



Land Grabbing in Myanmar:

Processes, Impacts and Compensation Issues

in Southern Shan State

February 2019



Funded by



Livelihoods and Food Security Trust Fund



European Union



GRAND DUCHY OF
LUXEMBOURG



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Swiss Agency for Development
and Cooperation SDC

PUBLISHING INFORMATION

The contents of this research paper may be reproduced and distributed for non-commercial purposes if prior notice is given to the copyright holders and the source and authors are duly acknowledged.

© Land Core Group 2019

Permission to share

This document is published under a creative commons license:

Attribution-NonCommercial-NoDerivs 2.0 UK

<http://creativecommons.org/licenses/by-nc-nd/2.0/uk/>

Published by LCG in February 2019

LCG: info@lcgmyanmar.org

Photo Credits:

All photos in this report were taken by the research team.

Technical Advisory Group

Professor Philip Hirsch and Dr. Tubtim Tubtim

Supervisor

Daw Yi Yi Win

(Research Coordinator- Land Core Group)

Researchers

Kyi Mya Yi Aye, Maw Maw Soe, Tin Nilar Htun

Field data collectors

Kyi Mya Yi Aye (FLU)

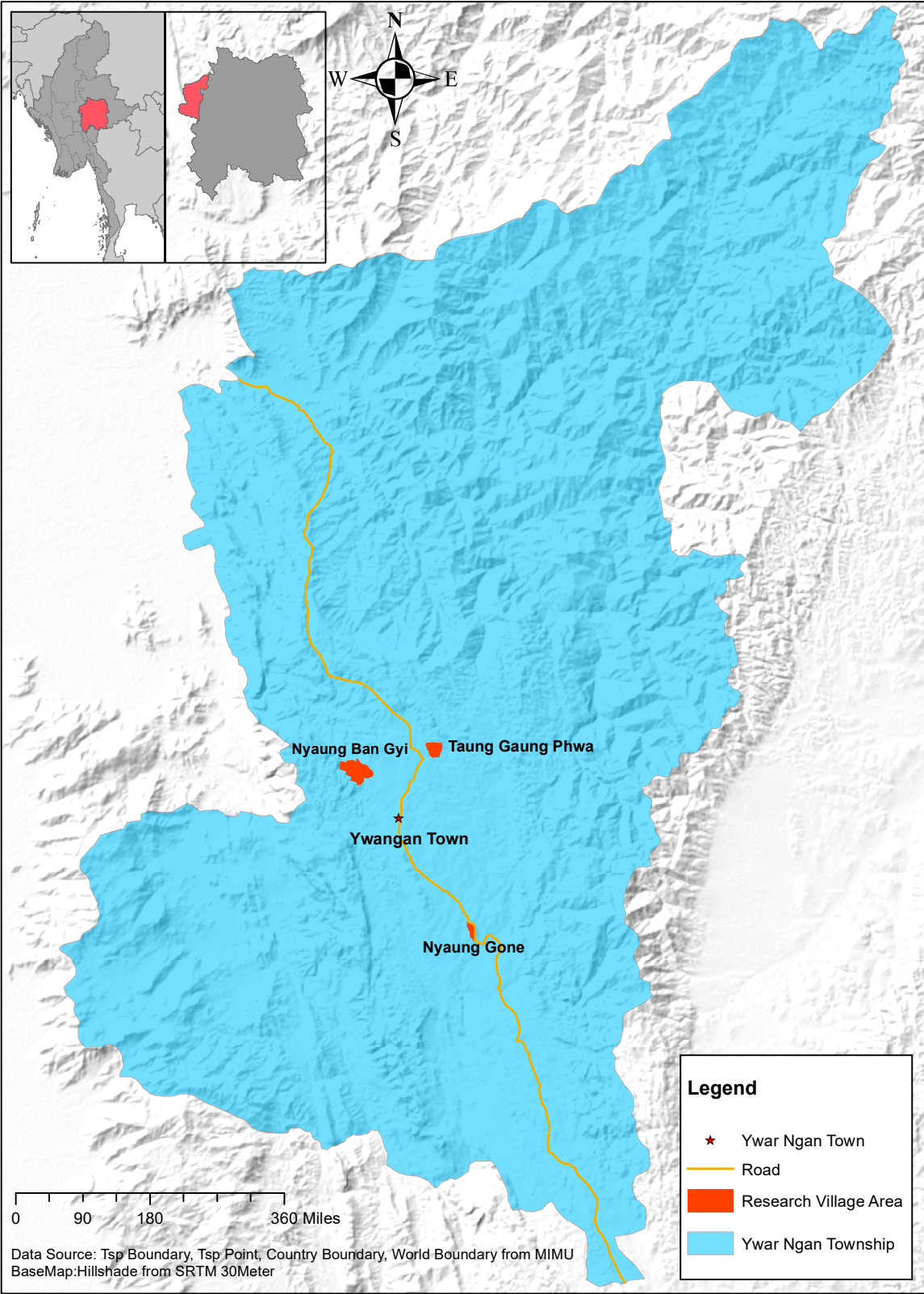
Mu HOUNG Pay, Sai Naung Pyae (ECFD)

Maw Maw Soe, Tin Nilar Htun (LCG internship)

Disclaimer

This document is supported with financial assistance from Australia, Denmark, the European Union, France, Ireland, Italy, Luxembourg, the Netherlands, New Zealand, Sweden, Switzerland, the United Kingdom, the United States of America, and the Mitsubishi Corporation. The views expressed herein are not to be taken to reflect the official opinion of any of the LIFT donors.

Research Area Map of Ywar Ngan Township, Southern Shan State



Introduction to LCG's Youth Capacity Development Program

This research report is one of three reports conducted in 2018 by aspiring youth through Land Core Group's (LCG's) youth capacity development program on "Research and Advocacy related to Land Governance and Land Issues in Myanmar". LCG initiated this program out of the belief that youth can play an important role in land policy reform and land governance in Myanmar. The program targets urban and rural youth across Myanmar, including ethnic nationalities. Some are interns working under the LCG research team, and others are youth from CSOs working in partnership with LCG on land issues.

The objectives of this program are:

- To build the capacity of youth and CSOs on research and advocacy to help them document land issues in a systematic way in their regions for the purpose of advocacy with their regional governments.
- To promote the role of youth in land law and policy reform processes to positively impact smallholder farmers, landless people and women through conducting advocacy research related to land issues as well as land governance and establishing engagement with the government for policy dialogue processes.

To enable them to conduct the research, the youth are provided training through a series of four sessions, on: (1) basic research concepts and proposal writing, (2) data collection methods, (3) data analysis, and (4) report and policy brief writing. The training is given by Dr. Philip Hirsch, a former professor at Sydney University, with input from Dr. Tubtim Tubtim, a researcher affiliated with Chiang Mai University. In addition to the training on research, they also receive training on advocacy, land-related laws and policy, facilitation, case study writing, and systems thinking.

