

Community Forestry in Myanmar



For most indigenous communities in Myanmar, their main concern is the recognition of their customary rights over their land and forests. Obtaining a Community Forest Certificate has so far been the only way communities could get some recognition and protection of collective rights over land. The question is: how effective is this instrument in defending their land and forests against encroachment?

This study tries to assess to what extent a Community Forest Certificate has made any difference not just to the livelihood security of the communities and their attempts to conserve their forests, but also with respect to the protection of communities' land rights. It seeks answers to these questions by looking at the situation in Myay Latt and Sar Pauk, two Asho Chin communities located in the eastern part of the Arakan Yoma in Magwe Region.



What Benefits for Forests and
Indigenous Peoples?

Community Forestry:

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POINT (Promotion of Indigenous and Nature Together)

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POINT:	https://www.pointmyanmar.org
Written by:	Christian Erni and Ling Houng
Layout and Cover Design:	Saw Benhur
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CF	Community forest
CFC	Community Forestry Certificate
CFI	Community Forestry Instruction
CSO	Civil Society Organization
FD	Forest Department
MoNREC	Ministry of Natural Resources and Environmental Conservation
NLUP	National Land Use Policy
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
<i>Akhang</i>	Agroforest/orchard
<i>Ang dong</i>	Deciduous forest
<i>Kone</i>	Clan
<i>Lo</i>	Shifting cultivation field/shifting cultivation land
<i>Zaw</i>	Young fallow
<i>Yoka</i>	Hill evergreen forest
<i>Zung</i>	Mountain

Acknowledgements 2

This report is the result of a participatory action research conducted in the two Asho Chin communities of Myay Latt and Sar Pauk. The first part of the research was done as part of a training for POINT staff. Overall guidance for the research and training was given by Dr. Christian Erni, supported by Ling Houn, Research Officer and Hla Doi, Program Officer of POINT. The team members for the training and initial field work were Ms. Nura, Ms. Lwin Mar Aye, Mr. Stony Siangawr Cung, Mr. Salai Han Ngunt and Mr. Htoo Win, Mr. Pyae Pyo Maung, Mr. Salai Win Aung, Mr. Htake Than, Mr. Khun Aung Thein Naing, and Mr. Myat Kyar.

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As one of its responses to the deforestation crisis Myanmar was facing in the 1990s, the Ministry of Natural Resources and Environmental Conservation issued its first Community Forestry Instruction (CFI) in 1995. Its intention was to encourage communities to protect and regenerate forests and thus contribute to the increase of forest cover in the country, and to ensure sufficient access to forest resources of communities and nearby populations to meet their needs.

Assessments of the achievements of the new policy lead to mixed results: while there are clear benefits there are still considerable shortcomings, and challenges remain both with respect to improved forest conservation and livelihood in communities with a Community Forest Certificate (CFC).

For most indigenous communities across the country, their main concern is tenure security, the recognition of their customary rights over their land and forests. In Myanmar, obtaining a CFC has so far been the only way communities can get some recognition and protection of collective rights over land, at least to what is classified as forest land.

The question is: how effective is this instrument? Does it help communities in defending their land and forests against encroachment? This question is particularly relevant in the context of the currently ongoing land and forest sector reform and the advocacy efforts of indigenous peoples and CSOs in Myanmar for the recognition of customary land and resource rights.

Therefore, the purpose of this study is twofold: on the one hand, it tries to assess to what extent the CF agreement has made any difference to the livelihood security of the communities and their attempts to conserve their forests, on the other hand it will look into the question of whether it has made any difference with respect to the protection of the communities' land rights.

The study seeks answers to these questions by looking at the situation in Myay Latt and Sar Pauk, two Asho Chin communities located in the eastern part of the Arakan Yoma in Magwe Region. One of these communities, Myay Latt, has obtained a CFC a decade ago, Sar Pauk does not yet have a CFC but has decided to apply and is currently discussing how to go about it. The former has been forced by the government to transform its land use system by largely giving up shifting cultivation, the latter is still able to continue with the customary land use and management system but faces challenges mainly due to climate change.

The two communities are confronted with a range of livelihood and tenure security challenges that are common to indigenous peoples all over Myanmar. With this study we hope to contribute to the efforts of indigenous communities and their supporters in both the government and among civil society, to find ways to address them. The study builds on earlier research conducted by POINT in the two communities which focused on customary land tenure. Research for this study was conducted in October and November 2017, in two steps: As part of a field practical in a training in Participatory Action Research, followed intensive field work by the two main researchers for a period of six days.

Customary land management, livelihood and forest conservation

Sar Pauk is an example of a community in which customary land management revolving around traditional shifting cultivation is still practiced. Despite the government's policy to stop shifting cultivation and occasional reminders by the authorities that they are not supposed to do shifting cultivation, the people have been able to continue without much interference. They have adopted agroforestry as a complementary form of land use for growing cash crops, but so far it has been of limited scope.

Until a decade ago, Sar Pauk's farmer were able to produce enough rice to last them throughout the year, but more erratic rainfalls due to climate change has reduced the overall productivity of upland rice production. Thus, people have become more dependent on growing cash crops, both in shifting cultivation and agroforests, to buy rice and other necessities from itinerant traders and the market. Livelihood insecurity has been aggravated with the outbreak of a disease that has affected almost all citrus plants, which had been the main source of cash income. Therefore, Sar Pauk farmers consider shifting cultivation as indispensable for their food security and their livelihood system.

In Myay Latt villagers were forced to largely abandon shifting cultivation and rely on cash crop produced in agroforests and small shifting cultivation plots. People struggle to make ends meet and many lament the loss of shifting cultivation which has in the past provided them with a higher level of food security.

The customary land use management has maintained the productivity of shifting cultivation land through strict adherence to a rotation cycle that ensured the rapid regeneration of fallow forest. At the same time, forest was conserved around designated shifting cultivation blocks, on ridges and the lower areas where arable land is more limited. The result of these management practices is a mosaic of fields, fallow land and interconnected stipes, blocks and areas of forest that harbor a considerable diversity of flora and fauna. Indicators for an intact habitat are the presence of several rare and endangered mammals and birds.

However, in recent years the conservation of their forests has been challenging as unsustainable logging initially by the government, later on a smaller but consistent scale by outsiders and community members has led to severe forest degradation. Customary law, that used to provide free access to timber to all community member anywhere in the village territory, had to be abandoned in favor of a strict regulation of timber cutting. Still, the two communities are struggling to enforce the rule against outsiders, and there is little support forthcoming from the Forest Department (FD) or the police.

Community forestry, livelihood and tenure security

Sar Pauk does not yet have a CFC, but it has decided and is currently discussing how to apply for a CFC. It has been partly inspired by experiences made in a neighboring community, Myay Latt, which has obtained a CFC in 2006.

The reason for applying was not so much the wish to get support for better forest conservation and the related improvement of their livelihood, but protection against land grabbing by the military. Sign boards had been erected along the road leading through the community's territory announcing the intention to confiscated the land in that area. Having learned about the possibility of obtaining a CFC that gives communities use rights over forest land for a 30 years period, they submitted an application in 2004 and two years later received a certificate over an area of 100 acres. Eventually, the army removed the sign boards and left the area. Whether it was because of the CF or for other reason is not known. At least, the threat of land grabbing was gone, but new challenges emerged above all in the form of illegal logging.

After the Forest-Department sanctioned – or at least tolerated – logging had taken out the teak and other valuable hardwood in all the forest of the township, small-scale logging started in which the communities themselves were involved. The availability of affordable Chinese chainsaws accelerated timber extraction both by community members and outsiders. Only a few years ago did the communities decide to put a stop to this by changing their customary law regarding access to timber. They are now able to control timber extraction by community members but have difficulties enforcing their rules on outsiders. For Myay Latt, having a CFC over 100 acres of forest did not make any difference.

A decade after they received the CFC, the self-assessment by members of the Forest User Group (FUG) is rather sobering: While appreciating improvements in forest quality and forest products for domestic use, they found that they have so far not obtained the benefits they had hoped for in terms of income, and they still had difficulties protecting the forest against encroachers. The Forest Department was not forthcoming in providing support in either silviculture or in enforcing conservation rules against outsiders.

The value of a CFC for protecting the rights of the communities involved in the FUG was put to a test in 2012 when the Myanmar-China Gas Pipeline was built right through the CF in Myay Latt. Construction began without prior information, or consultation, not to mention free and prior informed consent, to which indigenous communities are entitled to by virtue of the UN Declaration on the Rights of Indigenous Peoples, which was supported by the Myanmar Government when it was put to vote in the UN General Assembly in 2007.

However, when community members opposed the project and negotiations started, the authorities did recognize the right they had as CFC holders and negotiations over compensations started. Five years later, these are still ongoing since the government is not willing to pay the compensation demanded by the FUG with the argument that the FD is still the owner of the land and only compensation for damaged or destroyed trees will be paid.

This does not come as a surprise since, after all, a CFC certifies the limited use rights over forest for a 30 years period and does not recognize any ownership rights. The way the government went about the construction of the pipeline and the negotiations with the CFC holders clearly revealed to the people of Myay Latt and neighboring communities how weak the protection of their rights is with a CFC.

Nevertheless, they want to continue using this instrument. Some of their leaders are well aware now of the limitations a CFC has and they want to use them only as a short-term, interim solution in a long-term strategy of gaining full recognition of their customary rights to all their land.

Conclusions and recommendations

With respect to customary land management, livelihood and forest conservation the conclusions drawn from this study are:

- Customary land use and management ensures livelihood security of the people, sustainable land use and biodiversity conservation
- Present government policies on land use and in particular shifting cultivation undermine rather than strengthen people's livelihood security
- Customary law can be adapted to changing conditions and proves to be effective within communities to regulate forest use, but less so in dealing with outsiders
- Enforcement of rules against outsiders needs the support from the government, i.e. the Forest Department and the police

With respect to community forestry, livelihood and tenure security the main conclusions drawn are:

- Overall, CF does benefit both forests and communities
- However, benefits, as allowed until recently by the CFI of 1995, are too limited and the requirements too demanding for people to sustain their commitment
- Enforcing conservation rules is too difficult without dedicated and consistent support from the FD or the police
- CF provides some tenure security but as a mere temporary use right it is a rather weak legal instrument for the protection of indigenous communities' rights to land and resources against other, more powerful interests
- Community leaders are aware of the limitations of CF and consider it only a preliminary, interim solution in their long-term effort to secure the full recognition and protection of their communities' rights, a pragmatic choice in a context of the lack of legal alternatives.

Based on the findings and conclusions drawn from this study, the following recommendations are made for policy makers, international development partners, CSOs and community-based organizations to be considered in their future discussions and actions:

Regarding customary land use and management

- Recognize the customary land use and management systems of indigenous communities
- Recognize shifting cultivation as an agroforestry system that provides for both subsistence and cash needs of farmers
- Support efforts of farmers to cope with climate change and increasing cash needs, like experimentation with new rice and other crop varieties, including cash crops,
- Support experimentation with increasing the productivity and value of fallow, for example through introduction of valuable perennials or harvesting of forest products, including NTFP, wood for poles, firewood or charcoal
- Recognize the value of customary land and forest management for biodiversity conservation and explore possibilities for collaboration with communities in the protection of biodiversity, in particular endangered species, including the option of establishing Indigenous Community Conserved Areas (ICCA)

Regarding Community Forestry

- Conduct awareness raising on the improved CFI of 2016, its potentials and limitations
- Explore how the new CFI can be applied to get maximum benefits and tenure security over all community land

Regarding laws, policies and possible alternative strategies for tenure security

- Raise awareness on relevant laws and policies such as NLUP, the land law, VFV law as well as international legal instruments such as the UNDRIP
- Step up advocacy for the recognition and protection of customary tenure, like e.g. the implementation of the NLUP
- For that initiate regular advocacy strategizing and coordination among CSO
- Seek allies in key government agencies (MoNREC, FD etc.)
- Seek the support by high-level policy makers, i.e. parliamentarians, politicians, ministers)
- Support the efforts by representatives of ethnic nationalities in the peace process in negotiating for decentralized land governance
- Support communities in demarcating and mapping their territories and in strengthening and adapting their customary law on resource management and conservation

At present, Myanmar has about 40% forest cover and still a high deforestation rate of about 1.7%.¹ UN REDD estimates that it has lost 18% of its forests between 1990 and 2005,² according to the FAO it lost 2,730,000 hectares (10,579 sq mi) of forest between 2010 and 2015³ and the World Wildlife Fund (WWF) predicts that forest cover may fall to a mere 20 percent.⁴ The main drivers of deforestation are cutting fuel wood and charcoal production, commercial logging and, more recently, land use changes for agro-industrial plantations. There is a danger that with the opening up for foreign investments the pressure on the forests will increase further.⁵

Rural communities, and in particular indigenous communities, most of whom live in the forested uplands are heavily dependent in forest resources for their livelihoods. Yet, current laws do not properly recognize and protect the communities' rights to land, forests and other resources that are critical for their economic and cultural survival, and their sustainable development.

In 1995, the Ministry of Natural Resources and Environmental Conservation (MoNREC) issued the Community Forestry Instruction (CFI) in order to promote Community Forestry in Myanmar. With the CFI, the government hands over control and management rights to at least parts of the village forests to the community. The intention is, on the one hand, to encourage communities to protect and regenerate forests and thus to contribute to the increase of forest cover in the country, on the other hand to ensure sufficient access to forest resources of communities and nearby populations to meet their needs.

Reports published in 2011 and 2016⁶ try to assess to what extent the communities and the forest benefit from the new policy. The findings are mixed, i.e. while there are clear benefits there are also still considerable shortcomings, and challenges remain both with respect to improved forest conservation and livelihood in communities under a CF agreement.

However, for most indigenous communities in Myanmar their main concern is tenure security, the recognition of their customary rights over their land and forests and protection from alienation by the state and private companies. According to the current constitution of Myanmar all land belongs to the State, so farmers across the country do not own the land they till. Since the passing of the Land Lw of 2012, there is the possibility for farmers to obtain a Land Use Right Certificate for agricultural land (the so-called "Form 7") and, theoretically, farmers can apply for 30 years lease over land classified as vacant, fallow or virgin land, as provided by the law bearing the same name⁷. The Community Forest Certificate is so far the only way communities can get some recognition and protection of collective rights over forest land.

The question is: how effective is this instrument? Does it help communities in defending their land and forests against encroachment? This question is particularly relevant in the context of the currently ongoing land and forest sector reform and the advocacy efforts of indigenous peoples and CSOs in Myanmar for the recognition of customary land and resource rights.

Therefore, the purpose of this study is twofold: on the one hand, it tries to assess to what extent the CF agreement has made any difference to the livelihood security of the communities and their attempts to conserve their forests, on the other hand it will look into the question of whether it has made any difference with respect to the protection of the communities' land rights.

The study tries to find answers to these questions by looking at the situation in Myay Latt and Sar Pauk, two Asho Chin communities located in the eastern part of the Arakan Yoma in Magwe Region. One of these communities, Myay Latt, has obtained a CFC a decade ago, Sar Pauk does not yet have a CFC but has decided to apply and is currently discussing how to go about it. The former has been forced by the government to transform its land use system by largely giving up shifting cultivation, the latter is still able to continue with the customary land use and management system but faces challenges mainly due to climate change.

The two communities are confronted with a range of livelihood and tenure security challenges that are common to indigenous peoples all over Myanmar. With this study we hope to contribute to the efforts of indigenous communities and their supporters in both the government and among civil society, to find ways to address them.

