

Resistance & Reclamation

A study of joint CSO / local group efforts to contest land grabs in Myanmar's rural communities



By Elliott Prasse-Freeman for Land Core Group

- Publication date: September 2016 -



Funded by:



Livelihoods and Food Security Trust Fund



Swiss Agency for Development and Cooperation SDC



Acknowledgement

We thank the LIFT donors, the European Union and government 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.

Cover photo: *Farmland in Kangydaung, Ayeyarwady by Laurien Petri*

Disclaimer:

This document has been produced with financial assistance from Australia, Denmark, the European Union, France, Ireland, Luxemburg, the Netherlands, New Zealand, Sweden, Switzerland, the United Kingdom, and the United States of America. The views expressed herein can in no way be taken to reflect the official opinion of the European Union or the governments of Australia, Denmark, France, Ireland, Luxemburg, the Netherlands, New Zealand, Sweden, Switzerland, the United Kingdom,

Executive Summary

This research in Ayeyawaddy and Kachin suggests that trainings on knowledge about new laws and policies pertaining to land issues can be used by regional CSOs in partnership with local farmer and fisher groups to successfully advocate to government (and other relevant parties) for the reclamation of previously grabbed land. Local groups can also use this legal knowledge as part of protection strategies, as reflected in successful applications for communal forests and lands. However, while knowledge of the law itself is necessary, it is not sufficient – it must be used instrumentally as part of a coordinated set of tactics deployed by the CSOs and the local groups. These include letter-writing, negotiations, and even protests; these actions are directed at institutions at various 'levels' of government and at various spheres of society (including the private sector). Moreover, the new legal environment also creates new vulnerabilities, as those local farmers and fishers without the ability to successfully comprehend and maneuver the new laws risk becoming 'legally' dispossessed.

Index

Acknowledgement	ii
Executive Summary	iii
1. Introduction.....	1
1.1 Methods and Scope of the Report.....	3
1.2 Main Findings.....	4
2. Land Challenges in Historical and Political Context.....	8
2.1 The Land and Livelihoods Situation in Ayeyawaddy Division - how peasants have come to lose land	9
2.1.1 "Legal" Losses in Ayeyawaddy	10
2.1.1 Direct Land Grabs in Ayeyawaddy.....	12
2.2 The land situation in Kachin State	13
2.2.1 Conflict's double-edge.....	14
2.2.2 Ecological Consequences of Poverty and Extractive 'Development'	16
2.3 How did peasants survive after displacement?.....	16
3. Responses: Resistance and Negotiation Facilitated by Training and Networks	18
3.1 Training on Law and Tactics.....	18
3.1.1 Training Trainers in Ayeyawaddy, Kachin... and across Myanmar	18
3.1.2 GPI's Land and Law Rights Training.....	20
3.1.3 Metta's Land Training in Kachin – Issues and Methods.....	22
3.2 Developing networks	23
3.3 Effects of the training: advocacy and community mobilization.....	24
3.3.1 GPI's sophisticated advocacy work	24
3.3.2 Metta's assistance with collective action for community ownership	26
4. Cases from the field	28
4.1 Villagers successfully mobilize to regain access to a lake they had been prevented from fishing for 25 years.....	28
4.2 Ma-U-Bin – Partial victories facilitated by an active local CBO.....	30
4.3 Kyaungkone – USDP party representative and GPI collaborate to achieve redress for land grabs.....	34
4.4 Thabaung – Victory through plough protest and a window into "the official mind"	36
4.5 Pantanaw (Laymyet-Hna) – Law and negotiation	41
5. Conclusion.....	44
Appendix 1- Research Questions.....	46

1. Introduction

Since the political transition began in 2011, land grabs have continually occupied headlines in Myanmar. Given that millions of acres of land across the country have been expropriated from Myanmar's peasants over the last five decades (from the quasi-socialist period of 1960-1990, through the explicit military period of 1990-2010, to the contemporary quasi-liberal period), land grabbing is an issue that continues to affect thousands of communities and entire generations of families in Myanmar today. Moreover, given Myanmar's evolving political context in which collective social action and civil society advocacy are increasingly possible, land grabs have spurred a number of vigorous responses from both those directly affected and those who stand with the victims. For instance, farmers themselves have been forging actions of rural resistance, in which they conduct "plough protests": re-entering land from which they were displaced and ploughing it again, demonstrating that they are the rightful owners. Civil Society Organizations (CSOs), for their part, have been representing the needs of dispossessed farmers in various contexts – including by working to revise the government's National Land Use Policy (NLUP), and by advocating to regional and national level stakeholders (from agriculture ministers to MOHA officials) for redress for farmers facing specific land dispossessions.

But amidst all the coverage of these various activities there has yet to be much exploration of *how* these resistance and reclamation activities – both by the respective farmers and CSOs on their own, and in their partnerships together – have generated certain outcomes.¹ Given the centrality of recent legal reforms in the country (from the aforementioned NLUP, to the two 2012 national Land Laws, to NLD President Daw Aung San Suu Kyi's focus on the "rule of law" and her chairing of the Rule of Law and Tranquility Committee during the 2012-2015 Parliamentary Session) what role has understanding and

¹ While the national land advocacy NGO Share Mercy has conducted research on similar issues, it has focused on how the government has adjudicated land grab issues, and has not addressed local mobilization strategies central to this report [see Share Mercy, "A Case Study of How the Government Handles Village People Whose Lands Have Been Confiscated," 2015.] The international NGO Namati has published a short report on land grab restitution, but it does not focus on Kachin and had no success in Ayeyawaddy, suggesting that Namati's paralegal negotiation approach that found success around the country was not effective in Ayeyawaddy. [see Namati, "Returns of Grabbed Land in Myanmar: Progress After 2 Years," December 2015.]

using the law played in getting land back or resist land grabs? What other factors have been relevant, and how have they worked together – or even at cross-purposes?

While answering such questions would require comprehensive research of a vast scope, Land Core Group has sought to generate some initial findings. To this end, LCG has contracted a research consultancy to explore the outcomes of engagements that it has recently supported: LCG has provided training on the new land legal context to the NGO Green Peasant Institute (GPI) which works with communities in Ayeyawaddy Division; the NGO Metta which works in communities in Kachin State; and the NGO K'cho Land Development Association (COLDA) which works with communities in southern Chin State. The objectives of the research were to catalogue the processes and tactics through which NGOs together with farmers were able to get land returned or compensation paid to land grab victims in Ayeyawaddy and Kachin, with a particular focus on how knowledge of the law was used by local partners in on-the-ground negotiations and engagements with relevant institutions (various government ministries; army commanders; business tycoons; farmers groups; etc). The research was conducted by exploring approximately three-dozen contexts (25 villages or village-tracts in Ayeyawaddy and 10 villages or village tracts in Kachin) and observing the actual LCG training of the COLDA members.

All three projects were in significantly different stages of implementation at the time of the research visit – with GPI having worked with communities for some time on land issues, and Metta having trained communities only six months prior (although Metta had worked with the communities on development issues for years), and COLDA having only its first exposure to the training at the time of the research (hence the Chin experience will not be explored in this paper). Moreover, the context that each organization faces is different: the situation of farmers and fishers in the Ayeyawaddy Delta is one of widespread dispossession, resulting from acts of theft or expropriation that peasants had often experienced years before. Hence, GPI's work focuses on **reclamation** strategies – how land or compensation can be realized today. The Kachin state communities, on the other hand, have not experienced such rampant dispossession; rather, they are either vulnerable to dispossession, or community lands have been encroached upon but their ownership / usage status remains ambiguous or contested; hence the Metta intervention is thus working at **resistance** strategies – how farmers can access land title and ensure that such title confers actual protection (to the extent possible) against potential dispossession. Therefore, the report uses these respective areas – Ayeyawaddy and Kachin – to illustrate as much as possible about

coordinated NGO/local strategies for achieving positive land outcomes, by attempting to address the questions that follow.