The youth are assigned to conduct research studies on land issues in the regions where selected CSOs are working. They work together in teams, comprised of two LCG interns and three youth from the respective CSO. Together with a leader from the CSO, they identify a research problem and site for their study. Using their theoretical and practical training, they develop proposals, design data collection, collect data, analyze the data, and write reports and policy briefs – all under the guidance of the trainer, as well as LCG's Research Coordinator, who is present throughout the process.

Six youth interns, divided into three teams, participated in the program in 2018. Two of the interns, together with three members of two Shan State CSOs - FLU (Farmers and Land-Workers Union) and ECFD (Environmental Conservation and Farmer Development Organization) - conducted research on "Land Grabbing in Myanmar: processes, impacts and compensation issues in southern Shan State" in Ywar Ngan Township at Southern Shan State. Two other interns and three members of a

Mon State CSO – MRLUN (Mon Region Land User Network) - conducted research on “Companies’ Responsibility and accountability in resource extraction: a case study of quarrying in Mon State, Myanmar” in Paung Township in Mon State. The third project was carried out by another two interns with the coordination support of a Kayin state-based CSO - Hsar Mu Htaw. The research was on “Customary land tenure and security in mixed authority Areas: Case Studies from Kayin State, Myanmar” in Than Daung Gyi Township, Karen State.

The teams can all be proud of the skills they have acquired and the reports they have produced.

Yi Yi Win
Research Coordinator

Acknowledgements

This research has been implemented by Land Core Group (LCG). The program of which this research report is a part was supported by LIFT (Livelihoods and Food Security Trust Fund) and SDC (Swiss Agency for Development and Cooperation) . We thank the European Union and governments of Australia, Denmark, France, Ireland, Italy, Luxembourg, the Netherlands, New Zealand, Sweden, Switzerland, the United Kingdom, the United States of America for their kind contributions to improving the livelihoods and food security of rural people in Myanmar. We would also like to thank the Mitsubishi Corporation, as a private sector donor.

The researchers received helpful advice from a technical support group, Professor Philip Hirsch and Dr. Tubtim Tubtim. The LCG Research Coordinator Ma Yi Yi Win gave assistance and support throughout the process. Local civil society organizations in Shan State ECFD and FLU gave assistance during the data collection process, as did activists from the villages under study. Most important of all, this research could not have been carried out without the help of respondents from Nwar Ban Gyi, Taung Gaung Phwa, Nyang Gone villages who lost their land and participated with patience and enthusiasm during the data collection process. Our colleagues from other research teams in the research training program gave helpful feedback during the report writing process.

Abbreviations

LARC	–	Land Acquisition Reinvestigation Committee
MOALI	–	Ministry of Agriculture, Livelihood and Irrigation
VFV Law	–	Vacant, Fallow and Virgin Land Management Law
Form (7)	–	Land Use Certificate
Form (3)	–	Temporary Land Use Certificate by LARC
Form (105)	–	Certified Map
CT	–	Customary Tenure
ECFD	–	Environmental Conservation and Farmer Development Organization
FLU	–	Farmers and Land-Workers Union
MRLUN	–	Mon Region Land User Network

Contents

1. Introduction.....	1
2. Research problem.....	2
3. Research question	3
4. Methodology	3
4.1. Research Area.....	3
4.2. Research methodology.....	3
4.3. Approach.....	4
4.4. Challenges.....	4
5. Findings.....	6
5.1 Geography and the socio-economic situation of the research areas.....	6
5.2 The process and the cause of Land grabbing	6
5.3 Socio-economic condition of farmers before and after land grabbing.....	8
5.3.1 Socio-economic conditions of farmers before land grabbing.....	8
5.3.2 Socio-economic conditions of farmers after land grabbing	9
5.3.3 Life of Farmers.....	10
5.3.4 Life of Casual Laborers.....	11
5.3.5 Life of Tenant Farmers.....	11
5.3.6 Life of Migrant Workers	11
5.4 Restitution for land grabbing.....	11
5.5 Evidence of land ownership	15
6. Discussions	17
6.1 Discussion on land grabbing and its impact on the socio-economic situation of farmers	17
6.2 Discussion on compensation for farmers.....	17
6.3 Discussion on the evidence of land ownership	18
6.4 Discussion on the impact of orders in the restitution process	18
7. Conclusion.....	19
8. Recommendations	20
8.1. Government departments	20
8.2. Companies.....	20
8.3. Local communities	21
8.4. Civil society organizations.....	21
9. References	22

Executive Summary

Under the regime of the Military government in Myanmar, land grabbing has been both illegal and legal, the latter occurring under existing land laws which deprive farmers of secure tenure. Farmers lost their livelihoods as they have lost their land. Some land grab issues were settled by compensation and restitution while others were unsettled due to lack of compensation and restitution. This research has been done in three villages where 1376 acres of land were grabbed in order to do plantation by the military government in 1990, and in 1999 it was transferred to a company. This land grabbing affected the livelihoods and the socio-economic situation of the farmers who lost their land. In 2014-15, there was a compensation and restitution process by the company.

The main aims of this research is to study the process and the causes of land grabbing, the socio-economic situations of farmers before and after land grabbing, the responses to the compensation by the villagers, the restitution process by between 2013-2018 announcements and the effectiveness of the compensation and restitution process.

The research was carried out by collecting information from representatives of affected households and communities and through the use of secondary data. The research found that customary tenure was the main basis for livelihood activities of farmers before land grabbing and that livelihood activities changed greatly after the land grabbing. The report also describes the situation of farmers who have lost their land, the situation of daily workers who were farmers before land grabbing, the situation of tenant farmers and the situation of migrant workers. It describes the situation after 2013, when 150 acres of land were given back to some of the farmers who had lost their land, and it describes the compensation process. The research found that the compensation was not enough for farmers to replace lost livelihoods. Moreover, the inequitable and unevenly administered compensation process, to socio-economic conflicts between the villagers. The report describes the evidence of land ownership before land grabbing and applying for land use certificates (Form (7)) after 2012 under the Farmland Law. It describes the use of Form (7) for many reasons and the reasons for not having Form (7). It describes the process of submitting letters by the farmers who want their land back and field implementation of Land Acquisition and Reinvestigation committee. It also describes the perception of farmers who had lost their land on their land security in the future.

The report uses the key findings to make recommendations, to the government department, the company that got land use permit from the Vacant, Fallow and Virgin Land committee, local villagers and CSOs.

1. Introduction

Under the regime of the military government, rampant land grabbing occurred all over Myanmar. Land grabbing caused farmers to lose their land-based livelihoods as they lost their means of production. Land grabbing has been both illegal and legal, the latter occurring existing land laws deprive farmers of secure tenure. Legal land grabbing is land grabbed under the Land Acquisition Act of 1894, the Land Nationalisation Act of 1953, the National Housing, Town and Country Development Board Act of 1951, and the Land and Revenue Act. Regarding legal land grabbing, if people use the land for purposes other than those granted by the act, their land can be grabbed according to the Land Nationalisation Act of 1953, article 39 and the Land Tenancy Law of 1963 which grants land tenure only to people who do agricultural activities.

