Recognition of Customary Tenure in the Mekong Region: An Online Dialogue

Summary Report with annex
WHY AN ONLINE DIALOGUE?

This dialogue provided a way for the land community to collaboratively explore challenges and opportunities related to the recognition of indigenous, ethnic minority and customary tenure rights in the Mekong region in order to:

- Identify issues of common interest;
- Compare and contrast regional and international contexts and experiences to inform potential strategies and actions at country and regional level; and
- Generate a regional-level synthesis of key challenges and opportunities to contribute to solutions.

An online venue was used to increase information exchange between participants inside and outside the region.

As a pilot for expanding dialogue in the Mekong region and beyond, the online discussion facility proved effective. At the close of the dialogue, 54 comments had been made by 33 individuals, including both nationals and expatriates in the region, as well as experts from abroad, and activists from Africa and other parts of Asia. More than 1100 people had visited the discussion, and there were almost 2100 page views.
WHY DISCUSS CUSTOMARY TENURE?

In the Mekong region, the majority of people living in poverty depend on land and natural resources for their survival but lack secure rights to it. This insecurity of tenure serves as a disincentive to invest in the land and leaves communities exposed to land expropriation by the state and commercial interests, as well as powerful individual actors. Government grants of land concessions to investors, land speculation, forest exploitation and internal migration all impact rural communities’ access to land and resources vital to their livelihoods. As communities often occupy land granted to investors, widespread dispossession can result in violent conflicts.

The lack of formal recognition and safeguards of customary land and tenure arrangements is one of the most contentious and complex issues in the region. Weak tenure governance is especially detrimental to indigenous peoples, ethnic minorities, and rural communities that may have customary and collective land rights but lack formal recognition.

Remedies are also complex. They require adequate policy and legal frameworks that support community-level governance of land and natural resources, together with competent and responsible national and local level institutions. Citizens must be aware of their rights and how to exercise them. The private sector must also be aware of the rights of communities and their responsibilities toward them. The Voluntary Guidelines for the Governance of Tenure (VGGT) are an important international reference when it comes to the recognition of customary tenure by states and by other stakeholders, particularly investors.
KEY TAKE-AWAY MESSAGES

What constitutes customary tenure and why is it important?

Participants largely agreed that:

- Customary tenure are the local rules, institutions and practices governing land, forests and fisheries that have, over time and use, gained social legitimacy.
- Customary tenure covers a range of land types including agricultural land, as well as forestland, grazing land, and fishing areas and spiritual/burial sites.
- Customary systems include both land that is managed collectively and areas with individual/family claims.
- There is a continuum between communal and private rights, with various intermediate rights. An example is the right to cultivate a plot of land as long as the family is in the village and to sell that land within the village, but not to outsiders.
- In customary tenure systems, people have different rights to different resources, including rights of access, use, manage and transfer.
- Although customary tenure systems are more prominent in upland areas and often associated with the land practices of indigenous and ethnic minority groups, customary tenure is not restricted to indigenous people or particular ethnic groups. Customary tenure is also important for lowland communities and their management of communal forests, grazing land and fisheries, as well as some forms of rotational swidden cultivation practiced by non-indigenous people.

While this list is neither exhaustive nor definitive, it does point to how customary tenure is more narrowly interpreted and given limited recognition in some countries. Addressing various forms of exclusions may require taking a step back and asking: What is it important to recognise under customary tenure, for whom and why?

What are the challenges in achieving recognition of customary tenure in the Mekong Region?