Research approach and methods

The study builds on earlier research conducted by POINT in the two communities which focused on customary land tenure. The results were published in two reports.⁸

Research for this study was conducted in October and November 2017, in two steps: As part of a training in Participatory Action Research for POINT staff, two teams of five people each stayed for a three days field practical in the two villages during which they were applying both quantitative and qualitative methods of data collection.

The research team in Myay Latt was guided by Dr. Christian Erni, trainer, and Hla Doi, Program Officer at POINT. The team members were: Ms. Nura, Mr. Stony Siangawr Cung, Mr. Salai Han Ngunt and Mr. Htoo Win

The research team in Sar Pauk was guided by Ling Hounng, Research Officer at POINT. The team members were Mr. Pyae Pyo Maung, Mr. Salai Win Aung, Mr. Htake Than, Mr. Khun Aung Thein Naing, Mr. Myat Kyar and Ms. Lwin Mar Aye..

After a preliminary evaluation of the data collected during the field practical, the second part of the field work for the study was done jointly by Ling Houng and Christian Erni for a period of six days.

Both participatory (PLA) and standard social research methods were used. The main body of data was collected by means of qualitative methods, i.e. focal group discussions with the help of PLA methods (community mapping, time line, weighing scale etc.), group interviews, individual/key informant interviews, transect walks and ocular visits to fields and forests, drawing genealogy graphs in individual or small group discussions and mapping with the help of Google satellite images.

Quantitative data was collected with the help of a household survey covering all of the 23 households of Myay Latt and 48 of the 51 households of Sar Pauk. The survey data was analyzed with the help of MS Access and MS Excel software

Forests and Livelihood of Indigenous Peoples in Myanmar

5

Indigenous peoples in Myanmar

The government of Myanmar does not recognize the presence of indigenous peoples in its country. The position taken is that all Burmese are indigenous or that there are none.⁹ However, the term is occasionally used in English versions of government policy documents, like the draft safeguards for REDD+, where ‘indigenous peoples’ is always used in conjunction with ‘ethnic groups’ however.

The Citizen Law of 1982 states that all those ‘national races’ or ‘ethnic groups’ which have been present in the geographical area of current Myanmar before 1823 (the beginning of the first British annexation) are considered taing yin thar (or taing yin tha), which is usually translated as ‘original’ or ‘indigenous’ people.¹⁰ Only they have the right to full citizenship. Those who are not classified as taing yin thar – such as people of Indian or Chinese descent, or the Rohingya – can only apply for the status of ‘associate’ or ‘naturalized’ citizenship.¹¹

Since all these ‘national races’ are taing yin thar, the recently enacted Ethnic Rights Protection Law (ERPL) applies to all of them, including the socially, politically and economically dominant Burmese. Obviously, the Myanmar government’s understanding of the meaning of ‘indigenous peoples’ is not in line with the understanding as it has evolved over the past two decades in international law, nor does it comply with the definitions used in this context, like that of Special Rapporteur Jose Martinez Cobo, in which one of the main criteria is non-dominance. ‘Indigenous peoples’ can only be applied to non-dominant people.

Indigenous CSOs in Myanmar use a term for ‘indigenous peoples’ that is different from the official government term (i.e. taing yin thar). POINT and other indigenous CSOs are promoting hta nay taing yin thar (also written htar nay taing yin thar or thanintayinda). Adding htar nay stresses ‘indigeneity’ (htar nay/hta nay means ‘place of origin’).¹²

While indigenous peoples’ organisations in Myanmar tend to agree on the use of this term, and it is clear to them that it does not apply to the dominant ethnic Burmese, there is no consensus on which groups are to be included in this category. Some groups may prefer not to be included, which is in line with self-identification as one of the basic principles for the recognition of indigenous peoples, as widely agreed on by indigenous rights activists and organizations across the world.¹³

Forests and livelihood of indigenous peoples

It has been estimated that globally, around 1.6 billion rural people are dependent upon forests to some extent, that there are an estimated 500 million of fully forest-dependent people, out of which 200 million belong to indigenous peoples.¹⁴ For Myanmar the situation is pretty much the same. A large share, probably between 40 and 60% of all forest-dependent people belong to indigenous peoples.¹⁵

Most of Myanmar's indigenous peoples live in the forested uplands in the border areas in the West, North, East and Southeast of the country, as well as the central Bago Yoma range. Many of them traditionally practice rotational shifting cultivation, a form of agroforestry that depends on the periodic restoration of soil fertility through forest fallow in a cyclical system of short term land use and long-term fallow. This has often been and is in recent years increasingly combined with other forms of agroforestry and permanent rice fields. Whatever the form of agriculture and agroforestry they practice, they usually depend directly on forest resources to meet most of their subsistence and cash income needs. These range from fuelwood, timber and bamboo for house construction, raw materials for handicrafts (basketry, carving etc.), forest food both from plants and animals (hunting and fishing), herbal medicine and decorative plants like orchids for sale.

While there is a generally high dependence on forest resources for subsistence among communities living in or near forests, for poor households, income from forest products can be critical. In a study in 10 villages of East and West Bago, an average of 25.33% of the total household income of the villages came from non-wood forest products.¹⁶ Another study in central Myanmar confirmed findings elsewhere that the less people earn from farming and other non-forest based activities, the more they are dependent for their income on forest resources. In these communities, forest-base income accounted for almost 39% of their total income.¹⁷ In both areas the communities are located in the foothills and not in very remote mountainous interiors. However, many indigenous communities in Myanmar live in very inaccessible areas where opportunities for non-forest based cash income are even fewer.

A study by FAO found a significant difference between communities in the share of agricultural crops sold on the market. While among all communities studied on average 36% of crops are sold, the communities in Chin State grew crops for subsistence only and did not sell any on the market.¹⁸ Thus forest products are the main source of income of these communities.

Furthermore, with little or no market access for buying food and manufactured goods the dependence of these communities on forests to meet their various subsistence needs can also be expected to be much greater. For example, seven of the ten communities covered in the study hunt wild animals in their forests, the majority of which is used for their own consumption and very little (only 7%) is sold.¹⁹

Customary forest management and the challenges faced today

Across the world, indigenous and other rural communities that depend on forests have developed customary laws and institution for the management and conservation of forests. Forests are often considered common property of communities or other larger social groups like clans. There is a vast body of literature documenting the effectiveness of these customary systems of common-property management.²⁰ However, they are facing great challenges today as they have come under increasing pressure by various outside forces, not the least the lack of recognition of and protection of customary rights to land and resources on which they are all based. The challenges indigenous communities are facing today with respect to their customary rights and resource management have been well captured by Ewers:²¹

Many remote communities, which harbor a vast knowledge of their own resource systems, practice customary communal tenure. They are at the same time often the poorest communities in a country in terms of monetary income, but not necessarily in terms of subsistence and the variety of their diet. Despite being monetarily poor, these communities would undoubtedly be able to continue their practices for many years if undisturbed by the state, the market and/or outside business interests. Thus, enhanced tenure security, including security of communal tenure, can be a key strategic element in alleviating rural poverty, securing livelihoods and avoiding landlessness – often caused by land appropriation by outside interests. These communities' high dependency on natural resources for livelihoods, and the fact that they often reside in remote areas with valuable timber or mining resources, puts them at risk as land and traditional common pool resources become attractive to influential businessmen.

In Myanmar, customary forest management by communities came under pressure, were severely weakened or completely destroyed when the State claimed ownership of forests and brought them under the control and management of the Forest Department and other government agencies. The result of state control over forest areas was massive extraction of timber and conversion and the degradation and destruction of much of the country's once magnificent forests.

State forest management and community forestry in Myanmar

Forest management as it is practiced today in Myanmar began under British colonial rule in the 19th century when the British introduced forest management methods developed in Europe to its colonies. Vast forest areas in British controlled India and Burma were declared as Crown land and put under the jurisdiction of the Forest Department. Under independent Myanmar this policy was continued and all forests and other lands were nationalized.

Like in other countries, post-colonial state forest management in Myanmar focused mainly on commercial timber extraction and largely failed to ensure sustainable forest use and the conservation of forest. This led to severe degradation of forests and large-scale conversion of forests to agricultural land.

Deforestation and forest degradation were particularly rapid in recent decades. Forest cover was 65.8% in 1925²², stood at 58% in 1990, after which it declined to 47% in 2010, and according to the Forest Resource Assessment of 2015 further dropped to 43% of the total land area. Only 21.56% of the land area is covered by undegraded, closed forest.²³

Myanmar's 30-Year National Forestry Master Plan (2001-30) aims at having 30% of the land area under the permanent forest estate and 10% as protected areas by the year 2030. This goal was also included in Myanmar's Intended Nationally Determined Contributions (INDC)²⁴ submitted to the United Nations Framework Convention on Climate Change (UNFCCC) in 2015, which describes how Myanmar intends to reduce greenhouse gas emissions and promote adaptation to climate change. As an immediate response to the forest crisis the government imposed a temporary national logging ban in March 2017.

Community forestry

Like other governments around the world, Myanmar has also embraced community forestry as a means to address forest degradation. By returning control of forests to communities it was hoped to achieve the twin goals of sustainable resource management and poverty alleviation.²⁵

In 1978, the Food and Agriculture Organisation of the United Nations (FAO) defined community forestry as "any situation which intimately involves local people in a forestry activity".²⁶ Subsequently, several other terms were used for similar initiatives in different countries and context, such as social forestry, or participatory forestry. All these terms differ with respect to their connotation, but above all they are not necessarily confined to participation of communities, but may include other stakeholders as well. Therefore, the FAO is now using the term community-based forestry²⁷, which, according to the definition of the Center for People and Forests (RECOFTC), refers to "all aspects, initiatives, sciences, policies, institutions and processes that are intended to increase the role of local people in governing and managing forest resources".²⁸ However, in this report we will use community forestry since it is the term used by the Myanmar government, whose program we are dealing with in this report.

The community forestry approach has been successfully applied across the world over the past four decades,²⁹ and in the mid-1990s the Myanmar government issued its Community Forestry Instructions. However, the idea of involving communities in forest management has already existed before the passing of the Community Forestry Instruction. The forest district working plans used to include Local Supply Working

Circles (LSWCs) that were set up in forests near villages with the intention to provide them with forest products to cover their needs, like fuel wood, poles, timber and non-timber forest products. Today, the LSWCs do not exist any longer since it past not possible to protect them from encroachment.³⁰ The main difference between the LSWC and community forestry is “that LSWC was managed by the Forest Department (FD) to satisfy the basic needs of the local community, whereas the CF is managed by the local community themselves.”³¹

After a little over two decades of implementation, 110,854 ha of state forest were under CF agreements.³² By November 2017 it had increased to 165,000 ha,³³ which is merely 18% of the Forest Department’s target of 919,00 ha (2.27 mio acres) by 2030.³⁴

So far two reports have been published³⁵ that try to assess the achievements with regards to the benefits for both communities and the forest. The more recent one, by the Food and Agriculture Organization of the United Nations (FAO) and Ministry of Environmental Conservation and Forestry (MoECaF)³⁶ provides a macro-level assessment with the use of a standard assessment framework developed by the FAO. It tries to capture changes of a broad range of aspects, including institutionalization of CBF regimes to civil society involvement, tenure (type and strength of rights), extent and quality for forest, performance of communities and smallholder groups etc. A concluding table provides an assessment of the relative effectiveness of different community-based forestry regimes in moving towards sustainable forest management and enhancing livelihoods. In the final assessment of the overall effectiveness in achieving sustainable forest management and enhancing livelihoods of the five forest types under community forestry gives a high rating of 4 (out of 5) for Community forest and Indigenous/Traditional forest, and of 3 for Protection forest, Religious forest and Conservation forest.³⁷

While the report framework provides for an assessment of the performance of various aspects of CF implementation against a baseline and thus the relative progress made over the past years, it does not give any insights into the diversity of experiences on the ground, i.e. the difficulties encountered by communities, the reasons for failure or the factors that contribute to success.

In this respect, though lacking the breadth of data of the 2016 report, the study published in 2011³⁸ is much more informative. It is based on case studies of 16 communities in two States and two Regions (Kachin, Shan, Mandalay and Ayayerwady) with a wide range of conditions in terms of size of the communities, area of the CF or age of the forest user groups (FUG).³⁹

The report found that most forest user groups (FUG) were functioning well or moderately well,⁴⁰ and that almost all FUGs have introduced effective management and protection of their community forests. However, the author found, forest protection “remains a challenge, as outsiders continue to try to harvest forest products: many villages don’t want to get into conflictual relations, but FD staff are often not backing them up.”⁴¹

Forest regeneration is occurring in all villages as a result of the efforts of the CF,⁴² and with improved forest quality there is better provision of forest products like timber, fuelwood and non-timber forest products (NTFP) as well as ecosystem services, from which community members benefit.⁴³ Overall, distribution of benefits was found to be fairly equitable in most but not all villages.⁴⁴ Some FUG became inactive, others were found ‘moderately active’. The factors that contributed to a higher level of sustainability of FUG are the support of NGOs and government staff and better environmental conditions. Conflicts are a problem in most communities, in some of them they are serious. The most frequent cause of conflict is enforcement of regulations on extraction, and some sites the perceived exclusion from FUG membership.⁴⁵

The overall conclusion of the report is that half of the FUGs were working well, most others were found working moderately well and only one of them was dysfunctional.⁴⁶ However, the authors of the report acknowledge that they have “focused primarily on the performance of community forestry according to its own terms – i.e. the increase in forest cover in areas labelled community forests and the possibility of benefit sharing from those areas [and] have not examined the more complex land use dynamics which introducing community forestry may precipitate.”⁴⁷ However, they conclude, despite restrictions like with regards to the practice of shifting cultivation,” introducing CF may still be attractive to villagers as a route to more secure land tenure, especially as taungya cultivation typically lacks tenure security.”⁴⁸

On the following pages we will explore whether and if yes to what extent CF has been a route to more secure land tenure for indigenous communities in Magwe Region in Western Myanmar.

Community Forestry on the Ground: Experiences among the Asho Chin

6

Sar Pauk and Myay Latt communities: The land and the people

Sar Pauk and Myay Latt belong to Bone Baw village-tract, which is one of the ten Village Tracts of Nga Phe Township of Minbu District in Magway region. Bone Baw Village Tract consists of three administrative villages: Bone Baw, Kywe Ta Lin and Sar Pauk. Myay Latt community is not a separate village but is part of Bone Baw. Myay Latt has applied several times for official recognition as a village, but the request has so far still been denied. The reasons given by the government are that with merely 23 households it is too small, and that it lies inside a Reserved Forest, where human settlements are not supposed to be allowed.

The two communities are located in the Eastern part of the Arakan Yoma (Arakan Mountains), a mountain range in Western Myanmar separating the coastal areas of Rakhine State from the Central Burma Basin. The territory of Sar Pauk extends from an altitude of 320 to 1070 masl, Myay Latt's territory lies between 300 and 1060 masl. Since the Arakan Yoma acts as a barrier to the southwestern monsoon rains the eastern slopes receive a lot of rain while the western slopes are much drier.⁴⁹ Therefore, the natural vegetation of the lower elevations of their territories is deciduous forest (which they call *ang dong*), at higher elevations it is hill evergreen forest (called *yoka*).