1.1 Methods and Scope of the Report

In order to acquire the above data for analysis, LCG contracted a consultant knowledgeable about land issues and social movements in Myanmar. The consultant conducted research in Ayeyawaddy Divisions (seven days) and Kachin State (three days) during July of 2015. The Kachin trip was cut short due to the massive flooding that occurred during monsoon season 2015, as it prevented a number of communities from reaching Myitkyina (government restrictions due to the military conflict between the Burmese army and the Kachin Independence Army [KIA] prevented the consultant from traveling to these communities). In Ayeyawaddy Division the consultant was assisted by two facilitators, one a GPI staff and another a GPI member (the distinction will be explained below), who accompanied the consultant to all locales. The facilitators organized connections with local CSO leaders in the respective townships of Ma-U-Bin, KyaungKoun, LaymetHna, Thabaung, and Kaw-hmu;² the leaders in turn facilitated interviews with farmers who had been victims of land grabs. The consultant interviewed the farmers, who described the sequence of events that led to their dispossession and the attempts they made to get land back. The farmers often presented documentation of their ownership claims to land (for instance, their tax receipts and banking books), as well as copies of the complaint letters they had written to relevant authorities, and in the event of successful restitution, copies of the relevant documentation. The consultant took photographs or made photocopies of these relevant documents. Where possible the GPI facilitators also organized meetings with other relevant stakeholders: the consultant was hence able to interview various government staff (including Ward/Village Administrators, Township Administrators, and State Land Records Department (SLRD) officials); political party members (including Divisional MPs from both the Union Solidarity and Development Party and the National League for Democracy); and GPI staff (particularly those providing trainings to local communities). The consultant conducted all interviews in Burmese (with help from

² While Kaw-hmu is technically in Yangon Division (not Ayeyawaddy Division), it shares the ecology of the Delta and social networks with other stakeholders in the area.

local staff in certain places), recorded the interviews when respondents gave consent,³ and later transcribed and translated the interviews for analysis.

In Kachin state the NGO Metta hosted two days of focus group discussions with farmers who had a long-standing relationship working with Metta and who had recently received trainings on land issues. The first day Metta hosted twelve farmers from eight villages around Kachin state; the second day there were four farmers from two villages. The farmers did not consent to have their voices recorded, and as many spoke in Kachin languages, a Metta project manager provided running translation into English. Farmers did not bring supplementary documentation with them, and only a few documents were provided by the farmers to the consultant through Metta intermediaries after the field visit. Beyond these logistical limitations, Metta is also in a much earlier stage in regards to its engagement of local communities around land law and social mobilization. Hence the report focuses mostly on the GPI work in Ayeyawaddy Division, with Metta's work in Kachin acting as an opportunity to provide triangulation and comparison in a different context. GPI has worked with approximately 50 cases of Land Grabs in the Delta and four of them have succeeded in getting some form of redress – land or compensation – for the farmers in, respectively, Ma-u-bin, Kyaungkone, Laymyetna, and Thabaung. The report will feature those in depth and also, for contrast, a handful of other cases that have not (yet) resulted in land return (in Inngapu, for instance). The same scope will be duplicated for Kachin.

The report is intended for policy-makers considering how to best produce positive outcomes for vulnerable farmers in Myanmar's changing political and legal contexts. As such, the report will outline processes undertaken, and feature case studies that explore how activists and NGO members deal with obstacles that emerge during the processes. The report will also feature "lessons-learned" from those cases that have not yet been successful.

1.2 Main Findings

Opportunities

Success requires multiple tactics deployed together: Achieving restitution of land is a complex and unpredictable process that often requires the deployment of multiple tactics directed at various domains. Specifically, it typically involves some combination of the following factors:

³ All but one informant in the Delta consented to being recorded; the only one who did not was a member of the state's civil administration.

- The dispossessed community knows the land law and their land rights so they can appeal to institutions responsible for redress.
- This community is internally unified, both formally (in terms of having an association) and substantively (in terms of constituent members being willing to stand for one another's collective needs).
- The community has some resources (as protracted legal / administrative battles require transportation costs for villagers to press their cases in person and/or costs for paying a lawyer).
- The community works with a CSO which has the capacity, will, and strategy to advocate / pressure appropriate government institutions
- This CSO comprehends the political contexts, at various levels (from the village to the division level) and between institutions (whether within or between ministries, within the state's General Administrative Department, with the military, or with relevant businesses), to assess the opportunities for advocacy and collective action.

Intermediary CSOs provide support, build networks, and enable autonomy for local groups:

- In order to make it possible to fulfill all of the steps outlined above, GPI deploys a decentralized network model in which GPI gives members trainings, provides them with advocacy support, and facilitates connections with relevant parties whom the local members could not successfully contact on their own. Network members repeatedly and independently identified these three tangible benefits as indispensable.
- An additional benefit of GPI's model is that it simultaneously lends network members enough autonomy to make their own decisions based on their understanding of their own situations. This in turn acts as a risk management tactic for GPI, as the organization not implicated or made guilty by association if a local member breaks the law (by, for instance, holding a plough protest).

Knowing the law gives peasants a common platform around which to mobilize themselves, allows them to appeal to levels above the local, and allows them to engage in informal discussion with other parties to the conflict

- Knowledge of the law is helpful not simply for what the law says, but because it helps a community to act with a coordinated agenda – it allows a community to collectively pursue its own agreed-upon interpretation of the law.
- The community can use the law as a space and a set of processes in which those involved (or those who are meant to command or manage those directly involved) can be compelled to participate.

While legal processes frame conflicts and help create conditions of possibility for redress, informal discussions between parties to a conflict are often more effective when it comes to delivering an actual resolution.

- Farmers recognize that the broader political situation creates conflicts, and hence people stuck in these situations have to come together to resolve the issues.
- Creating fora for engagement is a key value-addition provided by CSOs.

Local officials can be the cause of or the solution to land problems

- While it is well-known that local officials are often involved in corrupt practices, others – even those part of the military-linked party – can be enrolled as partners.

Protest can work. Sometimes for the protesters... often for others around them

- In Ma-U-Bin and Thabaung, the research team learned about a number of different plough protests. While the direct results for those protesters were mixed (as many protesters ended up jailed and charged with crimes), interviewees who did not participate in the plough protest – they lived in an adjacent village, for instance – often benefitted. They reported that the holding of the protest made it easier for them to then advance their claims.
- Protests are disruptive events that unsettle the status quo, opening up legal or procedural avenues that should (according to the law) have been available all along.

Challenges

Despite efforts, success is often partial:

- Restitution is often incomplete: some farmers will receive a verbal or even written order from an official that declares that the land must be given back, but in practice the local or regional level institution (often the State Land Records Department or the Township Administrator) will not make the transfer.

- Restitution is often inadequate: some farmers have received compensation for grabbed land that they find to be incommensurate with what they lost
- Restitution is not (yet) legally recognized: only one group of the farmers had attained the desired "Form 7" which grants them formal legal entitlement of their lands. Many had applied and expected the forms to be achieved, but the forms had not been officially delivered at the time of writing. On a positive note, however, some fishers had gained licenses to use lakes.

Despite the additional protections it ostensibly provides, formalized land law is in tension with customary law

- Land laws are perceived as providing more transparency, stronger protection, and broader market opportunities (land now can officially be sold, mortgaged, etc.).
- However, land laws also provide a technical system that can be taken advantage of by those with more technical skill (or unofficial connections with those in power). Some describe this system as being 'tyrannical', arguing that the way law functions depends on the whims of those who are in power.
- Further, the formal system privileges "the law of the paper" (as it is described by locals) and disregards long-standing traditional tenure arrangements. In one case (in Thabaung), locals conveyed that 'crony' businessmen who grabbed and held the land for a long period of time used this fact of long-term holding to apply for title.
- The formal legal system has byzantine procedures that often result in multiple hearings, processes that are economically (and emotionally) debilitating for poor farmers. The dozens of court appearances that are often required can force farmers to go into debt.

Even if land is returned, locals may dispute historical memories of ownership amongst themselves

- If land had been grabbed and held for some time, and as there often are no clear records or demarcations to delineate boundaries between plots, peasants often find themselves in disputes amongst one another regarding who has claims to what.
- Perhaps oddly, peasants express the need for government institutions to make official measurements to resolve this situation.