Participants noted that:

- Recognition of customary tenure by Mekong states remains limited.
- However, recent policy and legal developments suggest that Mekong governments are prepared to embrace some form of community-based recognition.
- The development of legislation, in most Mekong countries, recognising communal land as a category of tenure makes communal titling an important (yet also problematic) element of customary tenure recognition. The exception to this is Vietnam where policy reforms for ethnic minority land rights are centred on the devolution of state-owned forests to local communities and households.
- Legal developments do not translate into adequate protection and security of customary land for indigenous and local communities. There is dissatisfaction with the limited scale and scope of change, as well as its slow pace.
• Sometimes the laws themselves are problematic. Many continue to restrict who can lay claim to customary land and the size and type of land that can be claimed and managed by indigenous and local communities. One example of this is Cambodia where the statutory recognition of customary tenure is only possible for communities classified by the state as “indigenous” and where land under communal titles is limited to agricultural land, thus excluding important aspects of communities’ livelihood base such as forests. Proving “indigenous” identity is itself a lengthy and difficult process, excluding communities who have lost use of their native language or whose population has been diluted with migrants of other ethnicities.

• Differing interpretations of laws and inconsistent implementation at the local level complicates the recognition and management of customary tenure.

• There are obstacles to communities exercising their rights, such as cumbersome procedures for obtaining communal titles, and limited access to legal redress in cases of disputes and infringements.

• The extension of state land classifications into communal titles leads to a fracturing of customary systems whose separate components fall under the jurisdiction of multiple ministries.

• The formalisation of customary tenure through communal titling often results in incomplete coverage compared to the land that people actually use, thus reducing the amount of land available to villagers. There is the risk that current communal titling efforts could result in a patchwork of “islands”, whereby surrounding land [some of which was previously used by villagers] becomes “available” for other purposes. Communal titling can thus be a “double edged sword”: on the one hand, it can provide a means for formalising tenure, thereby increasing security for smallholder farmers, but, on the other hand, it can reduce the amount land available to communities through restrictions that limit the land included in the titled areas, while exposing surrounding land as “available” for the taking.

• This clear demarcation of boundaries may also “enclose” communities to a restricted area, possibly converting communities into “encroachers” if they access resources outside of demarcated areas. In extreme circumstances, it can lead to a significant reduction in communities’ resource base with impoverishing effects. Examples of this can be seen with the Forest and Land Allocation program in Laos, which severely limited communities’ access to shifting cultivation land.

A key question continues to be: How much land are states willing to give under communal titles?
Opportunities to strengthen customary tenure recognition and protection

Ideas for how to increase and strengthen customary tenure recognition and protection focused on two broad areas described below.

1. Technical aspects of customary tenure recognition

Many discussants pointed to the complicated, multi-step procedures that make communal land registration and titling a long and costly process allowing time for encroachments to occur and even accelerate. Reflecting on lessons on communal land titling from Cambodia and Laos is important, particularly in the light of Myanmar’s critical juncture with customary tenure recognition.

Alternative modalities for customary tenure recognition using simplified procedures that are affordable, accessible and transparent were also discussed. The discussion reflected a variety of perspectives on what approaches would be most effective. Suggestions included working with what already exists (e.g. village territories) and taking an “area-based” approach to tenure recognition (such as “ancestral domains” as is the case of the Philippines.)

It was noted that achieving simplified procedures may require a trade-off with technical accuracy. It may be more feasible to start with the preliminary participatory mapping of village boundaries that can cover larger areas with fewer resources. Local authorities may approve these maps without the need to go through final and authoritative determinations of existing rights and claims. In this sense, Myanmar has lessons to share with the other countries, as various local groups have already started working with communities to collaboratively document their customary systems and produce their own maps, and entering into dialogue with village track administrators for government approval.

2. Building political will and shifting the balance of power

Participants offered a variety of observations and suggestions on how to expand the “constituency” for customary tenure recognition.