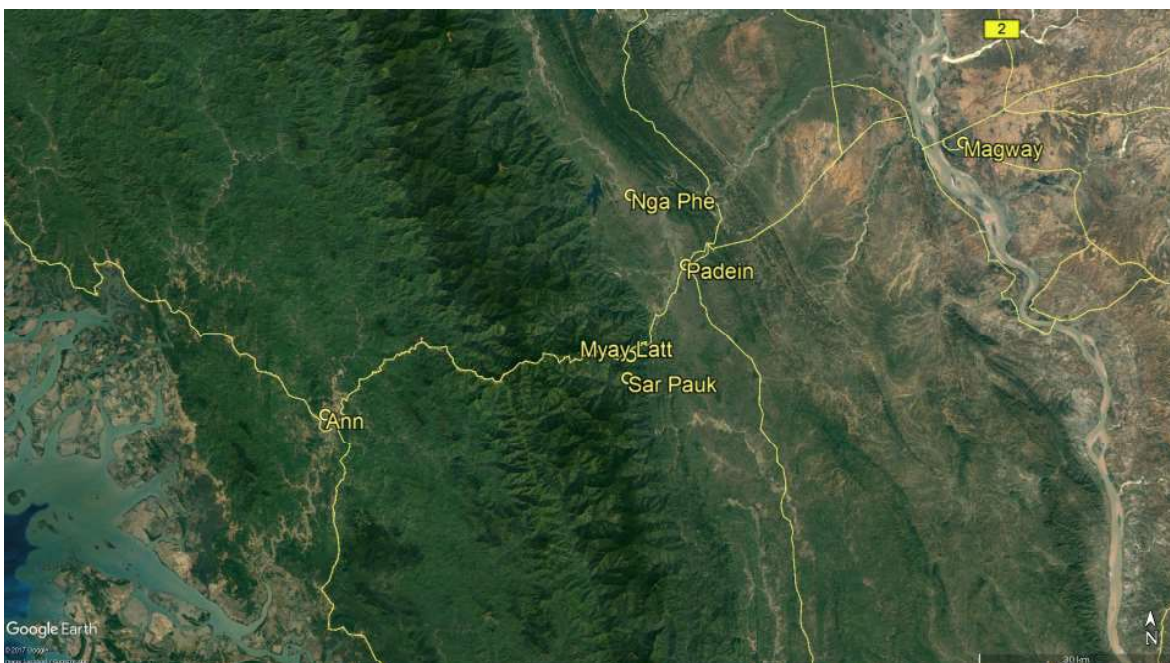


Fig. 01: Geographical location of Sar Pauk and Myay Latt communities

The people and their history

All the people of Sar Pauk and Myay Latt are Asho Chin. It is one of the tribes of the Chin people living in Western Myanmar and adjacent areas across the border in India, where they are generally referred to as Mizo. They call themselves Asho or Asho Chin, while outsiders refer to them by different names such as Ashu, Hyow, Khamaw, Khamoe, Khyang, Kyang, Qin, Saingbaung, Sho or Shoa.⁵⁰

The Asho Chin speak a distinct language which, like the other Chin languages, belongs to the Kuki-Chin branch of the Tibeto-Burman language family. Two separate dialects have been identified: the Hill Asho and the Plains Asho.⁵¹ The Asho Chin live in the hills and plains areas South of Chin state in Magway, Bago and Ayeyarwady region, and in Rakhine state.⁵² As of 2015, their population was estimated to be about 170,000.⁵³



Fig. 02: Asho Chin ladies and children from Sar Pauk community

Under the influence of missionaries since British colonial times, some of the Asho Chin have become Christians. Especially the communities in the lowlands live in close proximity and sometimes interspersed among Burman villages, and many have become Buddhists. But there are also some who still hold on to their traditional animist belief.

The Asho Chin have lived in the area of what is today Magwe division since over 400 years. According to the oral tradition of Myay Latt and Sar Pauk villagers, Pok Lung Taw, who lived at Sung Pyaw, near in today's Kanpelet in Chin State, had caught a white elephant and he went with his nephew Pok Sa Sung to bring it as a gift to King Tabin Shwe Htee.⁵⁴ In return, the ruler granted him the right over the land from Nat Ye Kan to Kala Phu, Sat Sat Stream, Inma Stream, Sar Pwe Mountain, Yat Kat mountain, Maung Tai camp, Kyet Ma Wat mountain, along the Ngor mountain range to the north, Man Shwe Set Taw, along the Man stream, Goakkyi stream to Nat Ye Kan.

Pok Lung Taw founded the village of Goakkyi, but he remained childless. Therefore, he invited his brother Lai Lah to come and live at Goakkyi. However, Lai Lah followed this invitation only 10 years later, after his brother Pok Lung Taw had already passed away. So he had to fight against and drive away the people who had in the meantime settled in the area. When exactly Goakkyi was founded is uncertain (see endnote 14), but based on the genealogy of the descendants of the village founder it can be concluded that the village is over 300 years old.



Fig. 03: Shops along the Minbu-Ann road in the center of Goakkyi village

Pok Lung Shwee, the grand-grandson of Lai Lah had eight sons, among them Ka Lung and Ka Lwe. Ka Lung Kone founded Kya Te Lin village and Ka Lwe had two sons, Pok Ta Paik and Hlen Paik, who also left Goakkyi and founded Myay Latt. Bone Baw village was founded after Kywe Ta Lin and Myay Latt, around 150 to 160 years ago. The village was founded by the two brothers Taung Hloak and Sa Hloak of the *Pyau kone* (clan).

Myay Latt

Myay Latt is the official Burmese name for the community, meaning “land in the middle”. The Asho Chin themselves call the village Kwatt Latt Nan (nan means village) which also means “land in the middle”. The village was founded during the British colonial era by Pok Ta Paik, who had moved there from Goakkyi. According to his genealogy, this was five generations, or about 150 years ago, thus probably not long after Goakkyi itself was established, i.e. around mid 19th century.

When the British colonial government established the Man Reserved Forest in the early 20th century the people of Myay Latt were evicted. They moved to what now is Bone Baw village. But about 25 years later, after World War II was over and thus the fighting between the British and the Japanese had stopped, some families returned to Myay Latt. The others stayed in Bone Baw and Kya Te Lin, the settlement that had been established by some families not far from Bone Baw.



Fig. 04: Houses in Old Myay Latt

After independence the Communist Part of Burma became active in the area and when the fighting with the Burmese army intensified, the villagers of Myay Latt fled to seek shelter in Kywe Ta Lin for a year, until it safe for them to return to their own village.

In 1993, the construction of the Minbu-Ann road reached Myay Latt and was completed in that area in 1994. Shortly afterward, in 1995, some families moved their houses from the old settlement site to the road site. Thus, Myay Latt now consists of two settlements: Old Myay Latt and New Myay Latt. Both have 11 households.

The Kone of Myay Latt	
Ka Lwe Kone	founder clan, from Goakkyi, 6 households
Ka Lung Kone	from Kya Te Lin, founder of Kya Te Lin from Goakkyi; 6 households
Pyaung Kone	from Goakkyi, 3 households
Dai Kone	from Ann, 4 households; the first moved there after marrying a woman married who had inherited land from her father
Eight Taung Kone	from Ba Bwe; 1 household
Htaung Sel Kone	1 household
There are two families of newcomers who had married women from Myay Latt and now live in New Myay Latt. Members of the two older clans Hwen Taung Kone moved to Bone Baw, those of Hin Yet Kone moved to Kya Te Lin.	

Myay Latt’s 23 households have a total resident population of 134 people, 57 of them males and 77 females.⁵⁵ Some of the community members are working or studying outside the village. Almost half of the youth over 12 years old (45.5%) have left the village for studies or work. 8 for studies (3 male, 5 female), 12 of them for work (6 male, 6 female).

The majority (116 people) are members of the Church of Christ, 3 household (16 people) are animist, and 2 persons (a man and a women) who had married into the community are Buddhists.

Since New Myay Latt is located right on the main road it has good access to the lowland market in Padein, which lies about a 45 to 60 minutes long drive by car or motorbike to the East. Old Myay Latt can be reached from the road on a trail in a 10 to 15 minutes’ walk, or by motorbike (for a skilled driver) in less than 5 minutes.’



Fig. 05: New Myay Latt settlement

Myay Latt does not have a school because it is not a recognized village. The children attend primary school in Bone Baw and Goakkyi. Sar Pauk has its own primary school. The children of both villages attend middle school in Goakkyi, and high school either in Goakkyi or in Padein.

There is no public health service in Myay Latt. People come for treatment to the public hospital in Padein, about an hour's drive away by motorbike or car.

Sar Pauk

Sar Pauk is the official Burmese name of the village. It means “Salt spring”. In their own language their village is called Plai Sit. Plai is the name of a stream there and sit means “above”, therefore “Plai Sit” means “the village above Plai stream”. It was founded by the three brothers Hle Lwin, Kyey Lwin and Tone Lwin. They had moved from an unknown area probably in today’s Southern Chin State to Ba Bwe village, but the people there were afraid of them and offered them to settle on land in an area called Plai Sit. They settled there and named their village Plai Sit. However, the official name of the village now is the Burmese name Sar Pauk.

According to the genealogy of the three brothers, they had settled in Plai Sit eleven generations, or about 300 years ago. More people from other villages and thus other clans joined the village later. Thus, today, the village comprises families belonging to the three founder clans the clans of the people who had moved there later.

The Kone of Sar Pauk	
Tone Lone Kone	One of the three founder clans, 10 families
Kyey Lone Kone	One of the three founder clans, 8 families
Hle Lone Kone	One of the three founder clans, 14 families
Sar Pauk village has 51 households with a total resident population of 302 people, of whom 154 are male and 148 female. The majority are Baptist Christians (265 people), 31 follow the traditional belief, and 6 Buddhists.	

Sar Pauk village has 51 households with a total resident population of 302 people, of whom 154 are male and 148 female. The majority are Baptist Christians (265 people), 31 follow the traditional belief, and 6 Buddhists.

31% of the youth over 12 years old⁵⁶ went away to study or work. By far most of them for studies (22.7% of those older than 12). While more males left for work (7 out of 9), there are far more females that are studying outside the village (17 of 25, or 68% of students over 12).

Sar Pauk is composed of two settlements: Old and New Sar Pauk. Huge old mango and jackfruit trees in Old Sar Pauk are proof that the village was founded a very long time ago. The newer settlement was established in 1995 a little closer to the Minbu-Ann road and about a 15 minutes long walk away from the old settlement. A motorcycle trail leads from New Sar Pauk to Kywe Ta Lin village, and from there a rough gravel cart track connects it to Goakkyi on the Minbu-Ann road. The total distance of a little over 2 km from New Sar Pauk to Goakkyi can be covered by motorcycle in about 10 to 15 minutes, or on foot in 30 to 45 minutes.



Fig. 06: New Sar Pauk settlement



Fig. 07: Ancient jackfruit tree in Old Sar Pauk settlement

As an officially recognized village Sar Pauk has a primary school. For further studies the children go to Goakkyi, for higher education to other towns. There is no clinic or other health care service in the village and like the people from Mya Latt they have to go for treatment to the public hospital in Padein, about one and half an hour away by car or motorbike.

Legal status of village land and forests

All the land of Myay Latt lies inside the Man Forest Reserve, a forest area designated as Reserved Forest by the British colonial administration. About half of Sar Pauk's territory (2210 of 4307 acres) lies also inside the forest reserve. The other half is land under the jurisdiction of the Department of Agricultural Land Management and Statistics (under the Ministry of Agriculture, Livestock and Irrigation).

According to the classification in the 1992 Forest Law, Reserved Forest is one of the two categories of forest that are considered Forest Land, often also referred to as Permanent Forest Estate. The second category is Protected Public Forest. All forest land is under the jurisdiction of the Forest Department under the Ministry of Natural Resources and Environmental Conservation (MONREC).

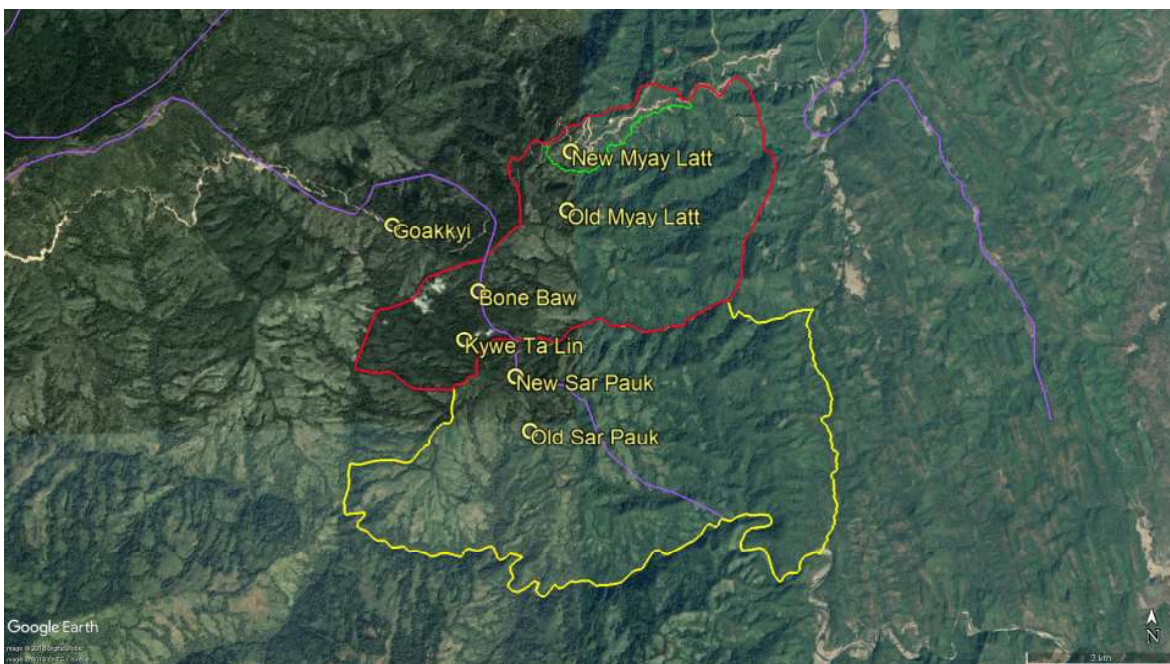


Fig. 08: Satellite image showing the joint territory of Myay Latt, Bone Baw and Kywe Ta Lin, and Old Sar Pauk. The purple line is the boundary of Man Reserved Forest.

The Forest Law distinguishes between five categories of Reserved Forest: commercial reserved forest, local supply reserved forest, watershed or catchments protection reserved forest, environment and bio-diversity conservation reserved forest and “other categories” of reserved forest.⁵⁷

However, even though some may also serve the purpose of environmental conservation, most of the Reserved Forests are mainly meant for the commercial production of forest products. Protected Public Forests are mainly designated for environmental conservation, but may also be used for the sustainable production of forest products.



Fig. 09. Reserved Forest boundary marker post erected by the Forest Department on Ya Kat Zung (mountain) near New Sar Pauk settlement

Since the Forest Law of 1992, under paragraph 40 declares any “trespassing and encroaching in a reserved forest” as well as “breaking up any land, clearing, digging or causing damage to the original condition of the land without a permit” or “catching animals, hunting or fishing” in a reserved forest punishable offences, the settlements as well as all land and resource use activities by villagers of Myay Latt and Sar Pauk on 11 or most of their land is to be considered illegal.

The situation is somewhat less precarious on the part of the village land of Sar Pauk that lies outside the Reserved Forest. It is state land under the Department of Agricultural Land Management and Statistics, and since none of it has so far been leased to or is claimed by other parties, must be considered land which the Management of Vacant, Fallow and Virgin Land Law of 2012 applies to. According to this law a Central Land Management Committee can grant 30 years leases for land considered unused, for the purpose of agriculture, livestock and poultry farming, aquaculture, mining and for “other purposes”. The Central Committee can grant up to 50,000 acres of land to cultivate perennial crops or seasonal crops for industrial raw materials, and up to 3,000 acres to grow orchard crops.⁵⁸

The VFV law “does recognize that farmers are using VFV land without formal recognition by the Government. These provisions, in conjunction with language in the Farmland Law, allow for existing use of VFV land by farmers to be formally recognized by the Government, the land to be reclassified as farmland, and LUCs [land use certificates, C.E.] issued to farmers that have been using the land.”⁵⁹ The law also provides a mechanism for farmers families to apply for use rights of unused VFV land (a maximum area of 50 acres).⁶⁰ However, it rarely happens since registration of land under

the VFV Law is a complicated, costly and time-consuming process with steps to be taken from the local to the state and final national level, i.e. the Central Land Management Committee.⁶¹ This is much beyond the means and abilities of most communities and clearly favors more resourceful private enterprises.