2. Land Challenges in Historical and Political Context

Myanmar's recent historic political transition, beginning in 2011 and bringing a transformation of a military-run government to a quasi-civilian one, has been attended by a massive outpouring of citizen mobilization. Social movements have fought for everything from student rights, to Constitutional change, to environmental protection. Perhaps more significant than all of them – in terms of number of protests, intensity of struggle, variance in strategies, and geographical coverage – have been the thousands of protests relating to land grabs occurring across Myanmar today.⁴ As the protests emerge across the country, they generate a number of questions for policy-makers: Why are they occurring now – are peasants responding to on-going land-grabs or a change in the broader political context that makes mobilization for redress only now possible? And where do they come from – are they, as the government often suggests, infiltrated and directed from 'outside elements', or are they autonomous movements that self-organize on their own? Further, what kind of tactics have they used to try to get solutions to their problems? And have they been successful – meaning, have farmers either got land back, got compensation for grabbed lands, or otherwise improved their situations through social action?

There is a simple answer to the above questions: it depends. On one hand, Myanmar has a confusing land law system, agricultural policies that often change, local officials who abuse power, civil wars that have forced people to flee and military institutions to become important in society, and corrupt companies who exploit a weak regulatory environment. These are just some factors that have led to complex challenges for peasants addressing land grabs.

On the other hand, these challenges are being managed with different degrees of success. For some peasants, solutions are simply not possible. These farmers may live under the rule of an abusive military commander or amidst on-going conflict. They cannot conduct collective actions. Yet, some locals have been able to capitalize on new opportunities to attempt to achieve their goals. For instance, strong civil society organizations have been able to grow in some places; media has become freer and media coverage has led to less explicit

⁴ For a treatment of the national phenomenon, see Elliott Prasse-Freeman, "Grassroots protest movements and mutating conceptions of 'the political' in an evolving Burma" in Egretreau, Renaud and Francois Robinne, eds. *Metamorphosis: Studies in Social and Political Change in Myanmar*, Singapore: NUS Press, 2016.

impunity on the part of abusive authorities; and opposition political parties and national CSOs have created programs to address land problems, bringing resources and expertise to some local areas. Central to these latter interventions are training programs on Myanmar's new legal environment, as well as the establishment of networks of support that are able to deploy actions at multiple 'levels' (local, district, and Division/State) to coordinate and magnify the impact of work.

With these constraints and opportunities in mind, this section will outline the specific contexts encountered by peasants in Ayeyawaddy and Kachin, respectively, and feature the ways that LCG-supported NGOs helped local peasant gain capacity to address their problems and begin to take actions to achieve redress for them.

2.1 The Land and Livelihoods Situation in Ayeyawaddy Division - how peasants have come to lose land

Ayeyawaddy Division is located in the Delta-region of Myanmar's vast Ayeyawaddy river system. Unlike crops in the so-called Dry-Zone of central Myanmar which do not get enough water, Ayeyawaddy Division's paddy fields are fed by a vast naturally-irrigated plain, and enjoy up to four meters of rainfall per year.

During the dynastic era this region was mostly mosquito-infested swampland, but the British colonial regime, with an eye to making its domination of the country profitable, drained those swamps, transforming the ecology and constructing a "rice-basket" that generated world-leading rice production and exports.⁵ The constant wetness means that naturally-forming lakes, not to mention coastal access, make aquaculture – which includes the harvesting of fish, shell-fish, and water-cultivated vegetables – central to the livelihoods of many, and appealing to businesses looking to take advantage of the region's natural bounty.

These gains to the Delta's



Figure 1. Thabaung Township, where roads turn to canals for much of the year

⁵ Ian Brown, *Burma's Economy in the Twentieth Century*, New York: Cambridge University Press, 2013.

productivity helped spur and sustain Myanmar's national economy and support food security across the country. But this productivity boon also produced stressors for actual cultivators working the land, as the relatively high value of the land meant that predatory individuals and institutions exercised direct and indirect pressure to dispossess peasants of their permissions to use land.

2.1.1 "Legal" Losses in Ayeyawaddy

In area after area in the Delta, the research team members would walk through paddy fields and have GPI staff describe the scene: this area was still owned by villagers, but that area was lost to debt; over there the land was grabbed by a company; land over there was taken by the government. The land has a patchwork of statuses. And while those in power often grabbed land behind the barrel of a gun, the conditions of possibility for those grabs were animated by the system of governance enacted by rulers dating back at least to the colonial period.

The military-backed government that controlled the country from 1962 to 2011 enacted forced procurement policies at least until 2003, a system under which farmers had to meet quotas of paddy production or risk losing permission to use land that they may have cultivated for a number of generations. Here we encounter just one instance of local conceptions of ownership (what is sometimes called 'customary law') conflicting with formal legal dictates in Myanmar.⁶ While peasants may have felt they owned their lands because of long-standing local conceptions – called *damma-ucha* in Burmese (the rule of "the first wielder of the machete"), in Myanmar the government has technically been the ultimate owner of land since 1953, at which point all land was nationalized. The government took this step because at the end of the colonial period, the 'natural' operations of a colonial capitalist system had left much land in the hands of moneylenders, leaving the actual cultivators dispossessed.⁷ The 1953 law was hence designed to address landlessness and insulate cultivators from the power of the market. The military-government, after its 1962 *coup d'état*,

⁶ Siu-Sue Mark, "Are the Odds for Justice 'Stacked' Against Them? Challenges and Opportunities to Securing Land Claims by Smallholder Farmers in Myanmar," paper presented at Annual World Bank Conference on Land and Poverty, March 2015.

⁷ Much of the information on the political-economy of the Delta is taken from the forthcoming study: Maxime Boutry and Celine Allaverdian, "Land tenure in rural lowland Myanmar Understanding rural land issues to engage comprehensive policy dialogue in Myanmar," GRET. See also: Sean Turnell, *Fiery Dragons: Banks, Moneylenders and Microfinance in Burma*, Copenhagen: NIAS Press, 2009.

continued such rhetoric and even enacted directives that appeared to further support farmers, giving land use permission to any farmer who worked a plot land for five years.

While such policies appeared to be consistent with *damma-ucha*, (clearing of a plot of land by yourself in order to be able to start using the land for farming) they must be reinterpreted in the context of the military's agenda of extracting as much from the peasants as possible. This was made worse by the military's desire, after socialism was scrapped in the wake of the 1988 mass uprising, to enrich new businesses closely linked to military leaders. Indeed, if peasants did not meet the required quotas they often lost their opportunity to cultivate land, as local state officials transferred permission to others (often relatives or friends of those local officials, who often then sold the land again to others).

A problem was that over time the ownership claims became blurred – both the new farmers and the original ones have legitimate claims to the land, articulated through their assertions of long-standing connections with the land itself: whether through initial transformation of it from swamp to paddy field, or through the on-going maintenance and cultivation of it year in and year out. During the fieldwork visit, numerous farmers or CBO members mentioned this, and recent analysis by the 88 generation civil society group underscored the point.⁸ "If you are working land continuously for five years, you are the owner, it has been promulgated. And since all or most of the land that has been taken since 1990, if we're talking about now in 2015, that is more than five years," said Min Zaw, the leader of a farmer and fisher organization in Ma-u-Bin township. Now that farmers are trying to contest the injustice of the forced procurement period they are facing other farmers who have equally legitimate claims to the land, something which is generating conflicts on the ground. According to a farmer network representative from Ma-U-Bin, "There is the issue of the five years... For example, one farmer gives permission to another farmer to work the land. If the farmer who got the permission to work the land works the land for exactly five years, he gets to own it...There are problems between farmers because of this".

The dynamic in which local authorities had power to dispossess local farmers of their permission to use land, in a context in which the laws are largely unknown and arbitrarily enforced, is much the same around the country. In fact, the antiquated colonial-era Land Confiscation Act of 1894 – written to regulate colonial subjects rather than citizens – has been invoked for more than a century to grab land across Myanmar. But the value of land in

⁸ "Land Returned to the Wrong Hands," *DVB*, 30 November 2015, <http://www.dvb.no/news/land-returned-to-the-wrong-hands/59705>

the Delta, combined with the habitual and long-standing execution of forced procurement policies, has exacerbated the land grabs that have occurred here. As GPI staff legal trainer U Tin Soe Htay put it when interviewed in Patheingyi:

"The root cause of these problems [is that] the farmers from before... although they are not the official owners, [they] cultivated it equally and those who originally cleared the land cultivated it, and those who did that are here. At that time, from the perspective of those farmers, they did not know that they had to get permission to work. Because they did not know, because they did the work here for a long time, although they knew their own environment and their own village, those owners who want their own benefit, or the military, or some relevant organization came to this area and took the land".