- Identifying government allies who are willing to collaborate and promote customary tenure recognition within the system is important.
- Harmonised strategies between donors could strengthen efforts to influence more progressive policies and institutions.
- Strengthening tenure recognition through formalisation must be combined with a number of other strategies, including addressing key threats to community land, especially large land concessions. More broadly, there is space to further question current models of large-scale agricultural development, given that many are not delivering expected economic returns and are generating greater levels of inequality.
- Communities must be prepared to both secure and manage their community land titles. Building the capacity of communities to lead the development of maps and management plans, as opposed to waiting for the government to grant recognition, can be an effective measure against encroachment by the state and companies.
- The private sector also has an obligation to recognising customary land rights. There should be more attention on the benefits that those companies, with actual intentions to invest for long-term business, gain via a transparent process for customary tenure recognition that also increases the security of their investments, avoid conflicts and reduce reputational, financial and political risk. A “carrot and stick” approach may be needed, involving both collaborative approaches to work with companies to improve practices as well as approaches that expose the actual ‘risk’ of non-compliance.
This online dialogue was organised two weeks ahead of a regional multi-stakeholder workshop on customary tenure, held on 7-9 March in Nay Pyi Taw, Myanmar. The issues that emerged online helped frame the questions for discussion at the workshop, and orient participants towards a common understanding of customary tenure, including the strengths and weaknesses of different legal frameworks and approaches to recognising customary tenure. The key outcomes of the regional workshop are summarised in a document available here.

Workshop participants identified ideas for regional collaborations and exchanges, which will serve as a basis to explore potential future actions. These may include, for example, a study visit to the Philippines to learn about their approach to formal recognition of communal land, customary institutions and communal management of forests; training and capacity building for government actors on customary tenure, including case studies of effective policies and practices; and collaborative research engagement. Workshop outcomes will also inform the production of policy briefs with recommendations that can serve as a basis for future policy dialogues on customary tenure recognition at both country and regional level.

Through its Learning & Alliance and project funded activities, MRLG will continue to work with a diversity of partners in Cambodia, Laos, Myanmar and Viet Nam to find entry points to strengthen the recognition of customary tenure in both policy and practice.
Ian Baird, University of Wisconsin-Madison, differentiated customary tenure from traditional tenure arrangements of indigenous peoples, emphasizing that customary tenure applies to many non-indigenous groups as well. However, in countries such as Cambodia, communal land titling is only available to groups defined by the state as indigenous. Baird contrasts this with Laos, which does not limit access to communal land titles to specific indigenous communities.

Christian Castellanet, MRLG, agreed with Baird’s analysis, also indicating that in much of the world (e.g. China, France), customary tenure is recognized in modern law. He noted how 11,000 communal forests covering 2.5 million hectares are essential to Switzerland’s rural economy and its traditional high value cheese production.

Stuart Ling, an independent consultant working in Laos, differentiated between two models of community titles in Asia, namely the ‘permanent title’ model and the ‘delegated management’ model. In the first, formal ownership is transferred to the community (e.g. Philippines and Cambodia), and does not differentiate between different land types; while in the latter, the government maintains ownership while delegating the management of specific land types and resources to the community (e.g. Laos).

Baird responded to Ling’s comments pointing out that communal land titling in Cambodia does not really conform to this model as land is managed differently for agriculture and forestry. While agricultural land is included in the communal titles, forest land is excluded and remains as state public land. In Laos, all land is owned by the state. He suggested that the best option for Laos may be a model that would allow for communal titles with similar standing to individual titles, but not allowing sales. A key question, however, is how much the land the government will be willing to include in the communal titles. In Cambodia, he noted, NGOs have become frustrated with the slow nature of the community land titling process and have on occasion withdrawn from the effort.
Responding to the question of what would be required to strengthen the recognition of indigenous, ethnic minority and community tenure rights in the region, World Bank and FAO Consultant Shivakumar Srinivas, outlined five avenues for initiating reforms to community tenure recognition, including: 1) a pro-poor approach to protection and recognition of customary rights; 2) comprehensive legal reform; 3) measures to further democratize land administration and management, and build community confidence in the processes initiated; 4) securing benefits for indigenous, ethnic, local and marginalized groups; and 5) working with the government and educating policymakers. He offered three practical steps to take this forward: making new regulations and guidelines on customary tenure understandable and usable by state agencies to secure policy support; mainstreaming indigenous and community tenure rights within government’s tenure and forest reforms; and improving local capacities of respective governments (national and subnational) and non-government actors to gather information on land ownership patterns and socio-cultural factors that affect them.