There have been many reasons for land grabbing across Myanmar. Among them, in Ywar Ngan (located in Danu self-administered zone of Shan State), land grabbing was caused by the military for agricultural activities. Back then, the military transferred land tenure to private companies. In transferring land tenure, lands of farmers who had legal registration and paid tax regularly for their land use were also included. Accordingly, farmers have lost the land they relied on for their livelihoods and land grabbing impacted on the socio-economic situation of farmers. The situation has forced some farmers to work as casual workers and as migrants to other places in search of work and to change from rotating fallow agriculture or shifting cultivation to sedentary farming because they have less land than they had before. After the adaptation of the Farmland Act of 2012, Myanmar has seen a return of the grabbed land to original owners and the payment of compensation by companies as part of the restitution process. On the other hand, the complications in the compensation process and ineffective restitutions cannot guarantee the land tenure security and better socio-economic situation of farmers.

Under these circumstances, in order to reinforce land tenure security of farmers, in support of developing land laws and policies, this research has been conducted in three out of five villages where lands were grabbed in Ywar Ngan township, Danu self-administered zone, Southern Shan State. The research studies the socio-economic situations of farmers before and after land grabbing, the causes of land grabbing, the role of influential stakeholders involved in land grabbing and their activities, and the effectiveness of laws, policies and instructions in restitution process.

2. Research problem

Myanmar has seen land grabbing throughout its history as an independent nation. During the tenure of the military government, some land grab issues were settled by compensation and restitution, while others are unsettled due to lack of compensation and restitution. Since the democratic government entered into power, we have been witnessing that farmers receive compensation for their grabbed land, or land restitution and returning of unused land grabbed from farmers. Similar cases happened in Ywar Ngan, Danu self-administered zone under the military regime from 1990 onwards. During that period, lands were grabbed by the verbal order of the military, and there was no land replacement or compensations at all. Around 1999, the military government granted land ownerships to the company. Farmers in the three villages where the research was conducted mainly relied on their land for livelihoods activities. During that time, they had sufficient income for their family, and the socio-economic situation was better than the current situation. However, after land grabbing happened in their area, farmers who lost their land have had to work as casual workers. Besides, after land grabbing, they have fewer acres of land and farmers can no longer do shifting cultivation. As a result, all family members have to work as casual workers, and the development of the region has been hindered.

In 2012, the Farmland Law was introduced, and in 2014, 150 acres out of land granted to the company were returned to original farmers under government instruction. At the same time, negotiations between farmers and the company for compensation and restitution have been seen. Also, the 150 acres out of 1376 acres granted to the companies have come under the jurisdiction and management of the Ministry of Home Affairs. Then in 2014, 150 acres of land were returned to 67 farmers under temporary land use form (3). The compensation process for land grabbed farmers was started in 2015. According to the compensation process, in two out of three villages; farmers in Nyaung Gone village received eight lakhs per acre as compensation and farmers in Taung Gaung Pwa village received ten lakhs per acre. There was no transparency in the compensation process of the company. From these side of villagers, they understand that the amount they received from the company was to compensate only for the income they could have made from cultivation during the period their land has been grabbed. In Nwar Ban Gyi village, the company has paid compensation to farmers who are not the owners of the land they grabbed. Thus, the unclear process has created disputes among original landowners and other farmers who withdrew compensation from the company. In the villages the research was conducted, some farmers accept the compensation from the company while others refused to take it.

Moreover, in the compensation process, corruption and complications are also seen. There are multiple stakeholders with different roles in the process of giving compensation and reclaiming land by farmers. The restitution processes are weak in compensating the socio-economic hardship facing farmers. Thus, the role of effective restitution has become significant.

3. Research questions

1. What are the reasons for land grabbing?
2. What are the socio-economic differences before and after land grabbing?
3. How did local people respond to the restitution process of the company?
4. How do government's laws, policies and instructions impact on returning land and the restitution process of the company?

4. Research methodology

4.1 Research area

This research has been done in three villages; Nwar Ban Gyi village in Nwar Ban Gyi village tract, Taung Gaung Pwa village in Kyaukmyaung village tract, and Nyaung Gone village in Myaing village tract. Data collection was conducted over ten days, between 3 May 2018 and 12 May 2018. The research was conducted in the three villages as differences are seen in the restitution process such as some farmers taking the compensation and others refusing to take it and some farmers attempting to get their land back.

Table 1. Research area

No	Village tract	Grabbed land	Village name	Respondents/ land grabbed house-holds	Land return households
1	Nwar Ban Gyi	About 300 acres	Nwar Ban Gyi	29/130	-
2	Kyaukmyaung	About 400 acres	Taung Gaung Pwa	25/200	-
3	Myaing	About 300 acres	Nyaung Gone	26/60	30/70

4.2 Research methodology

Semi-structured interviews, questionnaires, and qualitative research methodologies are used in the research. In data collection, respondents are selected as representatives of households and communities. In the groups representing the community, village leaders, hundred-household leaders, ten-household leaders and seniors (who could provide historical background) are included. The study also consulted relevant documents: a letter submitted to the office of Dr. Aung Thu, Union Minister of Agriculture, Livestock and Irrigation, a letter presented by Ministry of Agriculture, Livestock and Irrigation to the parliament responding to the question of a representative of Shan state, evidence of compensation, an appeal letter of farmers to return the land rather than compensation, and the list of farmers whose land had been grabbed in the three villages. The target group of the research is farmers who have had their land grabbed, including farmers who took the compensation, who refused to take the compensation and who claimed their land back. In interviewing the

representatives of the community, historical background, compensation process, socio-economic situations, and the effectiveness of laws, policies and instructions on the restitution process were studied. During the interviews with representatives of households, questions were posed regarding the compensation process and socio-economic situations. Besides, relevant documents were studied to understand the history of land grabbing, the compensation process and the role of government instructions impacting on the restitution process.

On the first day of data collection, snowball sampling was used. On the other days, with the help of a villager actively involved in the village development, available representatives of households and interested persons were gathered at a house and interviewed separately.

4.3 Approach

A pilot data collection was conducted in the initial process of the research. At the same time, the research team has got the approval from the three villages for conducting interviews. The team requested and received permissions from the office of Danu self-administered zone in Ywar Ngan Township, and the office of General Administration and informing village administration about data collections were undertaken. The research team is composed of three young researchers from ECFD and FLU, civil society organizations in Southern Shan state, and two intern researchers of Land Core Group.