2.1.1 Direct Land Grabs in Ayeyawaddy

As the trainer alluded to, a number of different actors took advantage of the situation. As GPI's founder Tin Lin Aung describes it, the direct land grabbers can be divided into three main perpetrators: the military; the government (which can mean ministries or local administration); or 'cronies' – companies that have linkages with government or the military. These actors often work in collaboration with one another. In Thabaung township, for instance, the research team found that company Shwe Wa took thousands of acres of land. This company is owned by the family of former USDP Chairman and Speaker of Parliament Thura Shwe Mann, and hence the acquisition and holding of the land was effected through a combination of indirect military coercion, local administrative power, and the profit-oriented interests of a company.

Analyzing each in turn, the military often took land for cantonment areas or for local commanders to grow crops to support troops or to enrich themselves. In these situations land would be grabbed and then the same dispossessed people would often be invited back to work the land as sharecroppers, paying a share of their yields for the privilege of working their fields. In some cases the land merely stood idle, though, as military commanders failed at their non-military business endeavors. This was especially the case after 1990 when the SLORC/SPDC government insisted that the country become more market oriented. As researcher Kevin Woods puts it, "the country's first experiment in post-colonial capitalism sparked a new wave of land grabs. This time the main culprit was the Burmese military, which had orders to 'do business'" leading to failed policies which "mostly resulted in abandoned

factories and idle 'wastelands' forcibly emptied of farmers and their productive labour."⁹ Government ministries often partook in similar endeavors, but with less gusto and coercive capacity. Often, crony businesses would either be welcomed to implement a government-backed extraction scheme or just as likely grab land as part of a speculation strategy – declaring that land would go to a project (a factory, for instance) but then never taking steps to develop the land. Many farmers the research team spoke with identified this as a commonly occurring phenomenon.

2.2 The land situation in Kachin State

The situation in Kachin state both varies in significant ways from that of Ayeyawaddy and also shares important similarities. In terms of the similarities, many of the land grabs are perpetrated by 'crony' businesses working in cahoots with armed organizations. Another challenge is that land classification challenges appear in both locales, with the problem of lake/pond ownership or access in the Delta being mirrored by forest ownership problems for Kachin farmers. Such land classification issues relate to another shared problem – the way the distribution of collective resources such as water are affected by political-economic choices made by authorities: where farmers and fishers in Ayeyawaddy complain about the need for irrigation canals, Kachin farmers note how plantation canals have led to pesticide run-off that harms water, land, and draft animals. Finally, both areas share situations in which ownership is often ambiguous (de jure and de facto) on the ground, as tenants exercise leverage over original owners; however, whereas in the Delta this relationship appears to be a conflict being played out between disputing farmers, in Kachin large companies are often the 'tenant' renting from farmers who in turn are afraid they will never get their rented land back from the companies.

On the other hand, critical differences must be mentioned, foremost of which are the conflict issues. Kachin state is inhabited in large part by people who identify as part of the Kachin ethnic group,¹⁰ and many of them see Burmese state regulation as an encroachment on their sovereignty and way of life. Further, renewed and on-going armed conflict between the Burmese military and the Kachin Independence Army (KIA) has created both vulnerabilities and protection strategies for small-holder farmers. Second, Kachin's different ecology makes collective stewardship of certain areas – and collective strategies for securing

⁹ Kevin Woods, "A political anatomy of land grabs," *Myanmar Times*, 3 March 2014

¹⁰ Mandy Sadan, *Being and Becoming Kachin*, Oxford University Press, 2013.



Figure 2, View of foothills in a township just outside of Myitkyina, Kachin State

that stewardship – necessary. Moreover, whereas in Ayeyawaddy people have migrated in from other places over the years as swamps have been transformed into paddy fields, villagers in Kachin often level customary claims on land based on narratives of generational occupation and use of those lands. Third, given the political context, the specific roles of NGOs and CBOs have been different, and as the challenges facing

farmers evolve (such that there is more pressure brought to bear on their lands), these organizations are having to evolve their roles as well.

2.2.1 Conflict's double-edge

For nearly two decades, from 1994 until 2011, the Kachin Independence Organization (KIO) and the Burmese military had been in a ceasefire period, seemingly putting an end to almost thirty years of fighting. But while the ceasefire co-opted Kachin elites, providing them with lucrative resource-exploitation opportunities, such 'ceasefire capitalism' entailed land-grabs and environmentally destructive extraction, putting increasing pressure on local communities.¹¹ As the accord never addressed on-going political-economic demands on the part of non-elite Kachin for increased autonomy and security, the on-going abuses acted as a rallying cry for a younger generation of Kachin who reinvigorated the KIA and took up arms again.¹² At the time of this report fighting continued.

While a full accounting of the consequences of the renewed conflict is beyond the scope of this report, the research team did identify some effects on the land and livelihoods situation for 11 small-holding communities in Kachin state. For instance, while conflict itself did not seem to provide 'cover' for men with guns to grab large swathes of land, the militarized environment has led to other vulnerabilities. As a local community leader in Letpangataung village put it about a military-linked logging company that has expressed

¹¹ Kevin Woods, "Ceasefire capitalism: military-private partnerships, resource concessions and military-state building in the Burma-China borderlands," *The Journal of Peasant Studies*, Vol. 38, No. 4, October 2011, 747-770.

¹² David Brenner, "Ashes of co-optation: from armed group fragmentation to the rebuilding of popular insurgency in Myanmar," *Conflict, Security & Development*, 2015, 15:4, 337-358.

some interest in cutting trees in the area, "Because the company owner is not an ordinary man, but comes from the military services, any time his company comes it can do anything." Perhaps more importantly, conflict has disrupted the regulatory environment, preventing people from getting land registered. For instance, the township committee head of Aung Myit Tit (Waing Moe), a farming area of 700 households, described the difficulties of managing livelihoods under the threat of war.

"Metta taught us about the land law, and we are more aware. But our area is in a black area, and so the government is not willing to come down to our area to give the forms. How can we proceed to get land Form 7? The banks that used to lend money, they also said that next year they will not give us loans if we don't get it. Without peace we have no way".

Another farmer, from the village of Makandi, described a similar situation, in which the government officials would not come without their security guaranteed: "'Security, if you give us security, we will come... but if you don't, then we won't,' [is what the government says]. But we have no authority to give security! The government has the authority here [near Myitkyina], but in [our] areas there are armed groups, and the government will not go."

In other situations, however, the effect of conflict is somewhat inverted, in that the conflict has provided time and space for communities to address some of their problems, and fortify themselves (to the extent possible) against future encroachments. In the Letpangataung case mentioned above, the village representative described a problem with accessing adequate amounts of water: "There were five main streams in the area, three of which were in the village and used by farmers, but nowadays we have less water and before summer season they dry up." To address these issues the farmers first tried to make an irrigation canal, but that failed to provide enough water. With assistance from Metta they have tried to preserve the surrounding watershed area, and so have begun an application for the area as a community forest. What is noteworthy about this case is that the area they have identified as watershed has also been leased to the military-linked logging company, but because of the on-going conflict the company has not remained active in the area. "If the company cuts the trees, worse soil erosion would happen, and the water would dissipate even more. But now, [with the company not coming], we have a chance to apply." In this regard, villagers identify the conflict as actually *protecting* them.

2.2.2 Ecological Consequences of Poverty and Extractive 'Development'

A combination of poverty on one hand and extractive development by entities that are not based in Kachin (and hence likely do not care for the people's or the land's long-term interests) on the other have left local communities more vulnerable.

Basic challenges associated with poverty and a lack of infrastructure have led community members to use collective goods in ways that threaten the renewability of resources. For instance, the lack of electricity in most villages leaves people searching for fuel for cooking fires; going to the forest area to cut trees can lead to deforestation. But more intensive ecological challenges occur as a result of extractive development; these can be perceived in the necessity of protecting access to and quality of water.

As mentioned above, watersheds are essential for providing adequate amounts of water for drinking and for cultivating crops. Farmers are compelled to make the case to state authorities that land that they do not 'own' and that they are not actively cultivating is nonetheless critical for the viability of their livelihoods. Such appeals are contested by predatory logging concerns that seek to clear these watershed areas of trees, leading to soil erosion and crop failure for the farmers dependent on them. A half dozen farmer representatives mentioned community forest registration as essential – and also alluded to bureaucratic procedures that made attaining stewardship of these areas difficult.