Michael Dwyer, Associated Senior Research Scientist with the University of Bern’s Center for Development and Environment (CDE) pointed out limited coverage of community land titles in Cambodia, and perhaps also Laos, is a key issue to look out for.

Florian Rock, a Freelance Consultant on Land Management, Land Tenure and Spatial Planning, drew attention to the necessity of differentiating between different forms of incomplete coverage or exclusion. The Cambodian government, he said, may have intentionally made the communal land titling framework slow and cumbersome, thereby opening the door to land speculation. Also, Cambodia’s systematic registration approach is subject to various exclusions with only 5 land categories considered for collective land registration in indigenous communities: residential land, agricultural land, reserved land (shifting cultivation area and forest fallows), cemetery forests, and spiritual forests.

Social anthropologist Kirsten Ewers described Cambodia’s communal land registration process as tedious. She suggested that since reserve land, including fallow land, spiritual land, and burial forests, remains classified as state public land, even within the communally titled areas, it is still at risk of being lost by communities. She also pointed out that community tenure land classification may be subject to multiple government agencies, further complicating the process of community land titling. This is the case in Cambodia, Laos and Myanmar.

Rock noted that the Cambodian government recently reclassified community "reserved" land as "private state land" within a communal titled area. Changes in land classification from "public state land" to "private state land" is generally on a case-by-case basis, requiring individual sub-decrees approved by multiple government agencies. This adds another layer of bureaucracy to the communal land titling process.

Ewers observed that sporadic land registration of indigenous communities’ communal land engenders a very high cost, with estimates of each community registration costing as much as $30,000.

Ling described how the World Bank/Finland SUFORD (Sustainable Forest and Rural Development) project had prepared a draft Guidelines for registration and communal titling of village use forests in production forest areas in March 2015, but observed that these are unlikely to be approved by the Laos government.

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Kate Rickersey, Mekong Regional Land Governance (MRLG) Team Leader, opened the dialogue, describing its over-arching goal as “to contribute to practical solutions for the advocacy and recognition of customary tenure across the region.”

Kanokwan Manorom, Mekong Program on Water, Resilience and Environment Research (M-POWER), emphasized the disappearance of customary land tenure in Thailand’s wetland areas due to large-scale infrastructure development projects, including 15 major dams and reservoirs that devastated wetland-dependent livelihoods. The commodification of natural resources undermined not just customary tenure systems but social systems and relationships as well.

Bringing in the experience of Uganda, Simon Daale, underscored the importance of participatory and inclusive processes for recognizing and documenting customary tenure so that communities can influence decisions that may affect the customary control of their land.

Uchendu Chigbu, Technical University of Munich, recalled that customary tenure is a compendium of cultural norms, beliefs and practices relating to the who, what, when, where, why and how land is used by a people, in connection with lifelong practices.

Mi Kamoon, Ethnic Community Development Forum (ECDF) - Myanmar, said that customary land management systems in Myanmar are most prevalent in upland ethnic minority areas and are based on strong connections between people and their land. Customary tenure systems allow for sustainable and self-reliant livelihoods and constitute decentralized and participatory governance and judiciary systems. To counter threats to customary tenure, Kamoon advocated for the legal recognition and protection of customary land management systems by community organizations. She recommended enshrining community land rights in the constitution, establishing a moratorium on land acquisitions in areas where customary land management systems exist, giving women the right to inherit and own land, and documenting and advocating for legal recognition of customary land management systems by community organizations.

Hong Ngo Van, Center for Indigenous Knowledge Research and Development in Vietnam, emphasized the importance of traditional institutions in enforcing strict customary law and supporting communities to engender a strong sense solidarity. He said that when combined with a good understanding of the law, this can help to protect traditional land and forests from outside interference. Having fended off illegal logging for 30 years, the Uyen Phong community in Vietnam’s Quang Binh province is a demonstration of this.