It is therefore not surprising that even though part of Sar Pauk's territory lies outside the Reserved Forest none of the community members possesses a land use right certificate, known as "Form 7". This certificate is at present the only legal document recognizing some rights – even though only use rights – of farmers over their land. Since all of the land of Myay Latt lies inside the Reserved Forest this option is not there for them thin their territory. However, two households have purchased some paddy land in the plains and have obtained a Form 7. They are the only two households with any legal rights over their farm land.

In sum, in both communities, people do not have any tenure security over the customary land and the resources they depend on – except for an area of 100 acres for which 26 households from Myay Latt and neighboring communities had received a Community Forestry certificate in 2006 that gives them limited use rights for a 30 years period. It will be the main subject of our discussion in the following chapters.

Livelihood and land use

Sar Pauk

Agriculture

Sar Pauk community has a land area of 4307 acres (1743 ha or 17.43 sqkm), thus the population density is currently 17.3 persons per sqkm.

The basis of the people's livelihood in Sar Pauk is rotational shifting cultivation (called loe)⁶². The main crop is rice, but numerous other crops are grown along with it providing Sar Pauk villagers with a diversity of pulses, root crops, vegetables, herbs and spices for many months of the year. Corn is increasingly cultivated as a cash crop.

Cutting of the fallow vegetation is carried out between December and February, after which the slashed vegetation is left to dry for at least one and a half months and burned before the first monsoon rain in May. The villagers are working collectively in making fire breaks around the fields to prevent it from burning the adjacent fallow vegetation. After burning, unburned wood is piled and burned again to have a clean field, and with the onset of the monsoon rice and other crops are planted. Weeding starts in June and has to be repeated at least twice.

The first vegetables, such as leaves and shoots of rosella, pumpkin shoots and other leafy vegetables can be collected in June. Harvesting of corn starts in July followed by cucumber, pumpkin and other vegetables. In late October or early November the rice can be harvested. Shifting cultivation fields provide a steady supply of many kinds of vegetables until December, when they become too dry. While providing mainly for the subsistence needs of the villagers, cash crops are increasingly grown in shifting cultivation, such as chilis, corn, pigeon peas or castor plants⁶³.



Fig. 10. Rice harvest on a shifting cultivation field



Fig. 11. Vegetables collected from a shifting cultivation field

Fields are used for one season after which they are left fallow. A few crops, like chili, pigeon peas and castor plants survive and can be again harvested in the young fallow, but they are soon overgrown and only larger cultivated plants, like bananas and fruit trees, will remain in the older fallow.

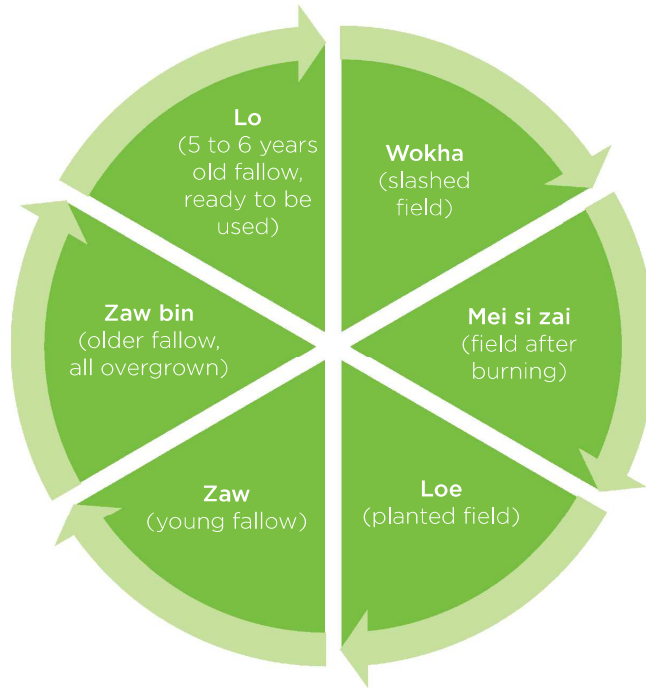


Fig. 12. Shifting cultivation cycle in Sar Pauk village



Fig. 13: Young fallow with castor plants. In the background conservation forest and fields with older fallow

Sar Pauk villagers have clearly defined shifting cultivation blocks that all have names, and they are rotated in a more or less fixed cycle of one year use and five years fallow. This is shorter than what the farmers of Sar Pauk consider ideal. For growing rice, they consider seven to nine years ideal. Older fallow is not good for rice but for all other crops, they say, the longer the fallow the better. The shifting cultivation blocks, like other landscape features, have names. They are separated from each other by streams and stripes or blocks of forest that are protected to serve as a buffer for fire protection and to help regenerate the fallow vegetation. These blocks are of different size, so in some years only one large block may be cleared while in other years two or three smaller blocks are used.



Fig. 14: Shifting cultivation landscape in Sar Pauk: Blocks of shifting cultivation land separated by bands of forest and forested creeks

Within each block individual households have inherited rights over particular plots, the boundaries of which people know well, and they return to them when a block is reopened for cultivation again. 41 households of the 48 included in the survey own some shifting cultivation land, but ownership is quite unevenly distributed and ranges from one plot of one acre to 20 plots with a total of 40 acres. The average number of plots owned is 3.5 and the average size of shifting cultivation land owned is 9.2 acres.

However, families who do not own enough land for making a field on their own land each year, are allowed to use other people's land. Of the 13 household who reported having rented land from others, all except one were allowed to use it for free. That one household was asked to give a share of the rice yield to the owner of the land.

Of the seven families that do not own any shifting cultivation land, six own some agroforest land (called akhang), two of them quite large areas. So, there is one household in Sar Pauk that does not own any land at all.

On average, households in Sar Pauk own two plots of agroforests and a total of 4.4 acres, but the size of agroforests holdings ranges from 1 to 20 acres. Three families that have no shifting cultivation land own only little agroforest land of about an acre and are therefore only a little better off than the one household who does not own any land at all. However, all of these four households were given land to use by others, and none had to pay anything. While land ownership is not evenly distributed in Sar Pauk, and there is one household that does not own any land at all, the custom in Sar Pauk community at least makes sure that everybody has access to land that allows them to make a living.

Agroforestry has been promoted by the government since the 1990s, which became an option after the construction of the Ann- Minbu road at least for those communities with easy access to the road. Lack of good road access is one reason why the people of Sar Pauk do not have more extensive agroforests; the other is the fact that they are still able to continue shifting cultivation which provides for both subsistence and cash needs.

Only three people have permanent employment, which is their main source of income. One is the headmistress of the Basic Education Primary School, one man works for the Health Department and another for the Immigration Department. But even their households are engaged in farming, which is their second important source of income. Two other households are running a small shop, but for them farming is still their main source of income.

Food security and the need for cash

Earning cash is of increasing importance not just because need to buy manufactured goods and pay for education and health services, but also because today only few people are able to produce enough rice to last the whole year. Of the 41 households growing rice in shifting cultivation, only 5 (12.2%) have enough for 12 months, and for almost two-third (65.9%) of these households the rice they harvest lasts less than six months. Food security has become of more concern over the past ten years since rice yields have decreased due to the changing climate with more erratic rainfall. Before that, most households were able to produce enough rice to last the whole year, but this is no more the case. Some farmers are trying to cope with the changing climate by planting varieties of rice with different length of growing periods, hoping that one or the other will grow well and give a good yield.

With not enough rice to meet their needs, the people of Sar Pauk are increasingly dependent on cash income to purchase food. Almost two third of all households surveyed ranked food on top of the list of recurrent expenses, and one third ranked it second.

Cash is earned above all by planting cash crops in agroforests and shifting cultivation fields. The cash crops grown in shifting cultivation are mainly corn, chilis, pigeon peas and castor plants, some of which are still productive in the young fallow. Diverse cash crops are planted in agroforests, among them banana, coffee, lime, orange, lemon, pomelo, guava, jackfruit, mango, chayote, squash, elephant foot yam and cassava. Citrus fruits were the main cash crop for about a decade, but a disease has spread rapidly of the past few years and killed most of the citrus plants. Sar Pauk farmers are now replacing them with coffee.



Fig. 15. Chayote and squash grown near New Sar Pauk settlement for cash

Casual labor for other people inside and in nearby villages provides some extra income for about 42% of all households. But three quarter of these do casual labor for less than a month a year, a few for one to two months and only one household for more than three months. Only for two households, among them the landless household, wage labor is the main source of income. However, as mentioned, there are also a number of villagers who have left for permanent jobs outside the village.

Overall, animal husbandry is not a very important part of the domestic economy of Sar Pauk villagers. For none of them it is the main source of income, but for several household it ranks as second important source. Most households keep a few chickens for their own consumption. Less than half of all households (38%) raise pigs, 25% own cattle (between one and seven heads) and only one household owns buffalos.



Fig. 16. Itinerant trader buying products from villagers

Forest products

Forests provide the resources to meet many of the needs of the people of Sar Pauk. Firewood for cooking and drying food, timber and bamboo for house construction, bamboo for basketry and a broad range of plant food including various leaves, shoots and flowers, wild tubers, mushrooms and bamboo shoots are found in the community's forests.

For almost a third of all households (31.3%) forest products are a source of cash income and 20.8% consider it the second most important source of income, after agriculture. Among the forest products sold are elephant foot yam, orchids, raisin from Sal trees, honey, herbal medicine and hardwood timber (see table 01 for more a more detailed list of forest products used).

In over half of the 45 surveyed households someone goes hunting. A few of them only occasionally, like once a year, but most of them once a month and some are more active hunters that take to the forest more frequently. Sar Pauk's forests are still rich in wildlife. The most frequently hunted and trapped animals are various rodents and birds, wild boar and barking deer. There are five species of primates all of which, except the gibbon, are also hunted. The more active hunters are able to bring home larger game a few dozen times a year. If an animal is caught by more than one hunter the meat is divided among them according to role they played in the hunt (e.g. the owner of the gun, the one who fired the fatal shot and all others who participated). A part of the meat of larger animals is always shared with all villagers in a meal cooked for them by the hunter. The remaining part is kept by the hunters, who may decide to sell some of it.

The creeks and streams of Sar Pauk are also rich in aquatic animals, which are caught and collected in various ways. In the dry season 60% of all households go fishing in the streams at least once, in the rainy season it's less often done.



Fig. 17. Splitting bamboo for basketry

Table 01. Forest products used in Sar Pauk community

Name (Asho Chin and English names (scientific names))	Location
Edible fruits	
<p>A pyaw htay, Kan khu htay, A pei htay, Sa pyi htay, Men htay (gooseberry), A hti htay , Mui htay (Eugenia), Pwat htay, Bi thayey (a kind of fig found near watercourses), Buh uh htay, Kalong htay, ban buh htay, Koak li htay, Pon hway htay (wild mango)</p>	<p><i>Ang dong</i> (deciduous forest)</p>
Fruits that can be cooked	
<p>Long mwe htay (Wild marrow) (yoka forest), Kait war htay (shifting cultivation), Mat kone htay (fallow land), Awn kaw htay (wild bitter gourd), Awk hli htay (wild Indian trumpet), Awn pyaw htay, Sadu natone htay, Yapyaw htay</p>	<p><i>Yoka</i> (hill evergreen forest) and shifting cultivation fields/fallow</p>
Edible leaves, shoots and sprouts	
<p>Myit m'bone tau (Bud of Banyan tree) (ang dong and yoka), Vok na kong, Awn kok lok (streams), Kalawee knaw (streams), Kai nyut knaw, Aun hakalot, Haisaleh twe tua, Hat tau, Paya taka tau (shifting cultivation), Shee shee knaw, Kwee tok knaw (Dregea climber), Mwe knaw (Eugenia leaf)</p>	<p><i>Yoka</i> and <i>Ang dong</i>, along streams</p>
Mushrooms	
<p>Apaw shen (Red mushroom (ang dong), Apaw nyo (brown mushroom), Apaw pan (pink mushroom), Apaw awe (yellow mushroom), Taung poh apaw, Kike ceh paw, Paung taung, Mwe paw, Mei cau nung kone paw, Thing hlon paw, Yadai paw</p>	<p><i>Ang dong</i> and <i>yoka</i></p>
Flowers for cooking	
<p>Taungya takok, Taw takok , Kyut na yut, Sone katay (ang dong only), Pasoe yetin, Mok so ngayok</p>	<p><i>Ang dong</i> and <i>yoka</i></p>
Forest products for sale	
<p>A hta pauk htay (Soap nut) (ang dong), Pakok htay, Khai kha htay, Puh tale htay (yoka), Inn twe (resin of Sal tree)(ang dong), Ataw tauk (elephant foot yam)(streams, ang dong and yoka)</p> <p>Names of Orchids: A kyet sit ("One K"), A kyet tu ("Two K"), Yapun tu ("Three K"), Yo sein, Hlay kazin tit kwe</p>	<p><i>Yoka</i> and <i>Ang dong</i>, along streams</p>

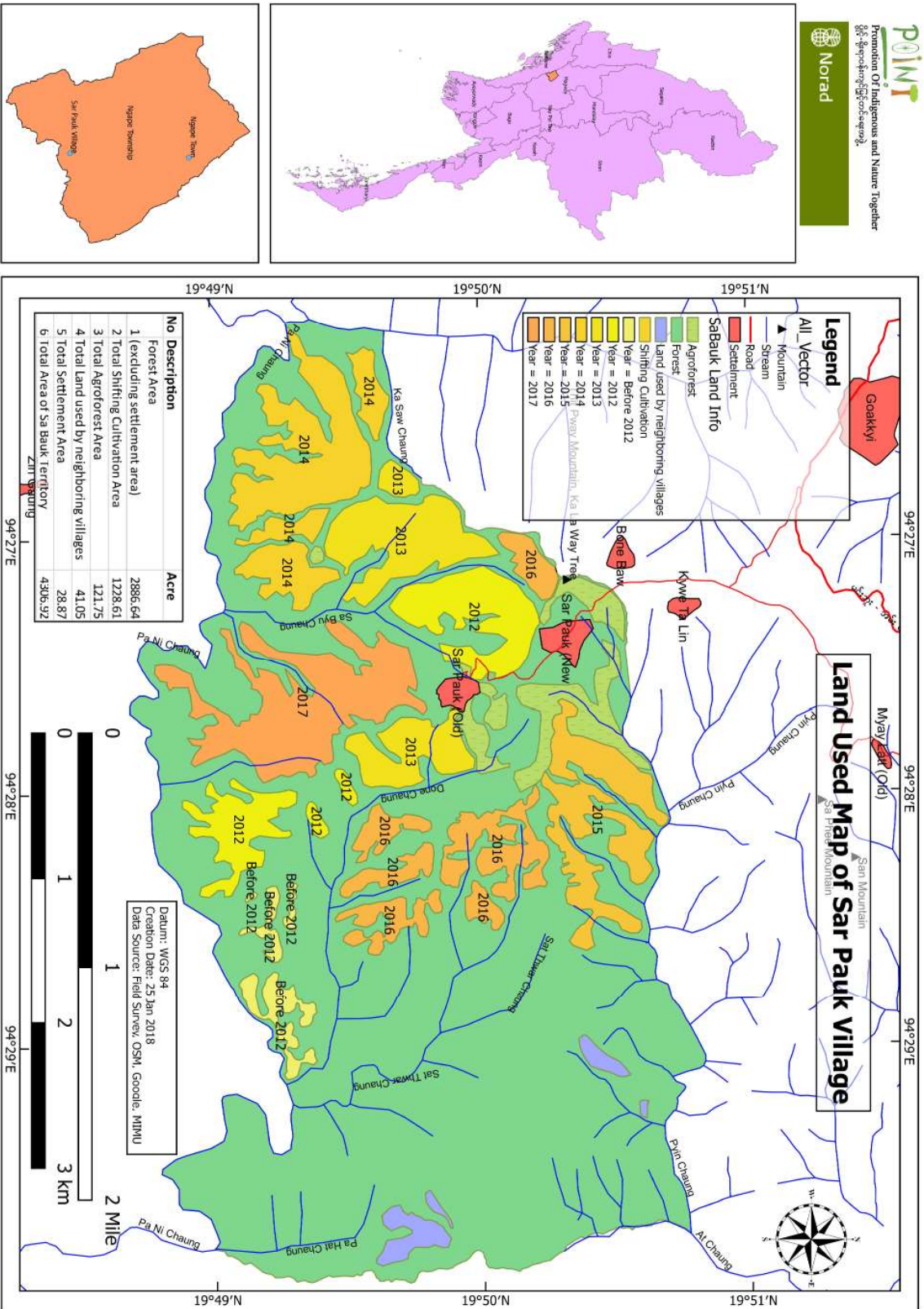


Fig 18. Land use map of Sar Pauk community, showing the years in which shifting cultivation blocks were used.

