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USAID LAND TENURE PROJECT

LAND GOVERNANCE ISSUES BRIEF

SHIFTING CULTIVATION POLICY BRIEF

Shifting cultivation, also commonly referred to as “swidden cultivation,” “rotational agroforestry,” “long fallows forest cultivation,” or “Shwe-Pyaung-Taung-Ya” in Burmese, is a common form of traditional subsistence agriculture used in many remote areas of Burma. It is often reported that large numbers of ethnic minority groups who live in the rugged hills and mountains surrounding the central lowlands of Burma practice traditional upland systems, though accurate statistics on the amount of land resources in the country that are currently being used for shifting cultivation purposes, or the number of people currently relying on this practice for their livelihoods, are not currently available. This brief explores some of the history and issues relating to shifting cultivation in the country, and explores potential options moving forward for the formal recognition of the land resource tenure rights of those populations currently engaging in this practice.

BACKGROUND

The use of shifting cultivation among ethnic nationalities provides sustainable land management at the landscape level. It secures preservation of cultural identity and, in most places, establishes access rights of all resident villagers to a share of the land in what is locally identified as the common property of the village. Local populations engaged in shifting cultivation often have a strong spiritual connection to the land resources in question. In Burma, customary land tenure systems like shifting cultivation are closely linked to the characteristics of the landscape and its resources, local population density, and the settlement history of the area. As traditional shifting cultivation practices are so closely related to the customary land resource claims of many ethnic groups in Burma, the recognition, protection, and ultimate registration of claims related to this practice is closely linked to the ongoing peace process in the country.

The 2014 census showed that the estimated population of Burma is 51.4 million, of which the Bamar constitute 60 percent and the rest of the ethnic groups account for 40 percent. Ethnic groups such as the Bamar, Mon, Shan, and Rakhine live mainly in the lowlands and valleys, while other minority ethnic groups, such as the Chin, Kachin, Naga, and Pa-o, live in upland hilly areas and often depend on shifting cultivation practices for their local livelihoods.

In Burma, as in most other countries that have local populations practicing shifting cultivation, the previous view on shifting cultivation by the general public, most officials, and researchers was negative. The common perception was that the practice was a destructive land use that should be discontinued. In more recent years, perceptions are becoming more positive, mainly due to some studies that show shifting cultivation practices are efficient, productive, sustainable, and environmentally beneficial under certain circumstances.¹ While there may be a shift in perception, there is usually a lack of tenure security over land resources traditionally used for shifting cultivation purposes. In Burma, lands under shifting cultivation usually lack legally recognized tenure rights, falling instead under informal customary tenure regimes. With increasing land resource investment in remote areas of the country, this lack of tenure security is leading to high levels of land conflict in the periphery and threatens the social and political stability of the country. It is therefore important that the government puts in place the necessary incentives, along with policy and legal frameworks, for the recognition, protection, and registration of the customary tenure arrangements that various ethnic groups use for shifting cultivation practices.

RECOGNITION OF SHIFTING CULTIVATION LAND TENURE CLAIMS IN POLICY AND LEGAL FRAMEWORKS

Government policies have historically not been supportive of shifting cultivation, and the legal frameworks have likewise not offered clear pathways for the formal recognition of areas traditionally used for shifting cultivation practices as an evidentiary basis for legitimate land tenure claims. For example, the Forest Policy of 1995 identifies shifting cultivation as a problem to be controlled, though it also notes there has been little effort to “establish a well-defined tenure system to serve as an incentive for shifting cultivators to improve the productivity of their land” and adopt more stable agricultural practices.

More recent policy statements appear to provide clearer incentives for assisting local populations who engage in shifting cultivation to adopt stable agricultural production practices that would lend themselves to the formal tenure arrangements provided in the existing legal frameworks. The National Land Use Policy specifically calls for the recognition, protection, and ultimate registration of customary tenure arrangements of ethnic nationalities, including shifting cultivation. This is an important message, since smallholder farmers engaging in shifting cultivation practices will not make the investments of time and money necessary to move towards stable agriculture production practices without a guarantee of land tenure security. The new Second Five-Year Agriculture Policies and Strategic Thrusts states that the government should develop accurate records of areas under shifting cultivation in upland regions; value and respect customary tenure rights adopted by different ethnic groups; and, support the development of upland cultivation practices and adoption of Sloping Agriculture Land Technology (SALT).