Le Lan, FORLAND Vietnam, underscored the informality of customary tenure systems for gaining access to natural resources based on unwritten customs and practices, and that securing customary tenure rights of ethnic minority groups are key to protecting traditional cultures, livelihoods and natural resources.
Sao Sotheary, Wildlife Conservation Society (WCS) in Cambodia, observed that development projects in Cambodia have been harmful to indigenous communities, especially when they have violated Cambodian law and involved government corruption. She recommended empowering indigenous people through increased awareness, legal education, and legal assistance concerning traditional rights to land and natural resources. She also emphasized the importance of building the capacity of communities to optimize the use of natural resources, such as professional development for farmers and artisans, and to research, document and disseminate information on and indigenous peoples’ rights through advocacy at national and international levels.

Yun Mane, an indigenous Phnong from Mondulkiri, Cambodia, stressed significant improvements in regard to legal recognition of the collective land rights of Cambodia’s indigenous peoples, as described in the 2001 Land Law, the 2009 policy on indigenous peoples, and a sub-decree on indigenous land registration detailing procedures for communal land titling of indigenous lands. She qualified these as progressive with respect to other countries of the region, still noting slow implementation due to long, complicated and costly community titling procedures. This has left untitled communities vulnerable to encroachment.

Attorney George Cooper suggested that the most effective and efficient way to recognize indigenous peoples’ tenure rights in Cambodia would be to amend the 2001 Land Law, to make explicit that all community lands belong to the indigenous communities using them, and adding provisions specifying that these lands may not be provided for any other private purposes whatsoever. He noted that such an amendment could also provide for rapid provisional demarcations of these lands pending formal registration.

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Poch Sophorn undereigned the ineffectiveness of Interim Protective Measures (IPM) to secure land rights of Cambodia’s indigenous peoples. He described how prohibitions on the sale, lease, encroachment, or transfer of land claimed by indigenous communities, were not applied to areas the government had identified for investment prior to the adoption of the IPMs in 2011, and in other cases were inconsistently enforced. He re-affirmed that IPMs are no substitution for community land titles.

Julian Derbidge and Viladeth Sisoulath, GIZ-Laos, noted that customary land tenure has been inadequately recognized in Laos, and that the government campaign to register land and issue land titles in rural areas, especially for community lands, has fallen short. They identified 5 major elements to enhance the recognition and protection of customary tenure: 1) strengthening community management; 2) legal education and grievance mechanisms; 3) tenure analysis as compulsory part of granting concessions or contracting land leases and FPIC; 4) Participatory Land Use Planning and Management; and 5) equal treatment of customary land vs formally titled land in legislation. To expedite this, they suggested a fast and efficient survey of land plots and creation of comprehensive cadasters without land adjudication.

Abdirahman Issack drew attention to the fact that customary land rights are largely passed from generation to generation and are typically unwritten and kept in the collective memories of communities, safeguarded by community elders or leaders. Issack suggested that customary and traditional tenure can be differentiated in that customary tenure is specific to indigenous peoples and is non-transferable without the consent of the community while traditional tenure may be transferable with the consent of the owners.
Chansouk Insouvanh, World Food Program (WFP) - Laos, noted that although there are many organizations working to secure customary land rights and many countries have decrees that define legal recognition of customary tenure, legal knowledge regarding land rights and customary tenure remains limited. She called for educational programs targeting both affected communities and government officers to increase understanding of people’s legal rights. Insouvanh underscored the importance of communities managing matters themselves, as in the case of villages in Longsane Valley, in Laos’ Xaysomboune province, where villagers conducted their own land use mapping and land allocation, which was then recognized by the local government.

Manohar Velpuri, a land surveyor from Hong Kong, described a land rights approach developed by UNHABITAT in 2003, which identifies a range of possible forms of tenure, including informal and customary tenure systems, within a continuum. He suggested that land tenure types not based on formal cadastral parcels require new forms of land administration systems to address the concern of customary tenure rights in the Mekong region.

Sue Mark pointed out that customary tenure recognition may restrict the economic activities of communities. She noted how the internal management of common lands is pitted against land meant for commercial investments, with laws often restricting use of indigenous lands. Her examples of this included Bolivia, where indigenous land is not taxed but also cannot be divided, sold, or mortgaged, and Myanmar where commercial activities were not permitted in community forests until recently. Such restrictions challenge communities to meet their substantive needs. She emphasized the need for communities to benefit from economic opportunities, while retaining their traits of traditional governance of tenure, cooperation and equity.