Large agribusinesses also affect water in other negative ways. A farmer from Dan Bauq village described how a nearby banana plantation dug a deep canal, diverting local stream water to the plantation, adding that the pesticides used were bad for the environment, spoiling the drinking water. This farmer's colleague elaborated, describing how "before the banana plantations [our cattle] never had these diseases... now every two months or three months it happens like this." While the research team could not independently confirm the claims, a number of farmers described the indirect negative effects they experienced from changes in land-use patterns such as the use of chemicals by plantations causing health problems to their livestock.

2.3 How did peasants survive after displacement?

In Ayeyawaddy, dispossessed farmers repeatedly described the drastic damage done to their livelihoods and families as a result of losing their land. While walking through his village, a community leader from Shan village in Laymyet-hna named Zaw Myint asked us to look around and then said, "All the houses have people gone now. They went to Yangon, they

went to Kachin to work in the mines.” Some were able to make a living as day laborers, scrounging a living by supplementing wages by catching shellfish and fish in local ponds. Others were not as lucky. Zaw Myint continued: “[After losing access to the lake] we could not even scoop water out of the lake. We could not even grope around for minnows. The poor people in the village could not live anymore... [because] in this lake there is no work and there is no paddy land, the cronies of the lake grabbed it all. Food could not be found, there was no work anymore for these people... When that happened we are not able to bear it. The people arrived in quite a situation of suffering.” A farmer from Ma-U-Bin echoed these challenges: “Now we are working arduous jobs to eat, selling things on the side of the road,” something which local leader Min Zaw elaborated on: “Because they became landless, it can be observed that about 80 percent of them are suffering very much in regards to their daily living, social affairs, health, and education.”

In Kachin state, as mentioned above, the current issue is *vulnerability* to displacement rather than dispossession already suffered. That said, many have already leased out their lands to companies, and hence have devoted their time to either working daily jobs in and around their villages or going to work for the Chinese companies who rented their land.

3. Responses: Resistance and Negotiation Facilitated by Training and Networks

Despite the often inter-linked interests that create the opportunity to *grab* the land, what happens after the grab provides different opportunities for farmers: *holding* the land and *making use of it* are often different issues, requiring different executing authorities and resources. For instance, if the military grabbed the land for a cantonment area, it is unlikely that the land would ever be returned to farmers; if the land was grabbed with military support and given to a crony businessman for some mix of industrial development and speculation, however, then opportunities for getting land back emerge. The next section explores these opportunities within the context of the law and the constellation of power and interests that makes the law either a useful tool or irrelevant.

3.1 Training on Law and Tactics

To address the challenges summarized above, LCG has provided funding for the training of regional groups that work with local networks of farmers and fishers organizations.

3.1.1 Training Trainers in Ayeyawaddy, Kachin... and across Myanmar

LCG begins the training by analyzing the current laws that directly pertain to farmer and fisher issues, with a particular focus on the 2012 land-related laws (the Farmland Law and the Vacant, Fallow, and Virgin Land Law), and the continued relevance of the statutes such as the 1894 Land Confiscation Act (mentioned above). The training mines the details of those laws, as well as relevant bylaws and policies, showing trainees how general declarations must be operationalized in order to work for their constituents. For instance, during LCG's training to COLDA members, Ko Yeh – a lead trainer of these sessions – delivered the following messages about establishing ownership claims:

"There are two ways to demarcate [land] ownership. There is [the way] of marking down because there is evidence. And the other one is the surrounding area will give the marking. If we talk about problems that come up in regards to ownership, if there is evidence that evidence can clarify things. [But if] there isn't evidence, we can talk about the model of demarcation by the majority [of the locals], in which the majority's recognition will be able to clarify things. In this area the problem is just like this. As I said just now, who can demarcate the land ownership? The majority are marking that

we own the land. This is what is called "Customary." Things are demarcated according to this law. We will be able to make a voucher. Registration will be got. [But this process] is not known. And so, we do it so that people can know that".

Knowing the intricacies of the law is critical, but as important is understanding the legal and extra-legal contexts in regards to land law and policy. In an interview after the first day of the training, Ko Yeh described the main challenges facing communities fighting to protect land or get it back, starting at the very beginning with the challenge of simply getting one's hands on the physical paper of Form 1 – the land registration application form, (farmers need this form to start the land entitlement proses):

"The main thing is that the [villagers] don't have Form 1. The local administrator does not give it to them. If we talk about that [process], the village people collect things. They collect all those who will register. After collecting them, they copy the form. After they make the copy, they go and give it to Land Records Department [LRD]. When they apply, the LRD rejects them. When we discuss why, it is the fact that the paper is a copy. It doesn't have the formal stamp. If that is the case, we ask again, asking where do we get this form that has the stamp? When we talk about that, we are told in response that we have to get it from the head of the local area. However, we ask again. And if the General Administration Department (GAD) won't give it, we ask again, 'what do we have to do?'

Ko Yeh here illustrates the significant number of interactions necessary to merely *start* the process of getting land protected. The villagers described have organized, collecting necessary documents and information, and have gone to the appropriate department. But they are then redirected, told that it is their responsibility to find the form with the official stamp. Often this is because the administration simply does not know their own responsibility, and it is here that Ko Yeh discusses the need to educate regional state officials:

"Usually, there are agricultural department branches in Kachin. However, they do not know about the land laws. As they do not know, they will not know that they have to produce the Form 7. This is because the GAD officers never have been given the training on the land laws. Therefore, the village people do not attempt to apply for Form 7. This is the case around Myitkyina. This is the situation that is being addressed

by one group. One group knows the land law. As they know and because they hold a protest, the land doesn't get confiscated".

In this example we see an intervention based on fixing a simple information asymmetry. Other times, however, it seems that the state institutions are actively impeding the resolution of the situation, actively not giving the farmers the form. It is here that a navigation of bureaucratic processes becomes a more active and even adversarial process in which it becomes necessary for a group of citizens' to risk confrontation. Ko Yeh continues: "When this happens we... start to do the work of complaining to the township. When that happens, the township returns to distribute [the forms] to the local village and there is a declaration. I have done it this way in Mandalay and Pyin U Lwin." As alluded to here, the organization delivering the training has to address these obstacles as well, and even provide on-the-ground assistance. We will see how this is done in the next sections.

3.1.2 GPI's Land and Law Rights Training

Green Peasant Institute (GPI) has operated for a number of years in the Delta, at this point working in all of the Division's townships in the. U Tin Lin Aung founded the organization and points to his family history and his own work in the Delta as helping to explain GPI's ability to expand. "My grandfather was a revolutionary in this area, and so people know me. And we were active when we were students. After the 2008 Cyclone Nargis we had to bury the dead bodies, and we were doing this illegally, and they tried to catch us, so we had to run away to Yangon." Locals struggling to recover noted and respected the effort and the risk taken by the early leaders of GPI. After the political changes began, GPI not only had connections with the community but was able to connect with other institutions due to its work in Yangon.

One of those institutions was LCG, and GPI has incorporated and adapted the content and strategies it learned from the LCG training to develop its own two-and-a-half day Land and Law Rights training, which it has delivered dozens of times in the Delta. A trainer, Tin Soe Htay, explained his role:

"I am member of this organization that is related to land, I am one who helps with the trainings, and I am a trainer. However, I am not a lawyer. Because I'm not, as much as I know, as much as I do, I study, I study and when that is done, I attend the training, and after that I pass what I have come to get on to the farmers... I do this not because of money; every one of these things I am doing is in the spirit of social service."

The training is divided into three sections: training on current land-related laws; conveying the rights and opportunities ostensibly guaranteed to Myanmar citizens; and outlining potential action strategies that aggrieved farmers could take to maneuver within these laws and policies.

GPI devotes the lion's share of the training (1.5 days) to the current land laws, because many peasants are not aware of the specifics of these laws or how they must be used. As Tin Soe Htay, the GPI trainer, put it,

"It is difficult for farmers to understand these laws. Even if you are a normal person and read the law, you can't get it in one or two passes. Only if you read it many times will you understand. And so, farmers get angrier... They have to endure kinds of criminal charges like 417, 427. How can [farmers] respond to [these charges], and what crimes exist [in these codes]? What kind of punishments can one get?... We give advice based on what is in the laws".