Myay Latt

Agroforestry

The territory of Myay Latt village has not yet been clearly demarcated since land has traditionally been jointly used by the people of Myay Latt, Bone Baw and Kywe Ta Lin. An approximate estimate of the land area currently used mostly (but not exclusively) by the people of Myay Latt is 1265 acres (512 hectares, or 5.12 sqkm). With the current population of 134 persons the population density in Myay Latt would be around 26 persons per sqkm.

Like in Sar Pauk, the main basis of the livelihood of the people of Myay Latt used to be shifting cultivation. The system was the same rotational shifting cultivation as practiced in Sar Pauk. The main crops grown were rice and corn and a broad range of different vegetables, tubers, herbs and spices, mainly for household consumption. Today, shifting cultivation has been gradually replaced by agroforestry. In 2017, only four families had a shifting cultivation field, and the size of these fields were much smaller than in the past. There they grew some rice and corn but mainly vegetables for their own consumption.

Three factors contributed to the increase of agroforestry and the reduction of shifting cultivation. First, shifting cultivation is officially illegal and since the 1980s the government actively tried to stop villagers from practicing it by threatening them with imprisonment. Sometimes, Forest Department staff visit the villages and tell them to give up shifting cultivation, but more often an official letter is sent for the same purpose. However, lacking any viable alternatives for making a living, the villagers had little choice but to ignore the threats and continue with shifting cultivation.

An alternative became available as a result of the coincidence of two factors: The promotion of agroforestry and the Sloping Agricultural Land Technology (SALT) for upland agriculture by Dr. Salai Tun Than, a Chin from Mindon township, and at that time professor in agronomy at Yezin University;⁶⁴ and the construction of the Minbu-Ann road, which reached the area around 1993 and provided easier access to the market for selling agroforestry products.

Dr. Tun Than was running a SALT demonstration farm in Khun Zu village, Ngaphe township, where people from all over the region and even from Chin State were given the opportunity for training. He was a friend of the Church of Christ Missionary in Myay Latt, so several villagers went to work for a few weeks in the project there and acquired the knowledge needed to set up their own agroforests at home.

They started planting perennial crops, increasing the diversity of cultigens over the years. Today, the people of Myay Latt depend mostly on agroforestry for their livelihood. They grow a broad range of perennials like banana, fruit trees (among them orange, lime, lemon, pomelo, mango, avocado, tamarind, jack fruit), papaya, coffee and tea, and they intercrop them with tubers (above all elephant foot yam), herbs, chilis and some vegetables. The most important agroforest crop is banana, which is producing fruits throughout the year and provides the farmers with a regular income.

For all except three households growing cash crops in agroforestry and on small taugya plots is the main source of income. Two households run a road-side grocery shop and restaurant, and for one household casual labor is the basis of its livelihood. It is one of the three households that do not own any land.

Myay Latt villagers buy rice and other food and necessities from the proceeds of the sale of their agroforest products, or the money they earn otherwise.



Fig 19. Agroforest in Myay Latt. In the background a small shifting cultivation field

Agroforestry, food security and alternative sources of income

Many of the villagers find that they have less food security than in the past when they practiced shifting cultivation and could produce their own rice, corn and vegetables and were largely self-sufficient with regards to food. One third of the households surveyed rank food on top, and 60% as second in the list of recurrent expenses.

In 2017, the price for the main crop banana dropped, making it more difficult for Myay Latt farmers to make ends meet. The price generally fluctuates in response to changing demands, with banana prices peaking during Buddhist festivals.

Food insecurity is more acute for those farmers who own little or no orchard land. There is a disparity of land ownership in this village between the descendants of the founding clans and those who married into the village more recently. Three households (13.6% of all) do not own any land and two households own only 1 acre. The land-owning clans decided not to sell any more land to immigrants. Those in need of land can rent from other villagers, usually against a share of the proceeds. However, like in Sar Pauk, they are allowed to plant only seasonal, no permanent crops.

Generally, the size of land holdings is quite modest. The average size of agroforest land owned is 4.5 acres (ranging from 1 to 15 acres), the average size of taungya land is 2.3 acres (ranging from 1 to 8 acres).

Most of the cash is earned in agroforestry, but almost all households have some secondary sources of income. The occasional sale of chicken, pigs and goats is the second most important source of cash, but only one household has two heads of cattle and nobody owns buffalos.

As mentioned, two household make a living mainly from running small shops and restaurants at the roadside, in addition to agroforestry. Two people get some income from working with an NGO, but farming is still their main source of income. Seven household do casual labor. For one it is the main source of income, for another four the second most important source of income after agriculture.

40.9% of all households collect forest products for sale. The products sold are similar to those of Sar Pauk and comprise timber, bamboo, mushroom, bamboo shoots, soap nut, wild white pumpkin, honey, but also firewood. However, in contrast to Sar Pauk only one household considers forest products the second most important source of income. The lower importance given to forest products for cash income in Myay Latt may partly due to the overall higher volume of cash generated, most in agroforestry, but probably also due to the more degraded condition of the forest.

Hunting is done less intensively in Myay Latt than in Sar Pauk. Only 27.3% of all households said they go hunting and only two households hunt frequently, i.e. every week. Fishing also seems to be less important than in Sar Pauk, but still almost half of all households do a little fishing once in a while during the dry season.

The importance of forest and other types of land for food security in the two villages can maybe be best assessed when looking at the source of vegetables, from which the majority of dishes are prepared that are eaten along with the staple food rice. There are pronounced differences between the rainy season and the dry season.

In Sar Pauk taungya fields are the most frequently mentioned source of vegetables during the rainy season. Almost all households get vegetables from taungya fields. The second most important source is forest, followed by agroforests and kitchen gardens. Only about 10% of all household buy vegetables from itinerant traders or on the market during this time of the year and none gets their vegetables only from the market. In the dry season agroforests and traders and the traders or the market are the main source of vegetables, and for 16.7% these are the only source of vegetables.

In Myay Latt the pattern is quite different: since taungya cultivation is hardly practiced anymore it is a much less important source of vegetables. There, agroforests, the forest and itinerant traders and the market are the main source during the rainy season. During the dry season all households buy vegetables from traders or on the market, and for a third of all households it is the only source of vegetables. The absence of taungya fields for subsistence and the stronger cash-crop orientation in agriculture are clearly a reason for the higher dependence on purchased vegetables. Being located closer to or directly on the main road also may be a factor for the more frequent purchase of vegetables.

Table O2. Source of vegetables (frequency mentioned, in % of all household)

Sar Pauk		
	Rainy Season	Dry Season
Taungya	93.8%	14.6%
Forest	72.9%	25.0%
Agroforest	66.7%	70.8%
Kitchen garden	45.8%	22.9%
Trader/market	10.4%	68.8%
Only trader/market	0%	16.7%

Myay Latt		
	Rainy Season	Dry Season
Taungya	33.3%	14.3%
Forest	57.1%	42.9%
Agroforest	76.2%	38.1%
Kitchen garden	28.6%	9.5%
Trader/market	47.6%	100%
Only trader/market	0%	33.3%



Fig. 20. Roadside shops in Goakkyi selling both local and manufactures goods.

Customary land tenure

Today, the people of Myay Latt and Sar Pauk villagers distinguish between three types of land: agroforest/fruit tree land, called akhang (for example, banana akhang, orange akhang); shifting cultivation land, called lo and forest, called tau.⁶⁵

The main principle underlying customary land tenure is the right based on the act of opening virgin land. Whoever clears a plot of land retains the prior right over that land when it is used again after it has been left to lie fallow. These rights are passed on to the offspring, in most cases only to males. Therefore, most of the land in Sar Pauk is owned by the descendants of the clans who had settled there first. Over the generations the land has been divided up into many plots over which individuals hold ownership rights. They are allowed to sell these plots, but not to people from outside the village.

While individual families have prior use rights over specific shifting cultivation plots, access to sufficient shifting cultivation land has traditionally been granted to all community members in accordance with their needs. This means that families with many children but little own land would be allowed to use someone else's land.

The people of Sar Pauk community believe that clan land should remain common property of the clans and not be divided. The reason given for the granting of individual ownership rights over parts of clan land is population growth and thus the increasing threat of conflict over land, and the conversion of parts of the land to permanent agroforests.⁶⁶

Akhang land is strictly individually owned, and passed on along the male line, i.e. to sons only. There are only very few exceptional cases in which daughters inherited land. The rather strict patrilineal inheritance rule is closely linked to the post-marital residence rule according to which the newly married wife moves to the village of the husband. Therefore, and as briefly mentioned in the previous chapter, families whose husbands have married into the community do not own much land. Exceptions are the four families of the Dai Kone (Dai clan) in Myay Latt, who are descendants of a man from Ann township in Rakhine state, who had married a woman in Myay Latt who had inherited land from her father.

In Sar Pauk, another woman, Mae Lung Kone inherited a large area of about 1500 acres from her father, which includes agricultural land of about 250 acres. Since she married into another community and joined her husband there, the land is now considered common property of the three founder clans, parts of which are given to newcomers for annual use and some for agroforestry. If she ever returns to the village, the land will be given back to her.

Both in Myay Latt and Sar Pauk, all forest land is common property of the community.

The present tenure system in the two communities manifests itself in a complex pattern of plots owned by individuals, clan land and collectively owned forests. In Myay Latt the situation is more complicated than in Sar Pauk as a result of the settlement history of the three communities Bone Baw, Kywe Ta Lin and Myay Latt. All three settlements have close kinship ties and trace their origin to Goakkyi village, from where founders of the three communities had come. Furthermore, after the establishment of the Man Reserved Forest by the British Myay Latt villagers were evicted and they joined Bone Baw village. After the Second World War when the British were leaving some families returned to Myay Latt while others stayed on in Bone Baw.

Thus, still today, some shifting cultivation areas are used jointly by families from the three communities, with individual families from the three villages having customary priority use rights over specific plots. Likewise, in the present agroforest area plots of land are owned by people from the three communities, and some plots are also owned by members of Goakkyi village. Therefore, the 207 acres of community forest, which used to be shifting cultivation and agroforest land, consists of a total of 42 plots owned by 33 individuals from four communities (i.e. Myay Latt, Bone Baw, Chwae Ta Lin and Goakkyi).

This complex pattern of tenure rights especially in the border areas between the communities' customarily used land makes it difficult to demarcate territorial boundaries for the villages.

Customary Resource Management and Forest Conservation: Sar Pauk Community

Since the people of Sar Pauk community to a large extent still practice their traditional land use system based on shifting cultivation, the customary resource management and forest conservation system dealt with in this chapter focuses on Sar Pauk community. Myay Latt community has until two decades ago more or less followed the same land use practice, and, with the exception of shifting cultivation, has retained many of its elements.

Like in other shifting cultivation communities, land management of most of Sar Pauk's territory takes place at the landscape level. Only with regards to the individually owned agroforest plots, house lots and kitchen gardens are management decisions taken only by the landowning household.

As mentioned, Sar Pauk community has several blocks of shifting cultivation land, which are used in a more or less fixed cycle. The area to be cleared for a new cycle is identified collectively by the villagers and depends on the maturity of the fallow vegetation. Since the speed of growth of fallow forest depends on several factors such as inherent soil quality, microclimate due to slope orientation, proximity of forested areas etc., a particular area may be used again earlier than another one. Thus, the discussion on which block to open in a new cycle can go on for quite some time.

Individual families of course take the decisions on what to plant on their own plots within the newly opened blocks. Most of the work in shifting cultivation is done by household members alone. There is no labor exchange in farming except in emergencies, when a household is under pressure due to sickness or accidents.

The careful management of shifting cultivation land by the community has ensured that fallow forests are regenerating well and there are no visible signs of permanent degradation of shifting cultivation land, like conversion to unproductive grass land. Crucial for this is the prevention of fires on fallow land. Sar Pauk villagers take extra precautions to prevent fire from escaping when they burn a new block. They make a fire break all around the newly cut area by moving the slashed vegetation away from the edge. Every household that own a plot in this block is obliged to contribute labor to making the fire break.

Bands or blocks of forest separate the shifting cultivation areas, which help to prevent the escape of fire to neighboring land under fallow, and act as seedbanks that help in the regeneration of fallow forest. Obviously, Sar Pauk villagers have been quite successful in preventing wild fires. There are none of the extensive grasslands that result from uncontrolled repeated burning found in shifting cultivation landscapes in other parts of Myanmar and neighboring countries.

Protected forest around shifting cultivation blocks is generally called *lo hmung*. The forest above a block is specified as *lo lu*, the forest below the field *lo hó*. Those to the left and right, i.e. between two blocks is also referred to as *kha khlae*.

Forest on ridges and along streams are always protected. The former is referred to as *klau lang*, the latter are also called *lo hmung*, because they are also separating shifting cultivation area. Other forest areas are just called “forest”, i.e. *pon taw*. This includes the watershed protection forest near the two settlements.

This classification of protected forests is maintained in areas that are not under shifting cultivation anymore and are used for orchards or agroforests, like in Myay Latt.



Fig. 21. Landscape of forests and fields in Sar Pauk village: Shifting cultivation areas are separated and surrounded by forest. The cemetery forest in the center of the image is connected to ridge forest.

In the eastern, lower lying parts of Sar Pauk's territory large areas are under permanent forest. These are *ang dong*(deciduous) forests and most of the land is not good for cultivation, so there is only little shifting cultivation in small areas, above all along the border where the land is used by the three neighboring Asho Chin villages Nyaung Pin Kone, Wet Sa Cein in Ngape Township and Let Pan Kone in Min Hla township. They are related to Sar Pauk through kinship ties.

Finally, there are small patches of sacred forests and cemetery forests (one for the animists and one for the Christians). According to the customary law of Sar Pauk, no cutting of trees is allowed in sacred and cemetery forests.