4.4 Challenges

The time the research has been conducted has coincided with the time the villagers are claiming their land back. In answering research questions, the villagers were more enthusiastic to talk about getting their land back rather than discussing their socio-economic situations before land grabbing. Moreover, members of the research team are from CSOs that have been helping the local community in the process of claiming their land back and provided them with awareness raising training. As a result, local people's expectation on researchers to help them get their land back has become a challenge in the data collection process. Another challenge is that it is hard to find available persons to participate in interviews as it was the farming season, and it was sometimes difficult to understand local terms, while people's responses were disturbed during the interviews by the noise of others around them. Although people were interviewed separately, some people were reluctant to talk about their family's problems openly.



Informing to community members for research data collection



Collecting data for research purpose

5. Findings

5.1 Geography and the socio-economic situation of the researched areas

The research was conducted in three villages – Ngwar Ban Gyi, Taung Khaung Pwar and Nyaung Kone villages, Ywar Ngan Township, Southern Shan State, Dha Nu Self-administered Zone, where Buddhists from the Dha Nu ethnic group live.

Ngwar Ban Gyi village is located in the western part of Ywar Ngan township. Taung Khaung Pwar village is in the northern part of Ywar Ngan and Nyaung Kone village situates in the northern part of Ywar Ngan. Those villages were established over 100 years ago. According to the 2014 census, the number of households in Ngwar Ban Gyi, Taung Gaung Pwar and Nyaung Kone villages are 816, 350, and 160 respectively. Nyaung Kone village has a primary school. Taung Khaung Pwar village has a post-primary school. Moreover, Ngwar Ban Gyi village has a middle school and a rural clinic, but the other two villages have to rely on the hospital in Ywar Ngan for healthcare. The types of lands in the area are cropland, grazing land, forest land and vacant land. Until today, some farmers are still relying on traditional farming. Most of the farmers use their lands for growing paddy, mustard, sesame, groundnuts, tomatoes, corn, carrots, cabbages, tea, oranges and other seasonal crops. One-third of the households do not own land, and they have to work as tenant farmers on others' land, as casual labour, and as migrant workers in other regions. The reasons for being landless farmers are that:

- Their parents did not have land, and customary land rights cannot be passed to them.
- They sold their land, and
- Their land has been grabbed.

5.2 The process and cause of land grabbing

In 1991, the military government formed the Vacant, Fallow and Virgin Land Management Committee. According to the vacant, fallow and virgin lands implementation project, the government granted companies permits to operate agricultural and perennial plantations. In Ywar Ngan, around 1994-1995, the Military grabbed seven fields in five village tracts, 1,376 acres of lands in total, for agricultural purposes by verbal command. The owners of the grabbed land had receipts of annual tax payments under the name of The Union of Myanmar Economic Holdings Limited. In data collection, it is recorded that 17.5% of respondents lost all of their lands and 82.5% of those had land grabbed lost some of their land. The grabbed land included cultivated farmlands and cultivable wasteland for rotating fallow agriculture. Villagers said that soldiers placed flags on the lands of farmers and informed them that the military had captured those lands and farmers were told to cease farming. According to a report presented by the Ministry of Agriculture, Irrigation and Livestock to parliament, the military handed over the lands to the Company in 1999 without any documents. In 2001, the company was granted a thirty year lease as the stipulated period for those lands for agricultural and perennial plantations. The company has started perennial plantations on

some of the lands, but some other lands are still unused. The company allowed tenant farmers to use the land for farming up until 2015. When the news spread, the company stopped the tenant farming, according to the villagers. The tenant farmers had to do weeding for company's shifting cultivation which is one place per year and was paid ten baskets per acre as wages. Moreover, 13% of respondents answered that the company hired farmers as casual laborers when it was needed, 74% of those said there were no laboring opportunities and 13% of those said they did not know anything about laboring opportunities.

Regarding the community development program, 94% of respondents answered that the company did not carry out any program and 6% of those are do not know about it. Buffalos and cows were not allowed to enter the area of the company's land. When cows and buffaloes entered the prohibited area of the company, owners of the cattle had to pay fines in cash or in the form of labor if they cannot afford the fine. For the time being, the villagers are informed that their buffalos and cows are allowed to enter the previously prohibited area since the trees are already mature. In 2012, farmers were educated that they have rights to claim their land back through the awareness-raising on the rights by CSOs. As a result, they have attempted to get their lands back by approaching members of parliament, according to two thirds of the respondents. The farmers tried claiming back their lands with the help of parliamentary representatives and made requests of the authorities through demonstrations. At present, macadamia and mango trees are planted on 672.56 acres of lands. 283 acres of lands are used for other purposes. However, 271 acres have not been used. In 2016, 955 acres out of the grabbed land which was compensated by the company were registered as farmland. While the 283 acres of the land were being registered as land granted for industrial purposes, the farmers staged complaints, and the registration was suspended. The company has been negotiating with farmers on the claim for returning of the 271 acres of unused land grabbed from farmers. In conducting the survey, it was seen that 26 farmers from Taung Gaung Pwa village and 18 farmers from Ngwar Ban Gyi village who have not received any compensation were planning to submit a complaint letter to parliament. The Shan State investigation committee of land grabbing on farmlands and other kinds of lands surveyed and marked the 70 acres of 26 farmers and the (52.57) acres of 18 farmers who live in Taung Gaung Pwa and Nwe Ban Gyi village and do not take compensation. On the land of some farmers, the company has established perennial plantations. Therefore, the company has been negotiating with those farmers to pay the compensation according to the market price. In this case, a former administrator gave the advice to pay the market price because the company informed him that the farmers who claimed their lands back have invaded the lands granted to the company and are cultivating it. Thus, the administrator and parliamentary representatives had to request the farmers not to invade and promised that they would wrap up that case by December 2018. As a result, the farmers have been waiting for the resolution by the authorities. The farmers want the political parties to perform the returning process of their grabbed land in the 2020 election. They are hoping to be handed their grabbed lands by a committee set up to investigate grabbing of farmlands and other kinds of land, chaired by the country's Vice-President.

5.3 Socio-economic condition of farmers before and after land grabbing

5.3.1 Socio-economic conditions of farmers before land grabbing

Before land grabbing, 99% of the respondent farmers earned their livelihoods by farming and the remaining 1% worked in farming and other activities. The main livelihood activity of the village was shifting cultivation and cultivated annual, biennial and perennial plants. In shifting cultivation, villagers used to employ reciprocal labor. The villagers used two types of farming. The first one is that farmers divided a large piece of land into small plots and cultivated one plot after another yearly. Another method was cultivation of one plot in one field, and then another plot in another field yearly as the lands of the farmer were not in the same field. For a minimum one year, and up to three years, the farmers use to reserve the used land so that the land would be revitalized for replanting. For the reserved land, they did not need to pay any tax. However, for the land where they are planting, they have to pay annual land tax to the Settlement and Land Records Department. In the past, interviewed farmers whose lands have been grabbed produced crops sufficient to meet the needs of the entire family; they could even sell the crops to gain income for education, health and social purposes. Among the interviewed farmers, 90% could make an adequate income from the farm, and 10% could not. Previously, they used to hold annual traditional festivals and used to have a good relationship with neighboring villages. In the interviews, 95% of respondents answered that there were no arguments about farmland and 5% of those replied that there were some arguments, but they were resolved according to local customs and practices.