Hence the training curriculum culls the information essential for everyone to know and communicates it in ways that are easily accessible: "We use words that are easy for farmers to understand and we go back and explain things again," says Tin Soe Htay, the trainer. This allows farmers to understand what opportunities the laws provide and what constraints they bring that communities must try to mitigate. Indeed, the new laws have significantly changed the land regulatory framework: even though all land is still owned by the state, these lands have been made more legally alienable – land markets have been formalized, meaning that farmers can now legally sell, mortgage, or lend their lands. Says GPI Director U Tin Lin Aung: "We say to the farmers, 'you have the right to go to the government to get [a] land use certificate' and we will help show you how to [do that]."

However, with opportunity comes risk, as the laws describe situations in which "vacant" land can be so labeled and redistributed to outside investors searching for profit. The law becomes a tool for dispossessing farmers who have worked on land for generations. Tin Lin Aung sums up the double-edge of the new regulatory environment: "Although we don't like the current law because of its weak points, when we are giving the training we point out those weak points [not only] showing how they should be changed, [but also] so that we can know the situation, even though we don't have the power to change it now."

As the issue of the new law points to, there are broader contexts into which the new laws nest. With an eye to fully knowing the entire political-legal environment, GPI devotes a

half-day to contextualizing these laws within the broader framework of rights guaranteed to citizens of the country. Indeed, Myanmar's constitution establishes that peasants rights/interests must be protected. Article 23 holds that "[t]he Union shall enact necessary laws to protect the rights of the peasants." More generally, Article 347 describes how "[t]he Union shall guarantee any person to enjoy equal rights before the law and shall equally provide legal protection." GPI endeavors to use these provisions as ways to achieve resources denied to peasants. As Tin Lin Aung argues, "These laws show that we have the right to protect our rights and the land grabbing didn't follow the current law, and so we can do what we need to do."

While GPI focuses the first two days on the fact that peasants are *able* to make demands, the training concludes by focusing on how those demands can be made. The last half-day GPI works with participants to operationalize the training – to organize community members to form a collective interest group, and then how to bring their demands to the relevant authorities. The output of this final process is the preparation for a step-by-step action plan. To achieve a given goal, GPI recommends the writing of complaint letters, in which they work with locals to articulate the connection between their problem and the law. The local situation's specifics – whether bad practices are emerging from local, regional, or state authorities, for instance – will determine to whom these letters are sent. This section of the training then focuses on anticipating certain responses (or the entire lack thereof) from the relevant stakeholders, and reacting in turn as appropriate. As Tin Lin Aung puts it, "The Western people try to make things [overly] systematic in Myanmar. But sometimes [we have to] push at the national level, sometimes we will come down to the local level to make the pressure. It depends."

3.1.3 Metta's Land Training in Kachin – Issues and Methods

Metta's training of farmers in its network in Kachin focuses a great deal on the new laws and how to navigate the regulatory changes that they have wrought.

As mentioned above, Kachin farmers conveyed a particularly intense ambivalence in regards to the changes in the formal legal system. On one hand, farmers from both regions declared their desire to attain formal title. Under the previous system, many used tax receipts or state loan books (showing they were given formal loans) as "prevention to those who encroached on the land," as a Metta project officer puts it. But these documents did not always function as protective – many expressed feelings of insecurity: "The weak point of the tax receipt [system] is that when the government wants the land they can get it back," he

continued. Moreover, the receipts are difficult to even attain. Many farmers described how they had to pay a bribe – 7,000 kyat per acre – simply to pay their taxes, and hence receive the receipt. After receiving the training, the farmers expressed how the new system gives them more security – both in protecting outright encroachments, and allowing them to do more with the land. Many mentioned the ability to mortgage the land, get access to government credit, and the new ability to more freely sell their land if they wanted to. All of this can be achieved by attaining Form 7, and so in these ways, farmers see the new system as a potentially significant improvement.

But on the other hand, the new system, in keeping with the general orientation of the state regulatory system, stands in conflict with customary law, in that it privatizes and redistributes what had been community resources. Moreover, in so doing it compels villagers to engage in processes that are foreign to them, leaving them vulnerable to outsiders with more wherewithal and better connections executing the processes with more acumen, and hence taking the land.

3.2 Developing networks

Perhaps the most valuable aspect of GPI's training is not the content of the curriculum, but the how the prepares the way for continuing engagement between GPI staff and farmers on how communities must manage their own issues in the context of these laws. "We explain about PCM: project cycle management (peasant cycle management). For example, I am a farmer and I want to develop by myself. I must prepare for my livelihoods: I need to figure out what my needs are and how to borrow to fill it (buffalo or cow). I need to have the seed for the field. And then I have to wait for the market price, and if I can develop by myself, I am sustainable. And if you understand that situation, you can get the loan, and if not, you cannot," says Tin Lin Aung.

By focusing on the step-by-step realities of farmer life, GPI has started to incorporate interested peasants into its budding network, an added benefit of which is the on-going direct support that comes with being a network member. As Tin Lin Aung explains: "Because the community is thinking about how to develop the community further, we connect them to our partners – such as Food Security Working Group – who have more opportunities, and the community leaders attend the trainings as GPI network members." To become a member, one must be a peasant and know GPI's commitments: concern for peasant issues; land law and law rights; and sustainability of local communities. In regards to the on-going direct

support, when peasants take their first actions – such as writing the letters and sending them to authorities – they often phone GPI staff to analyze the responses on the part of authorities for assistance in crafting next steps in turn.

GPI has been rapidly developing these networks and hopes to expand with more resources to both deepen its engagement with specific communities and with the policy and legal issues. In regards to this former objective, GPI hopes to deploy more resource people on the ground, and expand the forms of work in communities. For instance, it is piloting local ‘revolving funds’ in which it supports community saving and encourages use of those funds to address collective problems. In regards to the policy work, Tin Lin Aung says “our dream is to also develop a training school, to be a ‘barefoot college’ or something like that in 10 years.”

As for Metta, past (and on-going) development work conducted by Metta has built and cultivated local community groups as the units for interface and engagement.

3.3 Effects of the training: advocacy and community mobilization

As the NGO sector knows only so well, training sessions that are executed well and have excellent content can still often be left at the training site, their lessons not applied in the real world or even remembered once trainees return to their normal lives. This section explores the effects of the trainings – in terms of knowledge retained and next steps assisted by the GPI and Metta.

3.3.1 GPI’s sophisticated advocacy work

During the training sessions, communities often develop action plans. But if they do take the risk to try to implement them, these efforts often do not proceed ‘by the book’, and what is more, often they deviate in ways that are often difficult to predict. Somewhere during this cycle – from the first action on the part of the community to the response from the object of the community’s appeal – GPI receives a call to help with the situation.

According to GPI leadership and staff, the critical skills GPI then brings are (1) the ability to **assess** the confluence of factors and variables that may be affecting a given situation, and (2) the ability to then use GPI’s social influence and networks to **garner more information** so that (3) GPI can **decide on a course of action**: whether and where to devote scarce resources. Finally, (4) GPI **assists in implementing** that course of action by mobilizing different parts of its networks.

In order to manage all these tasks effectively, GPI must continually work to understand an evolving situation and maintain its networks. For instance, during its land trainings it invites government officials to come participate, as a way of both soliciting their perspective and building trust with them; in October 2014 it collected as much land grabbing data from the Delta as it could and analyzed it against its own universe of cases (approximately 50).

Through these efforts, GPI has been able to develop a “diagnostic” analytical framework, in which it assesses a given land grab case by a number of factors. First, was the land grabbed directly with violence, was it the result of debt or failure to meet forced procurement quotas, or did it derive from corruption of the law (such that there was a ‘legal reason’ for the dispossession, but one that was motivated by officials with malevolent intent)? Second, which interested groups were parties to the grab? Was it a government department or ministry; did it end up in the hands of a ‘crony’ business; was it taken and kept by the army? Often the locals do not have access to the answers to this second line of questioning, but according to GPI, much rests in those details. As Tin Lin Aung puts it, “Is it a general, a major, a colonel, or their relatives – the cronies? What is the weak point between them?” He then mentioned a national political figure whose family had allegedly grabbed hundreds of thousands of acres, pointing out that this figure had recently fallen from power, and added, “If they lose the power they will give back some opportunity,” in other words: when a crony or a politician loses institutional backing, the heretofore unthinkable challenge becomes possible. And as for the army? Tin Lin Aung is guarded but optimistic: “We have won at the crony and the ministry level, and so we are working up to the army.”