In all other protected forests, it is forbidden to do any form of agriculture. But people are free to extract forest resources for their needs, including firewood and timber for house construction. There is no restriction on the use of any forest resources, nor are there any regulations on hunting. However, there is a custom not to hunt gibbons, which people from Sar Pauk, though not from all other villages, follow. The elders had taught them to respect and protect gibbons since they, unlike other monkeys, do not take any of the human crops, they sing beautifully and hearing gibbons sing in the morning is a lucky sign. Furthermore, they have recognized that gibbons breed slowly and gibbon mothers allegedly test their babies for their fitness by throwing them away and taking them back only if they are able to catch a branch and cling to it.

As a result of the customary land and forest management and conservation practices by Sar Pauk community, and despite increasing population pressure that forced them to reduce the fallow period, shifting cultivation land has maintained its fertility and fallow is re-establishing itself well after each cycle of use. Thus, large areas are under secondary forest, which are also a source of forest resources for people and habitat for wildlife.



Fig. 22: Satellite image of shifting cultivation blocks and protected forest in Sar Pauk



Fig. 23: Protected watershed forest in Sar Pauk

About 2887 acres or 67% of Sar Pauk's territory is kept under permanent forest, and the practice of preserving "buffer forests" between shifting cultivation blocks results in a mosaic of interconnected forest areas. Such forest corridors are important for forest-dependent wildlife to move across the landscape.

According to discussions with Sar Pauk villagers there is still a considerable diversity of wildlife in their village territory. This includes several rare and endangered species that live permanently on or regularly visit their territory. Among them are the white-handed gibbon, leopard, dhole, pangolin, great hornbill and the green peacock (see table 2).

The presence of such species is an indicator for the health of the forest habitat, and thus for the possibility of co-existence of humans and wildlife. As mentioned, Sar Pauk villagers have almost no hunting restrictions, but hunting pressure has so far been low enough for most species to survive. With increasing access to guns – often lent by police men with a request for a share of the game – the rather unregulated hunting in Sar Pauk may not be sustainable in the long run.

Table 03. Wildlife identified by Sar Pauk villagers ⁶⁷

Local name	Number of species	English names identified	Forest type
Mammals			
Primates			
Waku	5	White-handed gibbon	<i>Hill evergreen forest (yoka)</i>
Yon daw		Phayre's Langur/ Phayre's leaf monkey)	Yoka
Yon pung		Northern pig-tailed macaque,	Yoka and ang dong
Yon shen		Rhesus macaque,	More common in ang dong but also in yoka
Yon ngey		Northern slow loris (<i>Nycticebus bengalensis</i>),	Yoka

Local name	Number of species	English names identified	Forest type
Carnivores			
Ahun Zingli, A Kauk kyait, A Ka Sat, Kyaung Nan, Mwe Ba, Sa Po, Si kwa taw taw	12	Unidentified small carnivores	Yoka and ang dong
Hun pow		Himalayan Black Bear	Yoka (now only found in remote areas of neighboring Zin Kaung village)
Hun zingling		A kind of “bear”, not identified	
Anhey		Dhole (wild dog)	Yoka and ang dong, occasional visitor, used to kill cows
Sung chey		Leopard	Yoka and ang dong, occasional visitor
Kya Wat		“Pig tiger” (not identified)	
		“Wild cat” (not identified)	
Saphaw		Crab-eating mongoose	Yoka and ang dong
Sa’ui (same name used for two different species)		Common palm civet and an unidentified civet species	
Wa’min san		Spotted linsang	
Sa’kong		Yellow-throated marten	Common, also in banana plantations
		Badger (not identified)	

Local name	Number of species	English names identified	Forest type
Herbivores and omnivores			
Sauk kyi	4	Barking deer	Yoka and ang dong
Ka yai		Sambar deer	Yoka
Ayao		Serow	Steep hills, in yoka and ang dong
Ngaw		Wild pig	Yoka and ang dong
Rodents			
	1	Porcupine	Yoka and ang dong
	1	Rabbit	Deciduous forest (ang dong)
	2	Flying squirrel (two kinds, not identified)	Yoka and ang dong
Hlawk, hle cha, hlee hlawk Ahley	8	Orange bellied squirrel, and several other unidentified striped and other larger squirrels	Yoka and ang dong
Other mammals			
Sa htay,	2	Not identified	
Sha pu		Pangolin	
Birds			
Wa mon, ngu, sali kait, lel kyaing, kait wa ar, caung ngo, waka lo, si sor, poke pin ni, wa lon high, kalo saik, ataw sih sor, takwut, kyuat kyaut, satuh yasor, say mor, saw pasor, kha lai eh lwei, khalai ehni, no na ar, kalai kaleh, pa shu, boke set yet, ye myaung kaung	23	Numerous mostly unidentified species including parrot, sparrow, quail, greater coucal, crow,	
Hkar htak,	2	Wild chicken and unidentified species of pheasant	Yoka and ang dong

What Benefits for Forests and Indigenous People?

Local name	Number of species	English names identified	Forest type
Birds			
Kok klay	3	Great hornbill	Yoka
Kok shi		Rufous necked hornbill	Yoka
Ka kyaik		Maybe Pied hornbill	Yoka
Atong	1	Green peacock	Ang dong
Reptiles			
Pha phalel, pata Ielni, sok palai, pha hnai, palu paw, toke talan, taw nakaw, tan kun cut	8	Numerous snakes, among them python, Bonded krait, Copperhead rat snake, Cobra,	
Ka aar (tortoise in stream), black tortoise, Tone Lone (turtle in ang dong and yoka), other water tortoise, a sone mai awe (ang dong)	5	Several unidentified species of tortoises and turtles	Pani stream
Amphibia			
A hlel, a taw, a kok, a phada kon, phanan kyaung, a kyel, a palet, tit phar	8	Unidentified frog species	Along streams
	1	Toad species	On dry land
Fish			
Ngakalein, ngasaw, ngacun, ngasoe, ngapha yonn, nga taw, nga sai, nga palwin, nga paw, nga la wa, nga lwee, nga pai, nga sais ah, nga ceh ye, ta saik, nga khtyi khar, nga yon poh	17	Many unidentified species of fish	Streams
Snails			
Red snail	1	Red snail, living on dry land	Sal tree forest
Kyacode tan pon, kyacode sa sin, Ko laik, Kya code hlit	4	Snails living in water	

The forest is critical for the livelihood security of the people of Sar Pauk, which they are very much aware of. This was clearly expressed in the participatory assessment of the strength and weaknesses of their community, in which they mentioned “still having forest” as one of the strengths. At the same time, they mentioned ongoing illegal logging and “not having enough knowledge for environmental conservation” as one of their weaknesses. This reflection clearly shows how much importance the people give to forest and its conservation.

Who owns the trees?

Logging and the challenges to forest conservation to customary land tenure

Forests have been protected as part of the overall customary land management system in Sar Pauk and Myay Latt communities, which in Sar Pauk still is and in Myay Latt until recently used to be revolving around shifting cultivation. As a result, about 67% of the land area of Sar Pauk and probably an equal share of the land used by Myay Latt⁶⁸ are under permanent forest cover.

However, in recent years forests have become increasingly degraded, mainly as a result of uncontrolled logging. Cutting trees for sale has been practiced by Asho Chin villagers in Nga Phe township since a long time to meet emergency needs for cash. Trees were cut with the bush knife and then laboriously sawed into beams and planks with a handsaw operated by two persons. This form of logging was on a very low scale and had allegedly hardly any impact on the forest.

The situation changed drastically when saw mills were set up in several places in the foothills at the edge of the forest. Upland villagers were asked to provide logs for them. These saw mills were operated by local entrepreneurs, both Burmans and Asho Chin. One of the mills was allegedly run in collusion with a military camp that had claimed possession over a forest area near the camp. The sawed wood was allegedly delivered to them but it is not known where it was moved afterward. Business men in Padein also entered the logging business and had the logs delivered to them into town.

In the Bone Baw – Myay Latt area a mobile saw mill began operating around 1995, right after the construction of that part of the Minbu-Ann road there had finished. The saw mill was set up in the forest near the road and nearby villagers asked to cut logs and haul them to the mill. After the adjacent area was logged the mill was move to a new location. It was allegedly set up in eight different places and stopped operating around 2003 when no more valuable trees were found in that area.

Around 2007, chainsaws became available in stores of major towns like Padein. The government had no restrictions on the sale of chainsaws and Asho Chin villagers began buying them, above all the cheaper Chinese model, that cost between 300,000 and 400,000 kyat (around 100 to 120 USD at present rates; the sturdier German models cost 3 to 4 times more). Since few of them had the money they took a loan from the business men and saw mill operators buying the logs.

Chainsaw logging was done by outsiders as well as by some people of Sar Pauk and Myay Latt themselves. In Sar Pauk the lower-lying forests were mostly logged by outsiders, the people of Sar Pauk hardly ever went there for cutting timber. In other parts of the village territories, it was community members from Sar Pauk and Myay Latt who did most of the chainsaw logging.

The felled timber was cut with the chainsaws into beams and planks, depending on what the customers wanted, and the dragged and carried to the roadside. Standard 18 feet long beams used to be sold at 1000 kyat per square inch, e.g. a 5'x5' beam (25 sq.inch) would fetch 25,000 kyat. At present, prices are much higher due to the increasing scarcity of timber, up to 1,500 to 1,800 kyat per sq.inch, depending on the kind of wood. Trees were cut everywhere in the village territory and none of the chainsaw operators in the community ever asked for a permission from, nor did they share the proceeds from the sale of timber with other villagers. The reason for the lack of interference by other community members is the customary rule that trees can be cut by any community member in the community's forests if they need any either for domestic use or sale. Outsiders, however, were and are supposed to ask for permission, which not always happened.

The free access to timber for community members has not been a problem in the past since not much timber was required to meet the needs of the community for building material, and cutting timber for sale was done only occasionally, when there was an emergency need for cash. After all, cutting trees with knives and sawing them with hand saws was hard work. Timber extraction at that level has not had a big impact on the forest and was probably pretty sustainable.

Allegedly, the most valuable trees had been logged out first by the government in the 1990s, but others claim that there had never been any legal logging under regular concessions, that all logging has been illegal. The establishment of saw mills resulted in a drastic increase of demand for timber from the villagers, and with the availability of chainsaws it was much easier for them to meet this demand. The forests were rapidly degraded.

The Forest Department of Nga Phe township did very little to address the crisis. Allegedly, there was no regular patrolling, when cases were reported by them by concerned citizens and local CSOs they did not take any action saying they did not have sufficient information and too little staff. Corruption was common and the big operators were never caught. If anybody ever got caught it was the small-scale chainsaw loggers from the communities.

Seeing how forest degradation accelerated all over the township and that the Forest Department did not seem to care, young local activists of the Nga Phe Youth Network began awareness raising on laws and policies in the villages in 2014, and in 2015 they started with awareness raising on environmental conservation and to investigate illegal sawmill operations, which eventually led to the closing down of one of them by the Forest Department in 2017. The activists, however, received threats by anonymous persons but are still determined to continue their work.

Table 04. Forest timeline for Sar Pauk community

Period	1970-1980	1990-2000	2000 -2010	2010-2016	Today
Logging activities	Pre-logging time: very low-level extraction of timber for use and sale	Government timber extraction; establishment of illegal sawmills	Increase of illegal logging due to demand from illegal sawmills	Chain saw logging	Low-level- illegal logging
Forest condition	Good forest	Teak trees and hard wood trees lost	High extraction of timber, the quality of forest degraded	Peak of timber extraction, severe degradation	Using chainsaw forbidden by community
Wildlife	Lots of wildlife	Wildlife starts decreasing	Wildlife continues decreasing	Wildlife continues decreasing	Most species still there but in lower numbers

Adapting customary law

Some community members in Sar Pauk and Myay, among them those who had attended awareness raising on environmental conservation by CSOs, became concerned about the ongoing uncontrolled logging and the destruction of their forests. About five years ago, Sar Pauk community started discussing the problem in their village meetings and decided to act. A new rule was introduced according to which any cutting of trees in the community's forest, even for domestic use, needs a permission from the village administration committee and elders.

Allegedly, people in the area also learned about a change of the government policy on logging and Myay Latt as well as neighboring communities Bone Baw and Kwae Ta Lin stopped chainsaw logging in their forests as well. Some chainsaws were handed over to the Forest Department in Nga Phe town, and only two or three chainsaws are now kept in Sar Pauk and Myay Latt for domestic use, like cutting firewood, removing fallen trees or when timber for house constructions of community members have to be processed.

Thus, while initially slow in responding, the people eventually did adapt customary law to address the problem of uncontrolled small-scale logging by community members. However, enforcement of the new rule against outsiders proves more difficult. The lower lying forests in Sar Pauk have allegedly been thoroughly logged out by people from the villages nearby.

The two communities have a different approach in involving the government in enforcing their rules (and the law!) against outsiders. Myay Latt has a Community Forest agreement and therefore contacts to the Forest Department. In 2017, three cases of illegal logging were reported to the FD. FD officers came and helped in the negotiations with the trespassers. It was agreed not to report the case to the police (also because the culprits seem to be related to Myay Latt villagers) and fines were paid to Myay Latt community. The FD did not ask for anything. It was also agreed that in case of repeated trespassing the culprits will be brought to the police. However, experiences with the police were not encouraging, as will be described below when discussing the difficulties of enforcing management rules in their community forest.

Sar Pauk villagers asked the police for help in dealing with people caught doing illegal logging in their forest. This has happened a few times already and the police allegedly came in most cases, unless they were busy with something else. Fines were also paid to the community and put into the village fund. Sar Pauk never approached the FD for help in dealing with illegal logging because they do not have any connection to the FD.

Sar Pauk community decided to apply for a Community Forest Certificate. Being neighbors of Myay Latt they learned about the CF there. Community members had also attended a training on FC organized by the Department for Rural Development of the Myanmar Baptist Convention in 2014. In a village meeting the idea was discussed and it was agreed to apply for a CF. The discussion on applying for a CF has been going on for about three years already, and presently a group of people has been put in charge of finding out how to apply. Before applying, they would like to have awareness raising on CF, customary forest protection, the importance of biodiversity etc. among the community members. Nobody in the community has so far read the new Community Forest Instruction of 2016.

The main reason for considering to apply for a CF certificate in Sar Pauk is their wish to protect the forest, especially in the lower-lying areas where they have so far had difficulties in controlling illegal logging. The other reasons are the wish to do reforestation and to ensure that the community's needs for forest products, in particular timber, can be met in the future. With a CF certificate, they hope, they can enforce their forest protection rules better.

10 Years Experience with a Community Forest Certificate: Myay Latt community

The people of Myay Latt call the community forest *may thing tau*, which means “our forest”. The officially certified area covers 100 acres on both sides of the Minbu-Ann road (see Fig. 28). It came about not so much because of the perceived need to conserve the forest in that location but to protect it from land grabbing.

In 1992/93 the Burmese Army had started land confiscations across the country. During the construction of the Minbu-Ann road passing through Myay Latt’s village land in 1993 and 1994, the army had camps in that area, and they and the road construction laborers used community land near the road for growing food. In 1995, the army erected sign boards along a stretch of the road announcing the confiscation of land. People were worried and were looking for a solution, which, without any legal recognition of their land rights, was not easy to find. At that time, U Kyaw Sein, a Christian Missionary of the Church of Christ from Mawbi near Yangon stayed in the area to do his missionary work among the villagers, some of whom at that time still followed their traditional belief while others had already been converted to Baptism.

U Kyaw Sein was a friend of Dr. Tun Than, from whom he learned about the possibility to get a CF Certificate, that might help prevent the impending land confiscation. In early 2004 the application was submitted to the Nga Phe Forest Department. Dr. Tun Than also connected Myay Latt community to the Japan International Cooperation Agency (JICA), which had a community forest support program at that time. In mid 2004 and again in 2005, JICA project staff gave trainings to the Forest User Group (FUG) members on how to run FUG and FUG committees. Allegedly, they had also given a grant for motorcycles and PVC pipes for the construction of a gravity water provision for a planned tree nursery, but neither the money nor the good ever reached the community.

