if they have planted long term plants. However, if there are no long term plants on the land, they are not allowed to sell the land and the committee will take the land back.
10. If there is no one to inherit the land, a close relative is allowed to inherit the cultivation land. However, if the inheritor does not live in Dimlo village, he/she will not be allowed to inherit the land and the land will then be community land.
11. After the land demarcation in 1987, some lands are considered as preservation land and no one is allowed to cultivate on the land. The list of the land was submitted to the council by the land committee. Lands that are still available to measure include (1) Vakhu khawl singlak, (2) Ihiangzaang lamnuai phei, and (3) Khaingzaang lamtung singlak.
12. If the land is not used for cultivation, the committee will take the land.
13. If a villager no longer wants his/her current plots and wants to get a new plot, the committee measures a new plot as large as the current one for the villager.
14. If someone has planted trees before on the cultivation lands, they must clean up those trees by February 28, 1987.
15. Selling and buying of cultivation land is not permitted. Giving the land to another person is also not permitted. However villagers are permitted to exchange their land with each other.
16. If there is incident of fire in cultivation land, the owner of the land will be prosecuted in accordance with the law and it is punishable by 6 months of jail time and a 1,000 kyats fine.
17. Cultivation on the distributed land without the consent of the owner will result in a 500 kyats fine.
18. Owners of the lands are responsible for taking good care of the existing water pipeline.
19. Every household is responsible for paying 35 to 50 kyats to people who measured lands and if they are not willing to pay, their land will not get registered.
20. In case of over stepping beyond one's land area, the plots will be re-measured and the owner of the land will have to pay a 100 kyats fine.



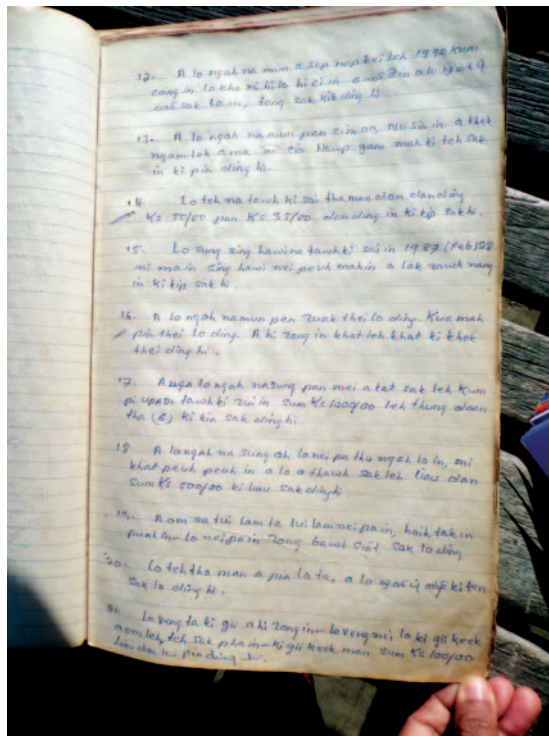
Dimlo village Land Register



Individual Plot recorded and approved in the Dimlo Land Register



Dimlo village Land Regulations  
(in Zomi language)



Dimlo village Land Regulations Part 2

## Appendix E: Sample Community Land Title Application Form (Thailand)

CLTO Document 1

### Community Land Title Application Form

In accordance with the Cabinet Decree of May 2010- Establishment of Community Land Title Mechanisms

Date.....Month.....Year.....

Issue: Request for Community Land Title in accordance with the Cabinet Decree of May 2010- Establishment of Community Land Title Mechanisms

**Attention:** Head of Community Land Title Coordination Committee

I (Name/Surname)....., Age.....years, Profession.....  
Contact Address.....Sub-district.....District.....Province.....Postal Code.....  
Telephone.....Fax.....E-mail.....  
Official Position in Village Community.....

As the representative for ..... community members, have the intention for our village administrative committee to coordinate with the relevant government officials/ organizations, in order to obtain a community land title for the lands we live in belonging to Thai Governmental Agencies, according to the Cabinet Decree of May 2010- Establishment of Community Land Title Mechanisms.

Village#.....Sub-district.....District.....Province.....

The following documents are included in this application:

- (a) Documents proving community's residency
- (b) Community Land Use map
- (c) List of Village Committee members. List of village members with their land holding details and land uses.
- (d) Community Background/ History
- (e) Community Land and Natural Resource Use/ Management Plans, including the relationship with State Officials/ Departments.
- (f) Other relevant documents.....

I attest that the information in the application is correct.

With respect,

Signature .....

(Printed name) (.....)

..... Village Committee Head

Community Land Titling Office, Deputy Prime Minister' Office- Tel/Fax (022828530)



**Community information form for Community Land Title**  
**In accordance with the Cabinet Decree of May 2010- Establishment of Community Land**  
**Title Mechanisms**

**1. Community Information**

- 1.1 Community Name.....
- 1.2 Village Number..... Street..... Sub-district.....  
District.....Province.....
- 1.3 Total land area.....Rai
- This community is located in what type of land:
- (a) Vacant land used communally ..... Rai
- (b) Government holdings (under Treasury Dept).....Rai
- (c) Reserved Forest land.....Rai
- (d) Agricultural Reform land .....Rai
- (e) National Park land .....Rai
- (f) Other types of land (specify land type).....Rai
- 1.4 Number of maps detailing community lands and bordering zones.....
- 1.5 Total number of community households..... Total community population.....
- 1.6 Occupations of villagers
- (a) Agricultural workers.....(type)..... (persons).....(households)
- (b) Other.....(type).....(persons).....(households)

**2. Village Committee Information**

- 2.1 Contact Address: House#..... Village#..... Street.....  
District.....Province.....Postal Code.....
- 2.2 Village Committee Members (must have at least 7 members)
- (1) .....Committee Head
- (2) .....Assistant Committee Head (if there is one)
- (3) .....Committee Member
- (4) .....Committee Member
- (5) .....Committee Member
- (6) .....Committee Member
- (7) .....Committee Member
- Other members.....