Michael Dwyer recalled the case of the Lao village, B. Hat Nyao, often used as an example of an upland community that managed to successfully make the transition to a cash crop. However, research has revealed how external factors played a major role in that success. In this case, a former official helped the village get a cheap loan from a state bank. Such success may not be easily replicated without similar patronage.

Responding to a question by Dwyer about community land rights in Liberia, Mark clarified that Liberia’s Community Rights Law provides communities with land use rights to forest resources, but not land ownership rights. In effect, communities may have use rights over a certain portion of the forest and may transfer those use rights to a third under private or public arrangement. However, the state has the ultimate power over the land ownership and they may lease those right to a third party, such as a concession company. This has led to the state awarding forest concession contracts amounting to about 20% of the land.

Rock offered that an ideal solution would be for legislation to provide for full recognition of communal land, excluding the right to transfer or sell the land. For individual land in customary tenure areas, he suggested that options would be to 1) register the land as private, including the right to transfer and sell or mortgage the parcel; 2) provide a “restricted” private title allowing for sale only within the community; and 3) allow the community to decide private use rights within an area registered as communal land. The most crucial elements, suggests Rock, is that the community itself decides on which tenure regime and which title applies best to each area.
Ling explained how the leasing of communal land by communities to private industry for banana and other plantations has, in some cases, protected their land from privatization, while providing high incomes to the community. He suggested that the alternative of local villagers claiming private ownership would create winners and losers in the community. This highlights that in the context of increasing land shortage, threats to communal land are not only external but also internal within the community.

Derbidge, responding to both Rock and Ling on the issue of private versus communal titles, focused on the importance of distinguishing between unchangeable and changeable communal land and the question of majority consent within the community and the application of FPIC. He suggested this could be achieved by strengthening the Participatory Land Use Planning tool, through which communal areas in Laos are registered separately as plots according to their actual use. If this were to be the case, the resulting document would be binding, and any changes thereafter to privatize tenure would require the full participation and consent of the community, as well as the legal recognition by the local government.

Ewers explained procedures for recording internal rules and developing statutes, as described in her paper, “Study of Upland Customary Communal Tenure in Chin and Shan States: Outline of a Pilot Approach towards Cadastral Registration of Customary Communal Land Tenure in Myanmar.”

Quoc Can Truong, CIDSOMA-Vietnam, emphasized the importance of investigating, identifying and documenting cases of existing customary tenure systems, building the capacity for communities with customary tenure, strengthening community structures that enable the customary tenure system while maximizing the integration of the traditional community mechanisms into the official administrative structures and processes, and promoting the interaction of traditional communities’ leaders in the official administrative system. He also called for further piloting of community management of land, improving benefit sharing mechanisms and advocacy for the institutionalization of these mechanisms where possible.

Sotheary stressed that defending, strengthening and promoting the customary rights of the community is a necessity, and that the government has a responsibility to ensure communities are educated about community rights and are protected from outside investors. Regional dialogues that facilitate greater recognition of the rights of the community can serve to promote and protect community rights, she suggests, and are especially important in defending the rights of marginalized communities, such as the Rohingya in Myanmar.

Julia Fogerite, IUCN, highlighted how some Myanmar communities have used community forestry to defend against land grabs and strengthen their claims over forests, as documented by community forestry certificates. In other cases, particularly where customary tenure systems remain strong, community forestry is seen as undermining customary tenure by limiting claims to forests, sedentarizing shifting cultivation, and changing governance structures.
Srinivas warned against blanket calls by civil society groups for community tenure recognition, noting that formalizing customary tenure institutions can sometimes overlook the potential for elite capture and institutionalize inequality. He described the need for systematic development of minimum standards through checks and balances to prevent wrong practices within the communities or interference by outsiders. Srinivas also noted the importance of addressing some significant weaknesses inherent within community structures, as identified by research.