Knowing these details, however, is just one variable on which success depends. GPI stresses three other key aspects:

- 1) The community must know the land law and land rights
- 2) The community has to have an association and unity
- 3) The CSO with whom the community works must have the ability / power to pressure those who are responsible for the situation

Knowing the law is necessary but not sufficient – the knowledge must be used by a community that can act more or less with common purpose, and that community must in turn be able to put pressure on the principals involved (the cronies, or the local government)

or be able (often through an agent like GPI) to exert influence on those in superior positions who will then help rectify their situation.

Knowing the law, the situation, having unity, and putting pressure in the right places will necessarily require a multivalent and adaptable strategy – in which sometimes begging and acquiescence are the appropriate tactics, and other times protest and threats are more appropriate. The latter, of course, is much riskier than the former. Moreover, if GPI became known as the leader of protests, that would likely foreclose the possibility of GPI's involvement in repeated actions and undermine its role as a broker and negotiator. It is here that the informal network model must be mentioned. GPI provides training and gives advice, but allows the local groups the autonomy to decide on their desired course of action. If that happens to be a protest or a land occupation ("plough protest"), that is the prerogative of the local group – and GPI will merely support them once the action plays out and the group needs legal assistance or help with negotiation. Moreover, such a *modus operandi* allows local groups to build their own capacity and solve their own problems, rather than relying on an NGO patron.

3.3.2 Metta's assistance with collective action for community ownership

As it is early after the first set of trainings, there have not been as many actions in Kachin as in Ayeyawaddy, and so this section will focus more on early efforts and responses from those who received the training. In terms of the latter, a female representative from Naung Pon village, Myitkyina Township described how the assistance from Metta led them to address their problems collectively. "We had already been organized, and we called the trainers to come and show them the way, and tried to resolve things step by step. After the training many people were aware and they applied land Form 7 and for a community forest. Any time there is a problem we do it together. They arrested one person to intimidate the rest of us. But we were not afraid and continued on." A villager in Waing Mo, Sang Ka village relayed how before the training he didn't really understand which government officials come to the village and what they do, not to mention "how much you have to pay or whether you have to pay." The farmer continued, "But now, with the training, the lies are knowable. Before we thought we had to pay the application fee annually – 6,000, 7,000, and for what? After the training, we know we don't have to pay that much, come to know the process, that they only have to apply."

Since the trainings, Metta has worked with communities to facilitate collective resource management strategies. After receiving land training funded by LCG, Metta has



Figure 3. Two farmers from Aung Myit Thit pose with the government documentation they have obtained after going through Metta's legal training.

assisted applications for getting these areas classified as Community Forests or Community Lands. For instance, in Aung Myit Tit there were no lands for burying the dead, but after the awareness training, the community applied for vacant lands and got it changed to be able to be used for everyone. Further, other villagers were able to get certain land demarcated as a collective resource: "We fisher people want to make a fish pond, and so the village people who participated in the Metta project had got awareness of environmental issues, and so we

made a sign-board [identifying] who stays along the lake, and submitted this to the township administrative office to stop the rich people from coming in – this is a communal pond, and can't apply for it (if they dig and change it then the paddy people will not have enough water)."

Finally, Metta has begun to conduct advocacy. Metta, not traditionally an activist organization, has had to slightly reorient its focus so as to bring its influence as an institution and their knowledge as professionals to bear on relevant government bodies or individuals. A officer of Metta described a situation in which a hydropower electricity project grabbed land for the purpose of building its electricity lines. Metta said that they had to first go to the company and discuss with them. The company first tried to redirect them to the Mandalay office and then told them that as the hydropower project will give the country electricity and is part of the country's development, the locals should participate and should not ask for any compensation. Metta replied that the locals cannot get any electricity anyway, they only see the string across the whole village and it passes them by. The negotiations are ongoing.

Ultimately, farmers believe there is a need for forums to be developed so that they can confront those who took the land and discuss possible solutions: "Those who took the land and those who had their land taken have not yet looked in each other's eyes." Metta is helping farmers attain the knowledge and confidence to create and then participate in such fora.

4. Cases from the field

The following section features cases from the research team's field visit – there are four 'successful' cases and one case that has currently not been overtly successful but which illustrates some difficulties in navigating the legal system. While many of the factors mentioned in the previous section cross-cut through the cases below, each case will be used to help illustrate and drill-down on key analytical points.

4.1 Villagers successfully mobilize to regain access to a lake they had been prevented from fishing for 25 years

Shan Village Tract is comprised of three villages, Shan, San Myin Gone, and Shwe Boh Su, within which are 500 households (3,000 people). The villages are situated beside a small lake – perhaps a km long and 500 meters wide – and the village people made their livings harvesting fish and other animals and plants from the lake, while supplementing this main livelihood activity with small gardens. A few residents also had farmland nearby on which they cultivated paddy, but for the most part these were people of the lake; they refer to themselves as *yay-louq-tha* or 'workers of the water'.

In 1990 a large company from the nearby town Ngathaingchaung, with assistance from the local government, declared the lake and the surrounding area to be its property. At that time the businessman set up a rice processing mill, and the company fenced off the area and prevented the local farmers from accessing it without paying a fee to the business; the local fishers were given no compensation.

Over the ensuing years, formal ownership of the license to work on the lake (and which excluded the locals from accessing the lake) passed from one powerful businessman to another, but the situation for the locals did not change, it only deteriorated. One villager the research talked with said that everyone was forced to do daily work (such as joining crews that put



Figure 4, Zaw Myint, co-leader of the Shan village tract fisher advocacy committee, stands in front of the waterway that the community has recently been given access to again

out rice seedlings and transplant paddy plants). According to local leader Zaw Myint, this kind of work was not sufficient: "Speaking honestly, the workers looked for work and just for their eating and drinking, but they gradually had no more work to do." This led to significant out-migration (see the quotation from Zaw Myint in section 2.3 above).

When the country's national political context began to change in 2011 the local community members decided to try to get access to the lake again. In 2012 and 2013 they sent a series of complaint letters to relevant ministries. Although they sent letters on fifteen separate occasions, these letters did not result in success for the farmers. Township officers did come to the area and inspected the claims. "They just examined and it was over... We did not get the resolution, and talking about not getting that resolution, it was because those letters were weak... We did not frame it well. The complaint was not appropriate," said Zaw Myint.

GPI first connected with this community in June 2014 to assess their situation and see if GPI could assist. After deciding that there was an opportunity to help the community, in September of 2014 GPI held its three-day Land Law Land Rights training. Zaw Myint described the how training as giving them the confidence to begin to study the issues themselves. "When they gave the training, we learned about the water workers' law, mainly we listened carefully and we learned. If we want to work at our issues, you have to study. From there we continued and made a movement... We locals organized and so many of us signed, and we signed together."

The farmers formed a fishers organization that has approximately 100 active members. The organization appointed a leadership team consisting of seven members, including a leader and a secretary. The group appealed to Ayeyawaddy Division's Fisheries Department through a series of letters and talked with their MPs. "We told them all that if it was necessary we would protest," said Zaw Myint. With the assistance of GPI they secured a meeting with the Agriculture Minister U San Maung (which has authority over fisheries). As they had to attend a number of meetings, the group helped support the travel costs. Daw Mya Thazin, the group's secretary, helped collect money from the leadership.

After making their appeals they were granted the license in a ceremony held in mid-June 2015 (see figure 8), attended by Minister U San Maung and Minister U Than Win. One of the members of the group expressed his satisfaction and relief with the outcome of the process: "For so many years we were in the money-master's hands, but now because the poor people currently get the license, we are just so happy."

But after attaining legal access to the lake, the fishers' challenges were not over. Those 'cronies' who had taken access to the lake and held the license actually resorted to physical violence to again displace the fisher community. Zaw Myint described it:

"These rich lake-license holders, these cronies from the time before... these businesses had intentions that can be called 'black market' and when they were given the news that their business were no longer allowed, they were bothered by that. Because of that they waited on the road and beat us".