The photo of company implementing project on some acres

5.3.2 Socio-economic conditions of farmers after land grabbing

As some farmers lost all of their land and some have less land due to land grabbing, they are changing from rotating fallow agriculture or shifting cultivation to sedentary farming to earn their living. Since they do not have adequate land for their livelihoods, they have to buy rice for family consumption and borrow money for education and health, children have to drop out of school to work, and all family members have to work to support the family. Even though some farmers who own some acres of land can pass their customary land rights to the younger generations, some have no longer been able to pass their land rights to the next generation after the land grabbing. Thus, their children cannot continue traditional farming practices. Since they do not have adequate land for their livelihoods and cannot make sufficient income for the whole family, they have to do other jobs instead such as tenant farming, casual laboring, migrating to other cities in search of work, and working as civil servants and small-scale retailing according to Figure 1. Previously, they could make their living by their traditional shifting cultivation, and the farmers assisted one another, were united and got on well with each other. However, after land grabbing, these customs and behaviors have been disappearing.

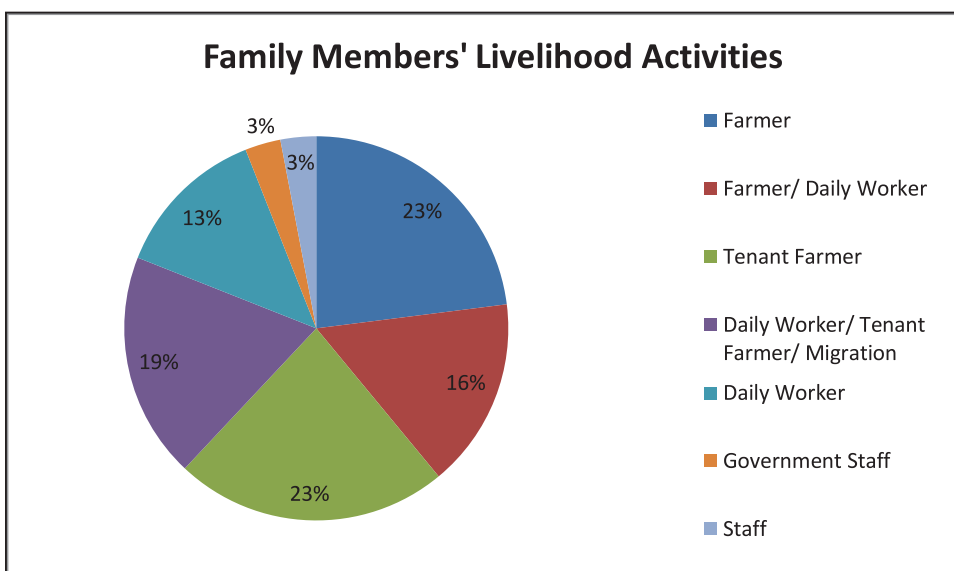


Figure 1: Family Members' Livelihood Activities

Source: Questionnaire survey



View of plots nearby Ywarngan township



Woman farmer

5.3.3 Life of farmers

During the interviews with the representatives of households, 63% of them work not only as farmers but also do other business, and 3% earn their living only by working as farmers. Since there is not adequate land for each household for their livelihoods, family members cultivate by sharing and alternating on the rest of the land. Some farmers borrow money for their farming and living expenses. If annual crops and plants do not grow well, they are not able to pay off their debts and sink deeper into debt. The households cannot make ends meet because commodity prices have risen and they do

not have enough crops to sell in the market. The two local people whose lost the most land to land-grabbing have changed their livelihoods by working as casual workers and tenant farmers. It has been seen that their family members are doing odd jobs such as tenant farming and casual laboring.

5.3.4 Life of casual laborers

As a result of land grabbing, 5% of interviewed people, who used to be farmers, are now earning their livelihood as casual workers. Casual workers mean tenant farmers, masonry workers, carpenters, workers in construction sites, bearers, and so on. Similarly, women also work in tenant farming and as casual workers in construction sites. Even though they can earn enough money per day, they cannot save any extra money for the future, and it is more difficult and harder to manage household expenses than before. They have poor health conditions resulting from their casual work, which is more physically demanding. Their families face financial difficulties when they cannot go to work due to their poor health.

5.3.5 Life of tenant farmers

The 13% of farmers who have had all their land grabbed and farmers who have fewer acres of land work as tenant farmers. Previously, as the farmers cultivated on their own land, they could produce sufficient paddy rice and crops for their family. At the present time, they work as tenant farmers on others' lands. Therefore, they have to pay landowners either money or crops, and it leads to low incomes for their families. In some cases, even though farmers want to work as tenant farmers, it is hard to find landowners who will rent out their land.

5.3.6 Life of migrant workers

Some households who have fewer acres of land and who lost their entire land have migrated to other districts in search of work. Most of the migrant workers have to work as wood and bamboo cutters. Two migrant workers said that they have poor health conditions resulting from their work in other districts. For example, some have had medical treatment for a long time and some die and become disabled because of work-related accidents and diseases. Although the migrant workers advance wages for their families, the money is not enough to cover their expenses. Therefore, their family borrows money and children have to drop out of school to work. As the family members are away from home for work, there is less time for the family time to get together.

5.4 Restitution for grabbed land

According to surveys in villages, 95% of respondents answered that the military did not give any compensation to villagers after land grabbing and 4% answered that they did not know anything. However, 1% of respondents replied that the military gave only compensation to the farmers for ploughing land. The compensation did not even cover the transportation fee to go and get it at their offices. Therefore, farmers did not go and take it. However, this compensation did not cover reserved land. The company that took over the lands also did not give compensation to the farmers. In 2012, an investigation commission on land grabbing cases was set up and investigations were

made according to policy and instructions. In 2013, the commission submitted its report to the parliament. As a result, in 2014, the military announced that 154,116 acres would be returned to farmers. Later, according to the reports of local media, the process of giving back grabbed lands to farmers took place across the country.

The farmers who had their land grabbed in the three villages where the survey was conducted have tried claiming back their lands with the help of CSOs and parliamentary representatives by submitting a letter to the parliament and asking questions. Soon after, the company discussed with farmers to accept compensation, and 150 acres were given back in 2014, according to the report submitted by the Ministry of Agriculture, Livestock and Irrigation. Farmers in Nyaung Kone village, which is one of the three villages where the research conducted, got back 70 acres out of the (150) acres of the give back land and farmers in the other two villages have not got back. In Nyaung Kone village, just 30 households out of 60 one got back the 70 acres of grabbed land. During the interviews, 4% of the people got back the entirety of their grabbed land, 11% got back just some of their grabbed land and compensation. The ministry gave back these lands with a temporary permit (form 3). After they received the land back with Form 3, the villagers applied for Form 7 from the Land Department.

