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SUCCESS STORY

Northern Shan Ethnic Minority Communities Secure Customary Rights to Their Lands



Photo: Kirsten Ewers

A village meeting works on a land mapping exercise.

The legal and governance frameworks around land use and tenure in Burma need to be harmonized and updated. USAID's Tenure and Global Climate Change (TGCC) program is providing technical assistance to the Government of Burma's Land Use and Land Allocation Scrutinizing Committee to help develop a comprehensive National Land Use Policy that will address many of the harmonization issues.

Starting in 2015, the TGCC program will support innovative pilots that demonstrate approaches to implement key provisions of the National Land Use Policy around securing community rights to land and resources.

Burma is one of the world's most ethnically diverse countries with ethnic minority groups concentrated in the upland regions. Increasingly, upland communities are finding it harder to sustain food security in the face of the triple challenges of growing population pressures, commercial land acquisitions, and climate change. Households in these communities are struggling with smaller parcels of land and insecure land rights, as they practice a complex yet adaptable rotational fallow system (*taungya*). Under the new Vacant, Fallow and Virgin Land Act of 2012, such community fallow land is at risk of being considered vacant and idle and handed out as concessions to businesses.

To support land rights for ethnic minority villages, the Land Core Group (LCG) is implementing a study of customary communal land tenure in northern Shan and Chin states in order to recommend to the government procedures for communal land registration. The Myo Haung village in northern Shan experienced a loss of land to outside interests in the past. As a result, the Secretary of the Village Committee, U San Saw, welcomed the LCG's approach to clarify and recognize secure community-based property rights. He emphasized that "we wanted to start by protecting the land rights at the community level because we cannot afford to go through the costly process of recognizing individual land rights."

Underscoring the importance of documenting community land rights, Mr. U Maung Taing, the headmaster of the local school, explained that, "we don't have any conflicts over land rights or management within the village itself. Everyone knows whose land belongs to who. If there are conflicts, village elders and community leaders help to resolve them quickly." The participatory pilot process has helped the village to first form a Land Caretaker Committee and then to establish a map of village boundaries in agreement with neighboring villages. There is no legislation in Myanmar supporting communal tenure, but the Farmland Law of 2012 mentions an "organization" or "association" as a potential right-holder along with individual farmers. The LCG has therefore developed statutes with the village to seek the endorsement from the General Administration Department of the village as an "association" under the new Association Law. The next steps to conduct a forum with the government on procedures to formally register these rights are underway. Many neighboring villages have been curious about this process and are considering the same path to land security.

This LCG work complements the Government of Burma's National Land Use Policy process, which is being developed with support from USAID and other donors. The draft policy affirms the importance of land tenure security for smallholder farmers, including ethnic minorities whose communal land rights are based on customary law. Going forward, USAID will work closely with government, civil society and other donors in Burma to support similar innovative pilots that promote a balanced approach to land management.