Vân Dũng Phạm, Culture Identity and Resource Use Management (CIRUM)-Vietnam, described three levels of engagement for strengthening the recognition of indigenous and community tenure rights. These are 1) the grassroots level via traditional land use planning, community landscape design, and local mapping; 2) engagement with local government authorities by sharing indigenous values and heritage relating to land and forests; and 3) targeting national legislators through a broad advocacy movement for indigenous and community land rights.

Gam Shimray, Asian Indigenous Peoples Pact (AIPP), made the point that communities with management plans, developed with community participation and founded on their traditional management systems, and with well demarcated boundaries (with or without GIS maps) have fared best in asserting community land rights. Even communities without land titles have successfully used their own maps, management plans and good practices as a defense against encroachment by government or companies. He concluded that community preparedness has proven crucial both before and after securing of community land titles.

Sophie Ruth Abe Samba, Transparency International Cameroon, suggested the best way to ensure that equity considerations are adhered to in customary systems is to empower women in land decision-making institutions and processes. Informing women about gender issues, their rights, the leadership roles they can play, and the impact they can have in local land development will help to ensure women’s participation in decision-making institutions and increase their ability to effectively influence policies for customary tenure systems.

Parnell concurred that the elevation of women from rural and indigenous communities to leadership roles might motivate some interesting shifts in how land conflicts are perceived and negotiated.

A member of RIC Vietnam noted the gap between land policies that describe a strong commitment to community land rights on paper and their actual implementation. After nearly 10 years working with Vietnam’s ethnic minorities, RIC realized that participatory dialogue is one of the most effective methods to solve land problems.

Dwyer described how 15 years ago, Laos’s land titling project “wrestled with many of the questions this forum been addressing,” resulting in the recommendation that “village boundaries should be used as a starting point for recognizing and establishing villager forest [and] land use rights. ... Land use rights held and registered in the name of the village would secure and protect customary rights.” This recommendation, however, was never acted upon. Dwyer suggested the following strategies for moving forward: 1.) Continue taking existing legal frameworks to the field; 2.) Expand efforts to make concessions more transparent, and link this explicitly to the issue of customary tenure recognition; and 3.) Put area-based recognition explicitly [back] on the agenda.

Facilitator, Natalia Scurrah, summarized key points of discussion mid-way through the dialogue and provided closing remarks. These are reflected in the summary report.
ADDITIONAL READING

Community Land and Natural Resource Tenure: Recognition: Review of Country Experiences
Recognition of Indigenous Peoples’ Customary Land Rights in Asia
Governing Tenure Rights to Commons
Gender-equitable Governance of Tenure of Land, Fisheries and Forests: a Right to Food Perspective
The Recognition and Security of Customary Tenure of Indigenous Peoples in Cambodia: a Legal Perspective [Eng] [Khmer]
The Recognition of Customary Tenure in Myanmar
Promise & Performance: Ten years of Forest Rights Act in India
The Political Economy of Land Governance in the Mekong Region
Common Ground: Securing Land Rights and Safeguarding the Earth
Overview of the Voluntary Guidelines on the Responsible Governance of Tenure (VGGT) [Eng]
Voluntary Guidelines on the Responsible Governance of Tenure (VGGT) [Khmer]
Voluntary Guidelines on the Responsible Governance of Tenure (VGGT) [Lao]

You can find more resources on customary tenure at these websites:

Land Portal’s library, the leading online destination for land-related information worldwide
Mekong Land Research Forum, aggregating land-related research
Open Development Mekong, an online platform aggregating information and data on development issues in the Mekong region.

To stay abreast of new developments and land-related news and publications, to access resources, and learn from and discuss issues with a wide range of people engaged in land issues in the Mekong region, please “like” and follow the MLIKE Facebook page.

Contact us:
Mekong Region Land Governance: info@mrlg.org
Land Portal: hello@landportal.info

This final version of the report now includes an annex detailing the contributions of participants. Published 22 May 2017.

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