The current legal framework provides opportunities for the formal recognition and registration of legitimate land tenure claims of local populations engaged in shifting cultivation practices, depending on how the land is currently classified by the government. The Farmland Law allows for the issuance of Form 7 Land Use Certificates (LUCs) to households or organizations (including cooperatives) on “Taungya” Farmland. Taungya Farmland is officially translated into English as “hillside cultivation land,”

¹ i.e., Dressler, W., et al. 2016. The impact of swidden decline on livelihoods and ecosystem services in Southeast Asia: A review of the evidence from 1990 to 2015 (Springer).

which could include lands used for shifting cultivation purposes. There are recorded instances where the Department of Agricultural Lands Management and Statistics has already issued Form 7 LUCs for smallholder households engaged in shifting cultivation on Taungya Farmland.

The Vacant, Fallow and Virgin Lands Management Law (VFV Law) could also support the formal recognition and registration of lands used for shifting cultivation purposes. The VFV Law allows smallholder households to apply for use of VFV lands in accordance with their ability to productively manage the lands in question. Local populations that organize as a cooperative could potentially apply for use of VFV lands up to an amount of 5,000 acres at a time for the growing of perennial or industrial seasonal crops, or 3,000 acres at a time for the development of orchards.

In areas of Forest Land classified as either Reserve or Protected Public Forest, tenure rights could potentially be secured over areas of land used for shifting cultivation purposes in accordance with provisions found in the existing Forest Law. Smallholder households or local populations organized as a cooperative could take advantage of provisions in the Forest Law relating to the development of plantations on Forest Lands, including plantations not commonly associated with production forestry. In addition, local populations could petition the Forest Department to establish an area of forestland used for shifting cultivation as a village owned firewood plantation. Finally, local populations could request the Forest Department to recognize areas of Forest Land currently used for shifting cultivation as a community forest in accordance with the Community Forestry Instructions, and manage the areas in accordance with approved management plans.

While the policy and legal frameworks may now be more supportive of local populations securing formal tenure rights over land resources used for shifting cultivation purposes under customary tenure regimes, other elements and incentives would still need to be put into place to maximize potential livelihood benefits from such a move. For example, local populations would need to have access to markets for products they produce, which would require reliable access to national road networks. In addition, local populations would need to have access to modern agriculture extension services, agriculture inputs and non-biased financial services that would properly support development of modern upland cultivation practices and adoption of SALT.

PARTICIPATORY MAPPING OF SHIFTING CULTIVATION AREAS

There are currently a number of projects and organizations engaged in the participatory mapping of customary tenure claims around the country. Such an approach, combined with remote sensing technologies and local land use planning processes, could be used to determine accurate statistics regarding areas currently used for shifting cultivation purposes in the country, and the number of people actively involved in the practice.

In the most remote areas of the country where local populations lack access to road networks, government services, and markets, participatory mapping of customary land tenure claims related to shifting cultivation can act as an interim measure for the recognition and protection of legitimate land tenure claims prior to systematic registration processes reaching these areas. Civil society organizations that have been trained to be effective service providers can fill the capacity gaps of local government administrative agencies in this regard, and also reach areas that government services have not yet reached. Maps generated could potentially be recognized by local authorities on a non-binding temporary basis, and subsequently used as evidence for formally recognizing land tenure claims when systematic land registration processes ultimately reach such areas.

CONCLUSION AND WAYS FORWARD

Formally recognizing and registering customary land tenure rights of households and local populations engaging in shifting cultivation practices should be considered as the foundation for developing modern

upland cultivation practices and adoption of SALT in the country. Without secure tenure in land resources, smallholder farmers and local populations cannot be expected to make significant investments of time and money in these approaches. Secure tenure in land resources is just part of a larger system of steps the government should consider in order to properly inform and incentivize shifts to modern agricultural practices and improvements in local livelihoods of the smallholders and local populations currently engaged in this practice. As such, the government should consider the following components moving forward:

1. Through the use of remote sensing technologies and groundtruthing methodologies, including the use of participatory mapping and land use planning approaches, generate accurate statistics on the amount of land traditionally used for shifting cultivation purposes and the number of people involved in this activity.
2. In remote areas without access to road networks, government services, or markets, use participatory mapping approaches as an interim measure for the recognition and protection of legitimate land tenure claims related to shifting cultivation practices. This will provide an evidentiary basis for future formal tenure recognition and registration efforts by the government.
3. In areas with access to road networks, government services, and markets, the government should take steps for the formal recognition and registration of informal land tenure arrangements related to shifting cultivation in accordance with a broad interpretation of existing policy and legal frameworks.
4. In relation to point 3 above, the government should provide necessary extension services to fully support the development of upland cultivation practices and adoption of SALT.
5. Also in relation to point 3 above, the government should allow smallholder farmers and cooperatives in areas traditionally used for shifting cultivation to have access Non-Preferential Finance options in order to fully support the development of upland cultivation practices and adoption of SALT.
6. In appropriate areas, the government, donors, and private sector should provide assistance in helping smallholder farmers engaged in shifting cultivation practices to pool their land resources and establish agriculture production cooperatives.

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