After the adoption of the Farmland Law of 2012, the government had met with the company and the farmers who had had their land grabbed, and the government said that the company has to return the grabbed land to original owners and give compensation as part of the restitution process. As a result, the returned land and restitution process has been carried out, according to representatives of the community. 9% of the respondents answered that the company gave compensation as they submitted a complaint letter to parliament and 91% answered that they did not know anything about compensation for any reasons. At the first meeting, the company offered 300,000 MMK per acre as compensation to the farmer. However, farmers did not agree on the amount of compensation. Therefore, the company has raised the compensation amount after conducting several negotiation meetings with farmers. Then, a community estate agency was set up with seven members to conduct negotiations about compensation and to pursue farmers to take compensation. In the last meeting, the company negotiated only with those who would take compensation, but those who did not want to accept the compensation were not allowed to attend the meeting. Then, villagers agreed on 1,000,000 MMK per acre and signed with the company at the monastery of Ngwar Ban Gyi village. On January 21, 2015, a compensation disbursement ceremony was held at the Ywar Ngan town hall by the company for the farmers who decided to take compensation. On January 25, 2015, over 100 farmers demonstrated against the authorities and against the company with a demand to return their lands. Later, those farmers accepted compensation because the company asked some farmers and agents who have already received benefits from the company to persuade those farmers to take compensation. The farmers were told that they had to wait for 18 years to have their land returned because the company had been granted a long term lease to use the land. Therefore, they should accept the compensation while the company was offering it. If they missed that chance, they would lose not only their land but also the compensation for their land because there were some cases like giving out compensation to the wrong people, and these fraudsters had claimed and taken out the compensation, according to representatives of the community.

According to Figure 2, there were several reasons for accepting the compensation: several kinds of force, financial condition and embezzlement. Farmers who has lost land were faced with the following pressures. The company had threatened to the farmer that their land would be lost whether or not they accepted compensation. Thus, the farmers urge each other to accept the compensation. Some farmers said that those who got back their land would find it difficult to go to work because all of the neighboring farmers had accepted the compensation. Sometimes, a family member asked the farmer to accept compensation where the grabbed land had been family-owned. One of the reasons for taking compensation is the financial condition for family living, health, education and to repay debt.

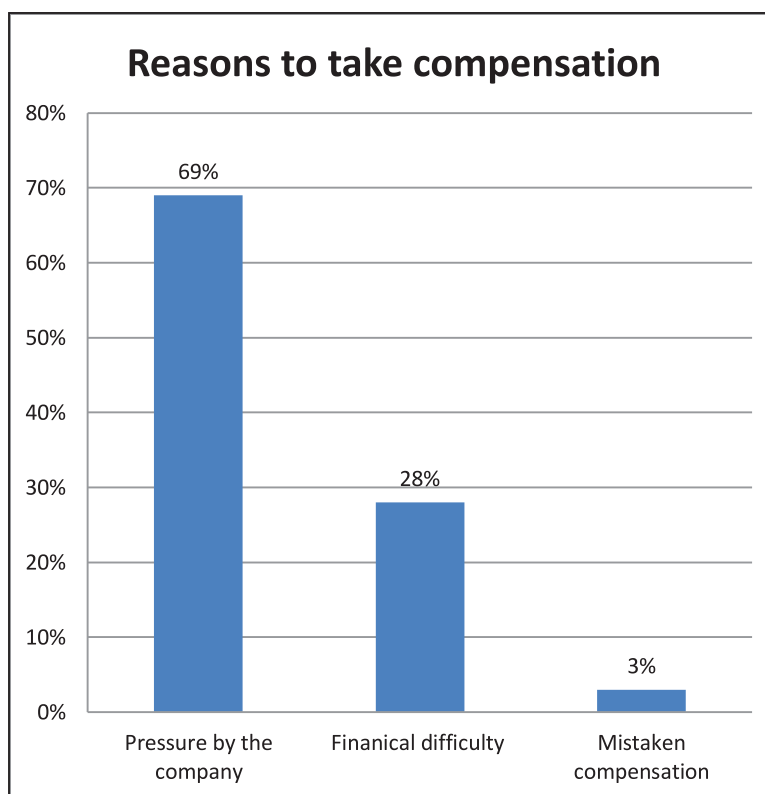


Figure 2: Reasons to take compensation

Source: Questionnaire survey

Embezzlement means the one who is not the owner had accepted compensation. One female respondent told of her experience that land which had been grabbed from her mother had been in her grandfather's name, so when the compensation was given her uncle claimed half of the compensation, a claim that was supported by the village leader. 28% of respondents told of embezzlement, 26% said there had not been embezzlement, and 58% told they did not know the details of the compensation arrangements. There were tensions between family and villagers because of embezzlement. Village festivals were suspended 3 to 4 years during these conflicts. As a follow-up, the villagers have been

weak in community affairs and in interrelationships with other villages. The farmers were told that they were not allowed to open the compensation envelope when they received it, and when they opened it later the amount was less than the agreed amount. They also did not know of any content of the contract, as they were not allowed to read the documents or are illiterate.

In the compensation process, embezzlement happened because the company did not allow the farmers who refused to accept the compensation to come to the company, the township farmland committee did not inspect the ownership of claimed farmlands, and farmers from Nwar Ban Gyi village did not know who took their compensation as their lands are located in Ywar Ma fields. Furthermore, some villagers said that unclear fonts on the name list could also be another reason for embezzlement. In some cases, farmers did not go through formal land trades. They did not change the ownership in purchasing farmlands. Farmers assumed that as long as they have mutual-trust between them, there would not be consequences of informal land trades. However, the informal land trades and unchanged ownership have resulted in confusion and embezzlement in the compensation process. Some disputes have been resolved by farmers themselves or with the negotiation of village administrators. Some cases had to go up to the court. However, a villager said that original landowners suffered doubly as they had to borrow money for the expense of court. In the end, they not only lost their land but also went deeper into debt.

According to Figure 3, farmers used the received compensation for eight main reasons such as buying farming cattle, giving cash away to children as inheritance, buying farmlands, using for family's living, donating to the monastery, repaying debts, using for education, purchasing gold, motorbike and car, and building homes. Most respondents used the compensation for living expenses. Two farmers who bought farmland did not need to share the compensation with their family members. However, other respondents said that they had to share the compensation with their siblings.