2.3 Village Committee Activities with supporting documents (if any)

.....  
.....  
.....  
.....

**3. History of the Establishment of the Community:** The community must have been established and continuously living in this place for at least 3 years prior to the proclamation of the 2010 Community Land Title Cabinet Decree (before 12 June, 2007)

.....  
.....  
.....  
.....  
.....

I attest that the information in the application is correct.

Signature .....

(Printed name) (.....)

..... Village Committee Head



## Community Land Title Certificate

#...../ ..... (year)

---

According to Community Land Title Cabinet Decree of 2010, and the powers bestowed within this Decree, the Committee to Coordinate and Issue Community Land Title Deeds hereby proclaims that ..... (Village representative) representing ..... (Village name) is entrusted to enact community land title number ..... issued on ..... (date) at ..... (place)

1. .... (name of government agency land holder) gives permission to use plot number .... containing a total of .... (Rai) which is located in ..... (Village number) ..... (Sub-district) ..... (District) ..... (Province), to use for ..... (insert land use- agriculture/ residence/ etc.) for the period of ..... years, which begin on that date of the issuance of this certificate until ..... (date), according to the mechanisms listed in the annex attached to this certificate.

2. The community will jointly manage these land holdings in order to increase their housing and land-use security. The community, therefore, has the responsibility to protect and conserve the natural resources and environment continuously in accordance with law and relevant regulations.

If the community violates the mechanisms listed in the annex or any other relevant laws and regulations, the Committee to Coordinate and Issue Community Land Titles has the right to rescind this Community Land Title.

Issued on ..... (Date).....(Month).....(Year)

(Signature).....

(.....)

Head of the Committee to Coordinate and Issue Community Land Titles



## Community Land Title Certificate Annex

The Village Committee has the responsibility to implement and administer the Community Land Title appropriately for the community's situation, as outlined below:

- (1) The Village Committee must manage and administer the natural resources and lands contained in this community in a systematic, transparent, and just manner that involves the participation and approval from all community members.
- (2) The Village Committee must record and continuously update community data. They must also maintain detailed land-use maps that demarcate all community managed lands, including plots used for agriculture, housing, and communal purposes.
- (3) The community's economic, social, and cultural plans must be developed and approved in a participatory and inclusive process, and be appropriate for the location and situation of each community.
- (4) A sustainable and ecologically-balanced land use and agricultural production plan must be developed that is appropriate for the location and situation in the community.
- (5) A sustainable natural resource management plan must be developed that provides protection and conservation. Community members must continuously monitor their lands and inform the State authorities in the event of any natural disaster, encroachment, or forest destruction within the community land title lands.
- (6) A Village Land Fund must be established in order to assist with the implementation of the Community Land Title.
- (7) The Village Committee must implement the Community Land Title strictly in accordance to the policies, plans, and requirements issued by the Community Land Titling Office and the Committee to Coordinate and Issue Community Land Titles in accordance with the Cabinet Decree of May 2010- Establishment of Community Land Title Mechanisms

- Example -  
List of Community Members in .....Village

Household Number	Household members		Identification Card Number	Address	Total Amount of Land Holdings	Type of Land Usage	Notes
	Number	Name					
1	1						
	2						
	3						
	4						
2	5						
	6						
	7						
	8						
	9						
	10						
3	11						
	12						
	13						
	14						
	15						
	16						



## Community Land Title Deed

The Committee to Issue Community Land Title Deeds declares that .....  
(Village name) has received permission to establish and manage their community according to the Community Land Title regulations at the following address:.....(Village number).....(Sub-district) .....(District) .....(Province). The total amount of land covered by this title is ..... (Rai)

Proclaimed by:

.....

(Mr. Sathit Wongnangtoei)

Prime Minister's Office

Head of the Committee to Coordinate and Issue Community Land Titles



*Ban Khlong Yong Community Land Title issued in 2011 and signed by then-Prime Minister Abhisit Vejjajiva*



*Prime Minister Abhisit Vejjajiva presents the CLT to Ban Khlong Yong representatives*





With a majority of Burma's people engaging in agricultural activities, secure and sustainable land tenure remains at the heart of sustainable development, democratization and ethnic rights. Current centralized and ineffective land management – as well as widespread land grabbing related to natural resource extraction and agribusiness projects – threaten existing well-developed and effective land tenure systems practiced in Burma's ethnic states.

This report explains how Burma's diverse customary land management systems in seven ethnic communities are structured, and offers suggestions about how these systems could be supported and potentially integrated into a future devolved federal national land management system. It is the result of a two-year joint effort between the Ethnic Community Development Forum and communities practicing these customary systems in six ethnic states.

# Our Customary Lands