The area designated by the community as CF and for which they applied for certification is on both sides of the road where the military had erected the sign boards. The land in that area was used for shifting cultivation and agroforestry, and is owned by 33 households, who have a total of 42 plots, i.e. some households own more than one plot. 29 of the plots are owned by people from Myay Latt, 7 from Bone Baw, 4 from Kya Ta Line and 2 from Goakkyi. Of the 33 owners, only 26 were interested in joining the FUG. 21 of them are from Myay Latt (at that time all households, now there are 22), two from Kya Te Lin and three from Bone Baw.

There seem to have been problems in the way the FUG was formed. There are rumors about complaints with regards to lack of transparency and that people were forced to join with the threat that otherwise they will lose their land. Whatever happened during the formation of the FUG, its legacy still weakens the FUG.

The Forest User Group

The 26 members of the FUG and the seven land owners that did not want to be part of it agreed that latter were free to use their land as they pleased, i.e. they did not have to abide by the rules of the FUG, but that in case of problems with the FD the FUG would not help them. So far there has not been any problems with the FD.

The composition of the FUG, i.e. a majority from Myacy Latt and a few members from two other communities, and the fact that land owners of that area are not members, have been weak points of the FUG from the beginning. Another weakness is that there are no women in the FUG. The FUG does not appear to be well institutionalized. Initially, meetings were held every two months, but attendance continuously dropped over time, especially of those from the other villages. Now, meetings are held only when there is an emergency. But even then, only few people attend and actions, like writing complaint letters, are taken only by the two core members of the seven-members Executive Committee, i.e. the chairman and the secretary. At the same time, FUG members from communities other than Myay Latt complained about lack of transparency of the FUG management. It does not come as a surprise that the monthly reports that are supposed to be submitted to the FD have hardly ever been written.

Decisions are supposed to be taken by all 26 members jointly, but is difficult to achieve. One of the contentious issues was the proposal to allow extraction of poles and timber from the CF. The lack of income from CF is often mentioned as a weakness of the CF. However, other members argue that the purpose of the CF is protection of forest, and not extraction for sale. They are correct in the sense that the CF was established under the CF Instruction of 1996, which does not allow extraction for commercial purposes. However, the CFI of 2016, which replaces the previous one, does allow this, but none of the FUG members seems to know the new CFI and it has never been discussed in the FUG.

The FUG has agreed to keep 70% of the CF as protected forest, and allow agroforestry on 30% of the area. Members are allowed to use wood, bamboo and other forest products from the protected forest, also from plots that do not belong to them if its owner gives permission.

The reservation of 30% for agroforest of course means that some land owners are not allowed to do agroforestry on their plots, while other are. Allegedly, if the former want to do agroforestry they would be given a plot in the area where it is permitted. It seems this hasn't been much of an issue so far, but it is unlikely that this regulation is feasible in the long run if demand for agroforest land increases. After all, the CF is all along the main road and therefore a preferred area for establishing agroforests.



Fig. 24. FUG members in a part of the Community Forest where agroforestry is allowed.

Therefore, the fact that members are from different communities – those from Myay Latt being in the majority –, the unequal rights among members with respect to agroforestry, and the presence of land owners who are not members of the FUG are potentially conflictive and may explain why the FUG is not functioning well.

It seems that the FD has not been of any help to strengthen the FUG. Support with respect to enforcement of forest protection rules has been minimal. While in some cases FD officers allegedly came to help in negotiations in cases of illegal logging by community members, they were unwilling to take action when loggers were caught and brought to them.

The police's support in enforcing the law has been somewhat erratic. In some cases when villagers took trespassers to the police station they were told to take them to the FD (where they were told that they had no legal basis for giving punishment, which may be formally correct since there is no provision to that effect in the Forest Law with regards to CF). In one case, the police did impose a fine of 50,000 kyat, but the FUG members did not get a compensation. Allegedly, loggers were caught often and taken to the police, but they did not follow up and therefore didn't know whether they were punished. Illegal loggers usually get away with a bribe.

The lack of law enforcement, i.e. the absence of consistent punishment of violators, and therefore any discouragement for further trespassing, has been mentioned as one of the main problems the FUG is facing in running the CF. It is no surprise that many FUG members are frustrated, disillusioned and not very committed to the CF anymore.



Fig. 25. Degraded bamboo grove due to overharvesting by outsiders



Fig. 26. Regenerating deciduous forest in the protected part of the Community Forest

The FUG was not successful in the planned growing of seedlings for reforestation and agroforestry. They identified the lack of water provision for the nursery, good seeds and technical knowledge as the main reasons. It seems that the FD has so far not provided any technical support or training in silviculture to them.

There are also rumors circulating with respect to compensation money for the gas pipeline that crosses the CF, i.e. that community members are envious of the FUG members who had received money. It turns out that such allegations, if indeed made, are unfounded because until today no compensation has been paid. However, such rumors, even though untrue, should be understood as an indicator for tensions within and between communities that have arisen in connection with the way the CF has been created, how it operates and how it is perceived by others. In a self-assessment, FUG members mentioned misunderstanding about the CF in the wider society as a source of conflict.

Table 05. Participatory problem analysis by members of the FUG

Period	1970-1980	1990-2000
Misunderstanding about CF among FUG members	Not all people attend meetings	Need to discuss more often
Unsuccessful in planting seed	<ul style="list-style-type: none"> • Unsystematic method • Far from water source • Don't have good quality seed 	<ul style="list-style-type: none"> • Ask help from experts • Do testing themselves • Get nursery training • Construct water provision (pipe and tank) • Make nursery near water source and water-storing trees
Don't get any benefits from CF yet (i.e. sale of poles, firewood, charcoal)	Lack of agreement among members	All members need to discuss and take a decision
Illegal logging by outsiders	<ul style="list-style-type: none"> • No regular patrolling • Lack of strong punishment 	Follow-up with police
No well-organized FUG meetings	<ul style="list-style-type: none"> • Members are from three villages • No reason to have monthly meetings 	Resume regular meetings every two months

CF and the pipeline: Protection of rights – or not quite?

The problems that the FUG is facing are not new or unusual for communities trying to manage a community forest in Myanmar, or even elsewhere in the world.⁶⁹ They are very similar to what has been reported from other experiences with CF in the country: weak institutionalization of FUG due to lack of capacities, lack of support for enforcement from the FD, lack of technical support in silviculture and lack of tangible benefits in the form of cash income, among others.⁷⁰

The FUG members reported an improvement in the quality of the forest and therefore the availability of forest products, but they generally found that they have so far not benefitted much from their efforts. However, after all, the reason for applying for a CF was not forest protection nor expected benefits in terms of income, it was to protect their land from being grabbed by the military. And in this respect the CF seems to have been successful, even though it is impossible to know whether the military would have pushed through with the intended confiscation of the land if there was no CF.

Whether the CF provides sufficient protection of their rights was, rather unexpectedly, put to a test a few years after the CF certificate had been awarded. In 2012, the Myanmar-China Pipeline Project that brings gas from the offshore gas fields in the Bay of Bengal off the coast of Rakhine State to Yunnan in China reached Myay Latt and was built right through the CF.⁷¹

There was no prior information, not to mention a process of obtaining the communities' consent. The people of Myay Latt came to know about the pipeline when the contractors started digging on their land. They tried to stop them from continuing, arguing that they have the right over the CF. The FUG members even built a fence to prevent the construction from continuing, but they received a warning from the authorities that they will be arrested if they dared to continue obstructing the project.

The FUG members went to mark the trees within the 30 to 35 m wide and 1.7 km long track to be cleared for the pipeline inside the CF and asked for compensation for the trees and the damage to the land. They calculated that an area of 22 acres of forest and orchard land would be affected by the gas pipeline, including the area for the 1-acre area pumping station. They calculated and demanded a compensation of 150 million kyat (1500 lakhs). Negotiations started in which the secretary of the CF met with representatives of the MOGE and the Forest Department as well as the town administrator. A representative of the Chinese company was allegedly present at a meeting as observer. The FUG was offered a compensation of 22.9 million with the argument that only the destruction of trees would be compensated not any damage to the land since the land, as part of the Reserved Forest, belonged to the government.



Fig. 27. Signboards erected by the Myanmar-China Pipeline project. The deforested pipeline track through the community forest is clearly visible in the background.

Since the FUG members will not be allowed to plant trees or any other tall perennial plants on the land in which the pipeline is buried it is de facto lost. They did not accept the 22.9 million kyat compensation offered and negotiations are still ongoing, although no progress seems to be made.

Similarly, an electric power line was constructed across Myay Latt's village territory, but very little compensation was paid, only for the destruction of trees on the few square meters of land on which the masts were built. No compensation was given for all the trees that were cut along the power line in-between the masts.

The case of the gas pipeline compensation clearly reveals the limitations of the CF in protecting the rights of Myanmar's indigenous communities. The construction of the pipeline was done without the Free, Prior Informed Consent which indigenous communities are entitled to according to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which has been supported by the Myanmar government when the UN General Assembly voted on it. There was no consultation at all, the people were not even informed about the project. The pipeline was built in total disregard of the presence and the rights of the people living on and off the land on which the pipeline was built. Not even the fact that some people had a CF certificate was reason enough for the government to consider prior information or consultation.

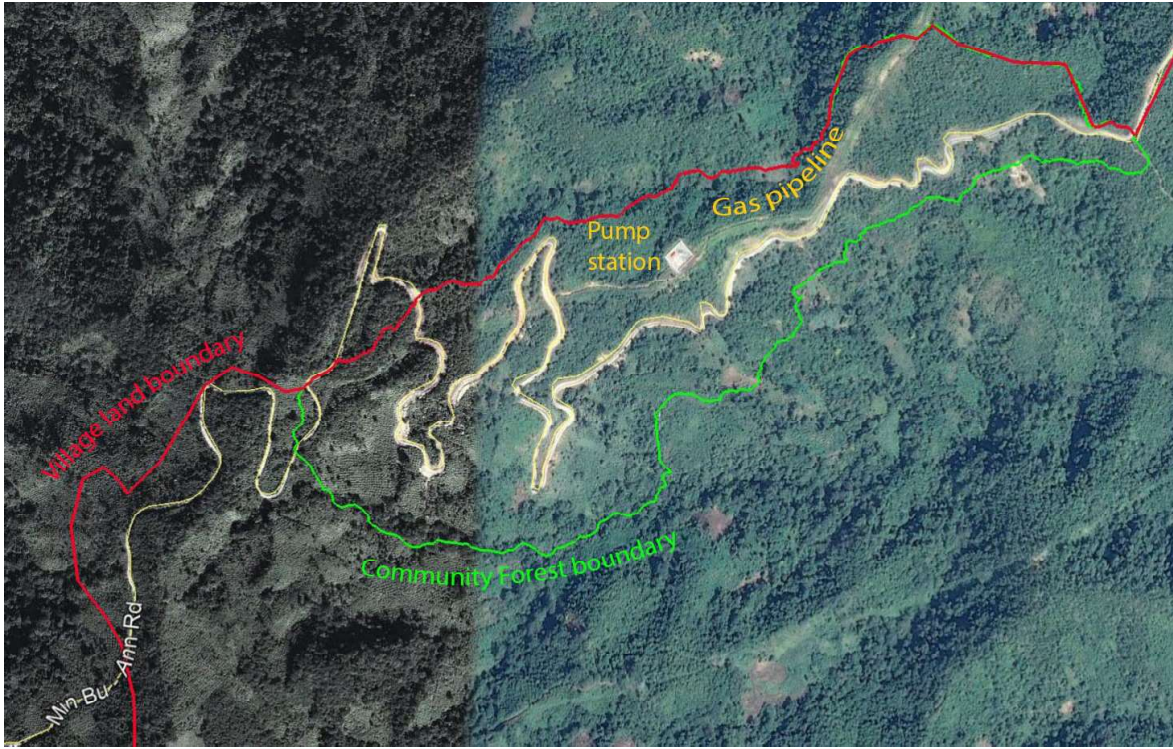


Fig. 28. Satellite image of Myay Latt's community forest along the Minbu-Ann road clearly showing the gas pipeline track and the pump station



Fig. 29. FUG members on the pipeline track cut through the Community Forest. It will have to be permanently kept in this condition.

Only when people complained and tried to oppose the project were they heard. Then the CF certificate was recognized as a legal basis for claims made by the FUG. However, the arguments used by the government in the compensation negotiations clearly reveals the limited protection a CF certificate offers. As a lease agreement it does not confer any ownership, but merely use rights over the CF. During the negotiations it was unequivocally stated that the Forest Department remains the owner of the land and any claims can be made only for lost benefits from the forest products destroyed by the construction of the pipeline, and only for the already standing trees, not those that would eventually grow or become larger over the ensuing two decades until the expiry of the lease.

Of course, all this does not come as a surprise since the CFI has never claimed to provide more than limited use rights over forest areas that is considered state property. Nevertheless, as this case also illustrates, communities use it precisely because they hope it will give them protection against land grabbing. However, many may not be aware how little a CF certificate actually means in the face of more powerful interests.

What alternatives?

Community members in both villages know little about the CF in general, and only a few leaders who are involved in advocacy work of CSOs and have more frequently attended trainings and workshops, know about the new, much improved CFI of 2016. Knowledge about the National Land Use Policy, in particular part 8 on the customary rights of ethnic nationalities, other national laws or international legal instruments for the protection of indigenous peoples' rights, like the UNDRIP, is limited to these very few people.

Sar Pauk community decided to follow Myay Latt's example and apply for a CF with the hope that it will help them protect the more vulnerable parts of their forest closer to the lowlands. Myay Latt community decided to apply for an extension of another 370 acres. When asked why they do not consider applying for their whole village territory (all of it lies inside Man Reserved Forest), one of the leaders said that they want it only for the area they intend to keep under forest cover and don't want to include their agricultural land, "because the land belongs to the government". Clearly, some of the community leaders are well aware of the limitations a CF certificate has for the protection of their rights, and, having been involved in the current discussions on the recognition of customary tenure and indigenous peoples rights among CSOs in Myanmar, they are hoping, and waiting for, a better possibility for protecting their communities' rights.

Some leaders shared that their vision is that the communities' ownership over all their land is recognized. Some put their hope in the current peace process, in which decentralization of land and resource governance is one of the priority issues, and that customary tenure will be legally recognized in a future Federal Union.

The communities of Bone Baw and Kywe Ta Lin also decided to apply for a CF, covering an area of about 400 acres.⁷² They also want to apply to the FD to change the boundary of the Man Reserve Forest. In 2012 it was redrawn in such a manner that the settlement areas and much of the agroforest land became part of it. For this land it would be possible to obtain use rights certificates ("Form 7"). However, some of their leaders are of the opinion, and try to convince the other community members, not to do that but to aim for the recognition of the customary rights over all their land. Going for a CF is considered an interim step and only with respect to forest land, because at the moment there is no better alternative. Knowing that entering into an agreement with the FD on a CF implies the recognition of the State's ownership of that land, one of the leaders said that since their village territory measures about 7000 acres, "we can give 400 acres to the Forest Department".

The strategy chosen by the leaders of Bone Baw and Kywe Ta Lin, much like in Myay Latt and Sar Pauk, shows that as people make their experiences with CF and as some of them get more involved in the discussions on the recognition of customary land rights and the rights of indigenous peoples in general, they are trying to strike a balance between pragmatism – a CF certificate now is better than nothing – and the desire to get genuine protection of their rights in the future.