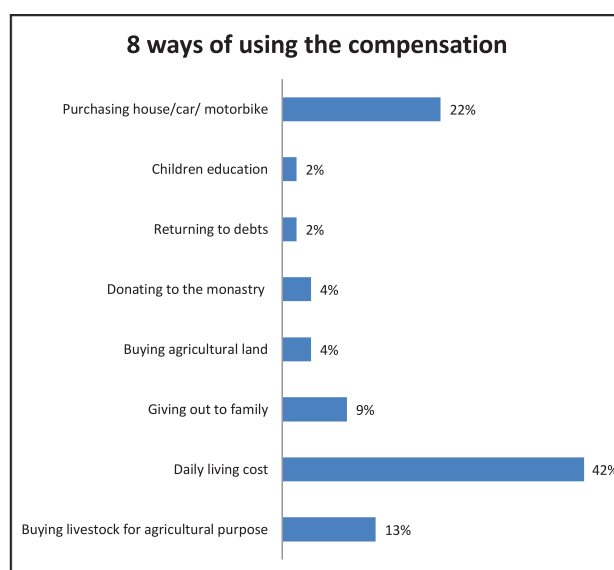


Figure 3: 8 ways of using the compensation

Source: Questionnaire survey

Concerning the amount of compensation, farmers from Nyaung Gone and Taung Gaung Pwa villages received 8 lakh per acre while farmers from Nwar Ban Gyi village received 10 lakh per acre respectively. Although the letter of Dr. Aung Thu, Union Minister of Agriculture, Livestock and Irrigation has stated the different amounts of compensation, the villagers did not know of the inconsistency in the compensation process. At the same time, though, all farmers from Nyaung Gone village have already received the compensation, but some of them are still claiming their land back and said that they do not want the compensation. Farmers who do not take the compensation said that the company had not used their land yet. Thus, they still hope to get their land back and do not accept the compensation. However, some farmers said that compensation for the land of fifteen out of forty-four farmers who do not accept the compensation had been taken away by cheaters. The rightful landowners responded that the issue is only between the company and cheaters. Since they did not take the compensation from the company, they still own their lands. Such embezzlements are seen mostly in Nwar Ban Gyi village.

At present, farmers who are claiming the return of their lands have settled the land tenure rights at the lower authority level and have submitted their claims several times. In their claims, farmers propose negotiation of compensation for their lands where the company has established perennial plantations. Also, farmers want to deal directly with the authorised representatives of the company and the company to give the compensation only to those who can submit the reference letter of the farmland management committee.

In the compensation process, Shan state's land investigation committee has investigated the lands of the company that farmers have been claiming as theirs. Farmers have marked the investigated lands by using poles and are hoping to see the return of lands and a fair compensation process.

5.5 Evidence of land ownership

In Ywar Ngyan, during the era of Socialist Council management, farmers had to sell a fixed quota of their paddy at a fixed price. Also, during the time of Myanmar Agricultural Produce Trading, farmers had to sell the fixed quota to the government at a fixed price which was always lower than the market price. During that period, farmers had the Form 105, tax receipts they received for the yield and the lands before the land grabbing. They paid applicable tax regularly for their land tenure. In the process of compensation for grabbed lands, companies have been instructed to refer to the field's number, and receipts for paid tax. Shan State's land investigation committee has done the investigation on the claims of farmers for the return of their lands. The committee has investigated the land maps, disputes over the claimed lands, and ownership of lands. After the adaptation of 2012 Farmland laws, land tenure Form 7 has been introduced. Among the interview respondents, 62% have the Form 7 while 36% said they do not have the Form 7 and the remaining 2% have no land. Farmers have been using Form 7 as evidence of land ownership and for farming loans granted by the government. Some farmers use Form 7 as the only evidence of land ownership.

Regarding Form 7, 17% of interviewees said it is useless while 44% of those said they do not know the usefulness of Form 7 and 39% of those said they know how to use it. The staff of the land registration office came to the village and helped the villagers registered for Form 7. As the relevant authorities informed the villagers about Form 7, the villagers could go and register Form 7 at the government department.

According to the survey, 84 % of respondents said that they had no difficulties while 13 per cent said that it was not easy for them to get the Form 7. Some of the farmers had financial difficulty in getting the Form 7. Farmers who do farming on the forest land, who cultivate in the living compound, which practice customary farming and or who have their land ownership application in the process are not entitled to apply the Form 7. Some farmers do not have formal land ownership, practicing customary farming.

Those who do not have Form 7 are those who could not afford it, who were not at home while staff of the land department were in their villages, whose field numbers had not matched, or whose applications had not been approved by the land department. In such cases, the reason for the government department not approving the applications of farmers is that the area of land claimed by the farmers had been granted to the company.

In the process of making the Form 7, government authorities including the Land Department, village tract and village leaders had collaborated accordingly. Many villagers claimed ownership of the lands as they have been currently doing farming. Other types of ownership claims are based on having the Form 7, and they think they own the land under the current government. Other farmers expressed that the government owns the land and they are only temporary owners of the land as there were no measures to protect their land tenure security. Farmers want land tenure safety and to pass the protected land tenure to the younger generations. For landless farmers, their ambition for the younger generation is to support their education.

6. Discussion on findings

6.1. Discussion on land grabbing and its impact on the socio-economic situation of farmers

The military did not provide sufficient information, and transparency in the cases of land grabbing was weak. Instead, the military grabbed the lands of farmers by giving a verbal order. That caused negative impacts on the food provision of locals and of food security more generally. The company has been granted the land use under vacant, fallow and virgin land management but those lands were not as they were titled. Original owners have officially registered these lands and paid the annual tax for land tenure. Land grabbers did not consider the negative impact on farmers but just focused on their own benefits. Under military administration, farmers were scared to claim their lands back and did not know their rights. In the era of democratic transition, in 2012, farmers have become educated that they have rights to claim their land back because of the awareness-raising on these rights by CSOs. As a result, they attempt to get their lands back by approaching members of parliament. Farmers paid tax for their lands, but their lands were grabbed illegally. Thirty years land leases had been given to the company on the basis of Article 11, subsection (c) of existing vacant, fallow and virgin lands management law.

Further, the law allows the companies to extend the lease of land several times. The company had been favored in many ways by giving rights for any kinds of the plantation on the land which had initially been granted for perennial plantation. As a result, farmers had been left with little land for their farming. Moreover, legal rights on land ownership are weak for farmers.

Furthermore, the size of lands granted to the company was not clearly defined. Thus, it has caused confusion between farmers and the company on land ownership. Tenant farming by the company is also only to serve the interest of the company. The company just hired casual workers when they need labor, which went against the goal of the Vacant, Fallow and Virgin Lands Management Act, to create job opportunities for the locals. Due to this project, many landowners and farmers have become casual labors, and some of them moved to another place for their living and faced instability and lived in insecure circumstances. Moreover, socio-economic development of farmers has seen significant stagnation. The tradition of passing on the customary land rights has also been undermined.

6.2 Discussion on compensation for farmers

After the 2012 Farmland Law was adopted, investigation commissions were formed, and the government has initiated returning land ownership to original farmers and compensation programs. At the same time, government staff started to obey the laws and consider the rights of farmers. However, the implementation of laws and policies is still ineffective. In the compensation process, there were no discussions and negotiations between the company and farmers. Instead, the rates of compensation were decided by the company alone. The compensation process is only to secure

the land tenure of the company rather than restitution for the impacted farmers. In returning 500 acres of land, the process was not informed to original farmers. Regarding documentation, only the farmers who have Form 3 (temporary land tenure) are in a position to apply for Form 7. In the process of claiming their land back, farmers have been united. They now have more legal knowledge about their rights and have started claiming their land back. Nonetheless, even though farmers have been claiming their lands back, they have no other options than to take compensations.