The study conducted in Sar Pauk and Myay Latt communities is a testimony of how indigenous communities in Myanmar try to cope with everyday livelihood challenges in the context of a restrictive legal and policy environment. It shows how people nevertheless make use of whatever opportunities exist to strengthen both livelihood security and control over their land and resources. There are a number of conclusions that can be drawn from this study, which can inform advocacy on the direction the much needed legal and policy reform in the land and forest sector should take.

Customary land management, livelihood security and forest conservation

After over 300 years of settlement and land use, forest cover, the fertility of the land and biodiversity in the territories Myay Latt and Sar Pauk have been well preserved.

Thus, we can conclude that

- Customary land use and management ensures livelihood security of the people, sustainable land use and biodiversity conservation

However, current government policies do not recognize customary land use and management systems and ban shifting cultivation without providing feasible alternatives. This creates hardship for the people in the two communities. Thus,

- Present government policies on land use and in particular shifting cultivation undermine rather than strengthen people's livelihood security

Decades of uncontrolled logging by outsiders with the involvement of the communities themselves have severely degraded forests. Very little action has been taken by the Forest Department, but in recent years communities have decided to impose rules on timber extraction. The experiences made show that

- Customary law can be adapted to changing conditions and proves to be effective within communities to regulate forest use, but less so in dealing with outsiders
- Enforcement of rules against outsiders needs the support from the government, i.e. the Forest Department and the police

Community forestry, livelihood and tenure security

The study of experiences in Myay Latt generally confirms some of the positive findings of other studies that, namely that

- Overall, CF does benefit both forests and communities
- However, benefits, as allowed until recently by the CFI of 1995, are too limited and the requirements too demanding for people to sustain their commitment
- Likewise, the study confirms some of the key problems identified in other assessments:
- Enforcing conservation rules is too difficult without dedicated and consistent support from the FD or the police

The new CFI instructions of 2016 are a big improvement, and would address at least some of the problems identified by the FUG of Myay Latt. However, what remains unchanged is the nature and extent of tenure security afforded by a CFC.

- provides some tenure security but as a mere temporary use right it is a rather weak legal instrument for the protection of indigenous communities' rights to land and resources against other, more powerful interests

Communities and their leaders have learned from past experiences and are assessing the options they have. Their shared visions, expressed intentions and their actions show that

- Community leaders are aware of the limitations of CF and consider it only a preliminary, interim solution in their long-term effort to secure the full recognition and protection of their communities' rights, a pragmatic choice in a context of the lack of legal alternatives.

Based on the findings and conclusions of this study, the following recommendations are made for policy makers, international development partners, CSOs and community-based organizations to be considered in their future discussions and actions in order to strengthen forest, land and resource governance in Myanmar:

Regarding customary land use and management

1. Recognize the customary land use and management systems of indigenous communities
2. Recognize shifting cultivation as an agroforestry system that provides for both subsistence and cash needs of farmers
3. Support efforts of farmers to cope with climate change and increasing cash needs, like experimentation with new rice and other crop varieties, including cash crops
4. Support experimentation with increasing the productivity and value of fallow, for example through introduction of valuable perennials or harvesting of forest products, including NTFP, wood for poles, firewood or charcoal
5. Recognize the value of customary land and forest management for biodiversity conservation and explore possibilities for collaboration with communities in the protection of biodiversity, in particular endangered species, including the option of establishing Indigenous Community Conserved Areas (ICCA)

Regarding Community Forestry

1. Conduct awareness raising on the improved CFI of 2016, its potentials and limitations
2. Explore how the new CFI can be applied to get maximum benefits and tenure security over all community land

Regarding laws, policies and possible alternative strategies for tenure security

1. Raise awareness on relevant laws and policies such as NLUP, the land law, VFV law as well as international legal instruments such as the UNDRIP among communities, government agencies, locals CSO, international NGOs, bilateral and multilateral donors
2. Support communities in demarcating and mapping their territories and in strengthening and adapting their customary law on resource management and conservation
3. Step up advocacy for the recognition and protection of customary tenure, land use and management (in particular shifting cultivation), above all for the implementation of the NLUP and the amendment and harmonization of all laws in accordance with the NLUP.
 - For that, initiate regular advocacy strategizing and coordination among CSO
 - Seek allies in key government agencies (MoNREC, FD etc.)
 - Seek the attention and support by high-level policy makers, i.e. parliamentarians, politicians, ministers)
 - o Advocate for better inter-agency sharing on, and coordination between ongoing programs among governmental, bilateral and multilateral organizations
4. Support the efforts by representatives of ethnic nationalities in the peace process in negotiating for decentralized land governance

1. FAO 2015. Global Forest Resources Assessment 2015: How are the World's Forests Changing? Myanmar. Rome: FAO
2. <http://www.trust.org/item/20140326124321-kpqqdz/?source=hptop>
3. FAO 2015 op.cit.
4. <http://www.trust.org/item/20140326124321-kpqqdz/?source=hptop>
5. UN-REDD Myanmar web-site: http://www.un-redd.org/AsiaPacific_Myanmar/tabid/104264/Default.aspx
6. Tint et.al. op.cit., FAO 2016 op.cit.
7. Management of Vacant, Fallow and Virgin Land Law of 2012; see the paragraph on "Legal status of village land and forests" further below
8. POINT 2016. Customary Land Tenure: Case Study in Myay Latt Village. Yangon: POINT; POINT 2016. Customary Land Tenure: Case Study in Sar Pauk Village. Yangon: POINT
9. Statement made by the representative of the National Human Rights Commission in the National Policy Dialogue on the Rights of Indigenous Peoples in Myanmar, Nay Pyi Taw, 2-3 February 2017. One of the outcomes of this policy dialogue was in fact the recognition of the need to settle once and for all the issue of the definition of indigenous peoples in Myanmar and the choice of the right term in Burmese.
10. See e.g. Gravers, Mikael and Flemming Ytzen (eds.) 2014. Burma/Myanmar – Where now? Copenhagen: NIAS Press, p. 148, 149. Literally, it means "sons/offspring of the geographical division", Transnational institute and Burma Centrum Netherlands 2014, op.cit., p. 5
11. See Gravers and Ytzen op.cit., p. 148; Transnational institute and Burma Centrum Netherlands 2014, op.cit., p. 5
12. This term is actually used– though only once – in the Ethnic Rights Protection Law, in paragraph 5, chapter IV which provides, rather vaguely, for some form of right to consultation for htar nay taing yin thar. In the English version of the ERPL it is however translated as "local ethnic groups".
13. See. E.g. Tauli-Corpuz, Victoria 2008. The Concept of Indigenous Peoples at the International Level: Origins, Development and Challenges; in: Christian Erni (ed.) 2008. The Concept of Indigenous Peoples in Asia. A Resource Book. Copenhagen/Chiang Mai: IWGIA
14. Chao, Sophie 2012. Forest Peoples: Numbers across the world. Moreton-in-Marsh, UK: Forest Peoples Programme, p.3
15. Based on the figures given in Chao op.cit., i.e. 33.574 million forest dependent people and between 14.4 to 19.2 million indigenous, most of whom reside in forested uplands and are considered forest-dependent.
16. Khaine, Inkyin, Su Young Woo and Hoduck Kang 2014. A study of the role of forest and forest-dependent community in Myanmar. Forest Science and Technology Vol. 10, No. 4, December 2014, p. 198
17. Htun, Theint Theint, Yali Wen¹, Aye Chan Ko Ko 2017. Assessment of Forest Resources Dependency for local livelihood around Protected Area: A Case Study in Popa Mountain Park, Central Myanmar. International Journal of Sciences, Volume 6 – January 2017 (01), p. 42

18. Kollert, Walter et.al 2017. Forests and trees supporting rural livelihoods: Case studies from Myanmar and Viet Nam. Rome: FAO, p. 4
19. Ibid., p.5
20. E.g. Ewers Andersen, Kirsten 2011. Communal Tenure and the Governance of Common Property Resources in Asia. Lessons of Experiences in Selected Countries. Land Tenure Working Paper 20. Rome/Bangkok: FAO; Walker Painemilla, K. et.al. 2010. Indigenous Peoples and Conservation. From Rights to Resource Management. Arlington, VA: Conservation International; Durst, P.B. et.al. 2005. In Search of Excellence: Exemplary forest management in Asia and the Pacific. Bangkok: FAO; Jaireth, H. and D. Smyth 2005. Innovative Governance. Indigenous Peoples, Local Communities and Protected Areas; Colchester, M. and C. Erni 1999. Indigenous Peoples and Protected Areas in South and Southeast Asia. From Principles to Practice. Copenhagen: IWGIA
21. Ewers op.cit., p.7
22. Tint, Kyaw, Oliver Springate-Baginski and Mehm Ko Ko Gyi 2011. Community Forestry in Myanmar: Progress & Potentials. Ecosystem Conservation and Community Development Initiative and School of International Development, University of East Anglia, p. 2
23. Food and Agriculture Organization of the United Nations (FAO) and Ministry of Environmental Conservation and Forestry (MoECaF) 2016. Report on An Assessment Framework on the Extent and Effectiveness of Community Based Forestry (CBF) in Myanmar. National Assessment Report, January 2016, p. 1
24. UNFCCC web-site <http://www4.unfccc.int/submissions/INDC/Published%20Documents/Myanmar/1/Myanmar's%20INDC.pdf>
25. Tint et.al. op.cit., p. 8
26. FAO 1978. Forestry for local community development. FAO Forestry Papers, No. 7. Rome, Food and Agriculture Organization of the United Nations
27. Gilmour, Don 2016. Forty years of community-based forestry. A review of its extent and effectiveness. Food and Agriculture Organisation of the United Nations, p. 2
28. However, long before it has been argued that the term community-based management should be used in order to distinguish resource management and conservation practices merely "involving" local people from those in which communities are the main actors and decision-makers, and that 'community-based forest management' should be used only to refer to "initiatives that are primarily controlled and legitimated from within a community" and not to externally driven initiatives with some degree of participation of communities. (Owen J. Lynch and Kirk Talbott 1995. Balancing Acts: Community-Based Forest Management and National Law in Asia and the Pacific. Washington: World Resources Institute, p. 25).
29. See the comprehensive review of experiences in: Gilmour, Don 2016. Forty years of community-based forestry. A review of its extent and effectiveness. Rome: FAO
30. Tint et.al. op.cit., p. 9
31. Ibid., emphasis in original.
32. Food and Agriculture Organization of the United Nations (FAO) and Ministry of Environmental Conservation and Forestry (MoECaF) 2016. Report on An Assessment Framework on the Extent and Effectiveness of Community Based Forestry (CBF) in Myanmar. National Assessment Report. Food and Agriculture Organization of the United Nations, p.3
33. Aung Kyaw Naing, Community Forestry Partnership Coordinator at RECOFTC Myanmar, personal communication
34. FAO and MoECaF 2016 op.cit., p. 4
35. Tint et.al. op.cit., FAO 2016 op.cit.

36. Op.cit.
37. FAO and MoECaF op.cit., p. 38
38. Tint et.al. op.cit.
39. Ibid., p. viii
40. Ibid., p. viii
41. Ibid.
42. Ibid.
43. Ibid.
44. Ibid.
45. Ibid.
46. Ibid., p.x
47. Ibid.
48. Ibid.
49. https://en.wikipedia.org/wiki/Arakan_Mountains
50. Ethnologue web-site: <https://www.ethnologue.com/language/csh>
51. Ibid.
52. Ibid.
53. Ibid.
54. Tabin Shwe Htee was the founder of the Toungoo Empire and ruled from 1530 to 1550. Genealogies of the descendants of Pok Lung Taw stretch over 13 generations, which would put the time during which he lived some 325 to 390 years ago. This does not tally with the years of the rule of Tabin Shwe Htee. One explanation for the gap is that according to some informants some descendants and thus generations have got lost from memory. Another explanation would be that the name of the rules is mistaken. In any case, Goakkyi is at least 350 years old.
55. All demographic data presented here for both Myay Latt and Sar Pauk are based on the household survey conducted as part of the study. Official population census data was not available.
56. From 48 households included in the survey out of the total of 51 households.
57. Chapter III, paragraph 4.
58. Forest Legality Initiative: <http://www.forestlegality.org/risk-tool/country/myanmar>
59. Oberndorf, Robert B. 2012. Legal Review of Recently Enacted Farmland Law and Vacant, Fallow and Virgin Lands Management Law Improving the Legal & Policy Frameworks Relating to Land Management in Myanmar. Yangon: Food Security Working Group's Land Core Group, p. 22
60. Ibid.

- ^{61.} Aung Kyaw Naing, Community Forestry Partnership Coordinator at RECOFTC Myanmar, personal communication
- ^{62.} In Myay Lat it is pronounced lo
- ^{63.} Its seeds are used to make castor oil, which has been used as a medicine for centuries and is used today in the health, cosmetics and other industrial sectors
- ^{64.} Dr. Salai Tun Than was also a human rights activist during the military dictatorship. He was arrested in November 2001 for staging a solo protest against violations of human rights in front of Rangoon City Hall. On May 4 2003, after serving 18 months of the seven year sentence, he was released together with 17 other political prisoners.
- ^{65.} There are minor dialectical differences between the languages spoken in Myay Latt and Sar Pauk. For example, shifting cultivation is called lo in Myay Latt, loe in Sar Pauk.
- ^{66.} The transformation of common property to individual ownership rights as a result of the change of land use from shifting cultivation to permanent land use is very common in the region. See e.g. Nongkynrih, A. Kyrham 2005. The Privatisation of Indigenous Community Land in Meghalaya. Indigenous Affairs 2/05. Copenhagen: IWGIA
- ^{67.} Due to limited time, this table contains only a very preliminary and incomplete compilation of the species known by the people of Sar Pauk. Identification of species names in English was based on descriptions and the help of photographs.
- ^{68.} The forest cover of the land used by Myay Latt has not been mapped for this study, partly because land is still jointly used with the neighboring communities Bone Baw and Kywe Ta Lin and there has not yet been any boundary demarcation between them.
- ^{69.} For a global review see e.g. Gilmour 2016 (op.cit.), for a review in the Asia-Pacific region RECOFTC 2013. Community forestry in Asia and the Pacific: Pathway to inclusive development Bangkok: RECOFTC – The Center for People and Forests; for Myanmar Tint et.al. op.cit.
- ^{70.} Tint et.al. op.cit.
- ^{71.} In December 2005, PetroChina, a company that belongs to the state-owned China National Petroleum Corporation (CNPC), signed an agreement with the Myanmar Government to buy natural gas over a 30-year period. Under the Myanmar-China Pipeline Project the 771 km long gas pipeline delivers natural gas from Myanmar's offshore fields (A-1 and A-3 Shwe oil field) on the coast of Rakhine State to Kunming in Yunnan Province in China. From there the pipeline will extend to Guizhou and Guangxi in China and have a total length of 2,806 km. The Myanmar section of the gas pipeline was completed on 12 June 2013 and started operating on 21 October 2013. It is owned jointly by CNPC and Myanmar Oil and Gas Enterprise (MOGE). With a 50,9% stake the pipeline is run by CNPC. Source: https://en.wikipedia.org/wiki/Sino-Myanmar_pipelines
- ^{72.} There have been attempts by some leaders to convince Myay Latt, Bone Baw and Kywe Ta Lin communities to apply for a joint CF. After all, land ownership is very complex and there are already complaints by people from the latter two communities about the intended 370 acres expansion of the CF by Myay Latt, that it covers land forest owned and is anyway too large for such a small village. There are close kinship ties between the three communities and one should expect that this helps in coming to an agreement. However, divisions along religious lines – Myay Latt being mostly Church of Christ, the others Baptist – seems to be the main reason why this is unlikely to happen.