Moreover, there is external pressure for the farmers in receiving compensation. Farmers have been pressured into believing that they would also lose the compensation if they do not take it while the company was offering it. However, the amount of compensation is not a practical solution to their hardships created by land grabbing. Since farmers are not as influential as the wealthy company, their claims for the lands have been ineffective. Also, in the restitution process, the authority's weak monitoring and evaluation created further consequences. The company does not take responsibility for the consequences of the unclear compensation process. Giving compensation to the wrong farmers is a result of weakness in systematic recording and documentation. Due to the lack of evidence of land ownership, many areas of land have not yet been given back to the farmers, even though the company has not used the land.

6.3 Discussion on the evidence of land ownership

According to surveys, farmers complied with the enacted land laws and regulations. After the 2012 land laws were enacted, some farmers have applied for Form 7, showing that they wanted to secure their land tenure rights. However, some farmers have not known the usefulness of Form 7. Thus, in some cases, authorities helped farmers to get Form 7. However, some farmers still find it is hard to get Form 7. Farmers wanted to have land tenure security for the land for which they have been passing the tenure to generation to generation. Some farmers were still confused about their land ownership. Some farmers said that they do not know whether they own their lands or not. Some farmers answered that they own their land while others said they do not.

6.4 Discussion on the impact of orders in the restitution process

Under U Thein Sein administration, the 2012 Farmland Law was passed and adopted. In 2013, investigation commissions for grabbed lands were formed and started investigations. As a result, some lands were given back, and compensation was given to farmers. However, comparing acres of returned lands and grabbed lands, a significant gap has still been seen. Even though compensation was provided to farmers, there have been negative social impacts on farmers due to unsystematic processes. In 2016, the LARC of land grabbing on farmlands and other kinds of lands introduced policy, rules and regulations. The authorities, including the LARC, had done assessments and negotiated between 44 farmers and the company. However, the relevant department in the decision-making position cannot perform effective implementation of the policies. Accordingly, the process has been delayed.

7. Conclusion

Former governments gave lands to private companies in the name of development of the regions and benefits for the country by using many kinds of laws that caused local people to lose their land.

Even though compensation has been given to farmers, there was no action taken by the government against those who have done illegal land grabbing. Likewise, farmers in Ywar Ngan Township (Southern Shan State), which is under Dhanu Self-Administered Region, have suffered from land grabbing during 1994-95 by the military. This paper has studied the differences regarding the process and the cause of land grabbing, the socio-economic condition of locals before and after land grabbing, the restitution process and returning land ownership to original farmers.

Land grabbing was done by verbal order of military. Later, those lands were handed over to the company without having any proper documentation. Those farmers who paid tax for their lands and used the lands for agriculture were mistreated due to the weakness of vacant, fallow and virgin lands management. Until 2013, land-grabbers did not consider the socio-economic situation of farmers when they grabbed the lands. Therefore, many farmers had to change to new occupations, which could not provide sufficient income for their families. Even after 2014, during the democratic transition period, negative impacts on the socio-economic situation of farmers have not yet been resolved. Lack of efficiency of government staff in solving issues caused further social issues among farmers. Many farmers thought that Form 7 (Land Use Certificate) could not secure land ownership. It is clear from the study that farmers want to secure their land tenure.

This research paper is based on surveys interviewing representatives of 80 households who have been working in 7 field complexes in 3 villages. The key-informant method has been used in mapping out the profile of villages by asking villagers, older adults and village authorities. As this research paper is focused only on 80 households in 3 villages to understand their socio-economic situation, the findings in different regions might vary in comparison with the findings of this research paper. This paper has highlighted the perspectives of farmers impacted by land grabbing.

For those who want to research land issues in such areas, sensitivity to the socio-economic situation of farmers should be taken into consideration. Also, we would like to advise carrying out research that pays closer attention to issues of gender equity in studying land issues. Furthermore, the impact of granting land tenure to private companies, land use of farmers after getting their lands back, perspectives of farmers, members of parliament and government departments on land grabbing should also be researched in the future. Besides, the extent to which the amended Vacant, Fallow and Virgin Lands Managements Law (2018), Farmland Law (2012) and national land use policies represent the interests of farmers should also be studied.

8. Recommendations

8.1. Government authorities

- The government has granted land leases to private companies to maximize the economic benefits of the country. The government should monitor and examine the compliance of companies to know whether companies are implementing their projects in accordance with the agreement and laws.
- Vacant, fallow and virgin land management committees should check the land ownership on the ground before granting land leases to companies. If there is an original landowner, application of the company should not be approved.
- Land registration department should ensure current data regarding lands, maps and field maps are accurate and systematic.
- Customary land tenure should be recognized by national laws to strengthen traditional agricultural practices.
- Land management committee should collaborate with other related departments in granting the tenure of vacant, fallow and virgin lands and land use for other purposes in harmonious ways.
- LARC should encourage the government to solve land grabbing issues within a limited time frame.
- The government should monitor and evaluate the implementation process to ensure lands are used according to the agreement.

8.2. Companies

- Should try to meet the needs of locals in creating jobs for them.
- Should consider the restitution properly for those who impact by the permission to use land.
- Should follow the laws for the access of land.
- Should not keep the land use rights in the expectation of other benefits rather than doing plantation as agreed.
- Should have transparency for the number of acres of land the government has granted.

8.3. Locals

- Should be aware and follow the related land laws and instructions.
- Should have clear record for local land use type if they have.
- Should a democratic organization if they form an organization in their villages to manage land issues.
- The village democratic organizations should monitor the needs of the village and lead the process of proposing solutions to the relevant authorities.

8.4. Civil Society Organizations (CSOs)

- Should seek to understand local conditions and discuss with the locals and report to the authorities.
- Should educate the locals regarding laws, policy, regulations and instructions.

9. References

- Global Witness (2015), Guns, Cronies and Crops: How Military, Political and Business Cronies Have Conspired to Grab Land in Myanmar
- The Republic of the Union of Myanmar Ministry of Agriculture and Irrigation(2012) , Vacant, Fallow and Virgin Lands Management Rules. Retrived from :http://www.burmalibrary.org/docs14/VFVM_Rules-en.pdf
- Parliamentary Land Investigation Commission (2013), Parliamentary Commission into Land Confiscation - Report



Contact Us

📍 No. E2 New University Avenue Housing, New University Avenue,
Bahan Township, Yangon.

📘 <https://www.facebook.com/landcoregroup/>

✉ Email: info@lcmyanmar.org

🌐 www.lcmyanmar.org