The fisher group did not succumb to this intimidation and the crony's thugs were sued. The fisher group continues to function, now operating as a way of coordinating collective management of the lake's resources. According to Daw Mya Thazin, "Right at this time the fish are not yet at full size. At this time those who catch them they are ordered not to catch them. Only after these fish grow up and they have become big is the permission to catch them given." There are a total of 107 people in the group, hailing from the three villages on the lake.

4.2 Ma-U-Bin – Partial victories facilitated by an active local CBO

Ma-U-Bin, a township in the eastern part of the Delta only ninety minutes away from Yangon, has experienced a host of land issues. The most volatile of the particular conflicts that emerged there – in Palaung village of Ma Let Toe village tract – ended in a bloody riot that led to the death of a police officer,¹³ an event which indexes both the adversarial relationship between authorities and villagers in this area, and the challenges faced by villagers in achieving redress for their land problems. In this difficult environment, not only is it critical to have local facilitation and leadership, but these local actors need to be able to mobilize resources at higher levels.

This case study will hence focus on the local GPI partner there, the Ma U Bin Township Farmers and Fishers Social Affairs Assistance Organization (hereafter the "Farmers and Fishers Organization"), and the role it has played in helping people address conflicts. During the field visit to this area, the research team visited six communities who experienced land and local

¹³ Thomas Fuller, "Clashes Over Land Seizures Batter the Police in Myanmar," *New York Times*, 27 Feb 2013. <http://www.nytimes.com/2013/02/28/world/asia/dozens-of-police-officers-in-myanmar-hurt-in-clashes-over-land.html>

GPI did not work directly with this village, but did assist in negotiations at the time of the violence.

governance conflicts, and was able to document patterns of abuse and identify successes and on-going challenges.

The Farmers and Fishers Organization was established by Min Zaw, who first encountered peasants' challenges of in this area while working for the NLD's 2012 by-election campaign. "We came to encounter that the farmers were not liking how the current government was carrying things out, [particularly] with the issue of land grabs." After the election, the government formed the land investigation commission and, according to Min Zaw,

"It encountered farmers' suffering in most of the townships... but it did not have authority to change the situation on the ground. The commission has no permission to give land. Talking about which people have the permission to decide on whether one wins or loses, they are in the township and district land offices".

Min Zaw hence wanted to work to address these issues that other agencies would not or could not address. Indeed, in the six areas there were a host of actors involved in the confiscation of land, many of which were well-connected to positions of power, including: old administration officials, the police chief, the head of the district Development Committee, the education department, and the head of the prison department. In total nearly the group estimated that nearly 10,000 acres of land were grabbed.

Min Zaw's group started to come together in late 2013. "Before our group was formed the peasants, the people who lived in these hamlets, sat [together] at a meeting. We farmers who lost our rights/opportunities, who lost their land, made a meeting talking about how they would work to get them back, and as we could negotiate and collaborate with the government only if we officially registered an organization, we founded an organization." This organization heard of GPI and connected with it, and received the three-day training. Min Zaw describes the changes in the attitudes of the farmers as nothing short of remarkable:

"They come to know the law. The masses know the law. There are activists and CSOs. If it is necessary [the CSO members] explain the law. The locals are now starting to write letters about misconduct in a systematic way." Min Zaw gives an example: "if we are talking about how knowing the law helps them, the pond in this area has a dam that is closed. That is known. Because they did not know the law before, they did not know how to make a good complaint; because they know the law now, and the dam is closed now, they know that it is

appropriate to complain and they complain and get [the policy] discarded. What's more, originally they were very afraid to go to the office; very afraid. They would not go at all. Now, because they come to know the law, they know there is permission/opportunity to go. Therefore, they go. They have the courage to go... They know more than before to complain to the officers according to the law. Before, if one went to meet the officers, in a whole day, they had to sit and wait. Now they go and if they don't meet them, they will complain and because of that [the officers] are terrified.

Many of the members used this new knowledge and confidence in their own ways, and the group helped advise their actions. In the Htanbin Kway, Taala Waw, and DounNyin cultivation areas farmers had land taken in about 1995, and in 2013 more than 100 of them held a plough protest. Min Zaw also reported how a plough protest in Yaynankyaung resulted in a battle with knives and the charging of the farmers with criminal codes for trespassing and destruction of property. In Taung Sa and Moe Maka villages there were over 40 farming households which had their land taken, as described by a local villager involved in fighting for redress:

"Our land was taken, we said, and the authorities took the facts and after they took the facts, they came to the field and got the facts, and only after they took were they sent to the investigatory commission, and after they were sent, the investigation was done. When this investigation was done, it was about a year later, and after this year passed another riot, a conflict was created".

What is noteworthy here is that the villagers from Taung Sa and Moe Maka mentioned a conflict that did not directly involve their own campaign, because it was an event that influenced the broader environment. Indeed, a policeman from the area was quoted in the *Myanmar Times* saying "it is dangerous to go and arrest them where they live",¹⁴ suggesting that the riot actually created space for more maneuvering on the part of locals.

Indeed, Min Zaw tried to avoid direct conflict and instead submitted letters for land or compensation, then raising complaints when compensation did not come, and file court appeals for the farmers who have to go to court. "We have to do these things step by step. The departments that take are not the same, the villages that are taken are not the same, the

¹⁴ Shwe Gu Thit Sar, "Police avoid more violence in Maubin," *Myanmar Times*, 18 August 2013

<http://www.mmmtimes.com/index.php/national-news/7895-police-avoid-more-violence-in-maubin.html>.

records are not the same, because of that, in Ma-u-bin the areas that are taken are not the same. They are all distinct."

In all these efforts, Min Zaw and the members have dealt with failures and partial victories: in some areas, "People were forced to sign documents that said they were being given compensation that is sufficient to buy another piece of land, but although these documents were written, they did not reflect any reality." In other areas some land was given back – two acres returned in GawetKin; 142.5 acres returned in Thazinyay, etc. All in all, 920 acres out of 2,800 that were taken were returned. Min Zaw said, "Although they were not able to get it completely, getting 920 returned is a small victory."

But while this is true, when this land was given back it was not distributed equally, as some with connections to the gatekeepers of the land distribution system were able to get more land:

"The Taungsa Administrator U San Myint Aung took priority for his own people from the start. For example, of the over 2000 acres that were taken, the 920 that had to be given back, the Taungsa people got priority. [On the other hand], the Moe Maka area farmers got about 4, 5, 10 acres... Those who are shrewd are able to get more. There are things like this. It depends on the Administrator.

While some compensation was given for the remaining land, this was also not sufficient or fair. "The farmers did not get sufficient amount... Go count and look at the current price, it is 20, 25, 30 [lakh] for a really good acre. An acre is 20. Two lakh are given. Estimate the difference," said one local farmer. But Min Zaw was more circumspect:

"There is a deviation from what they [should be] getting and what is being given. However, if we are going to look at the subject matter of successes, they have success now [compared to] before, on one side because of the activists organized, the large land grabs like this don't happen again... opportunities for that kind of injustice happening are becoming less... And before the SLRD officer would not come down. Now they come down. Now there are investigatory commission parliamentarians at the union level; before, kinds of people like this absolutely did not come down to the field".

The relationships between state and citizen seem to be changing. The farmers and fishers are not only extracting more realizable benefits, but their actual patterns and modes of

engagement with those in power are changing as well. They have more protections and more opportunities to present the case on the ground.

4.3 Kyaungkone – USDP party representative and GPI collaborate to achieve redress for land grabs

In Kyaungkone there were a number of land problems that the research team was able to document: one involving the military grabbing land; another involving a local administrator.

In the case of the military land-grab, according to a member of the USDP who knows the case closely (fig 9), in 1996 Battalions 16 and 24 took 513 acres from 68 Households in the township. In the case of the local administrator, he sold off some lands owned by those in this village tract, a sale the villagers were not told about and about which they only learned after the transaction was completed. In both these cases the community had to mobilize in order to address the problems. In the latter case, villagers went around to those who had their land grabbed; those who wanted to participate in the effort signed their names and then all of them together sent letters to the authorities. But, according to Daw Ei Phyu, a local land activist:

“There was no outcome at all. Because the administrator had sold it off, we had no way at all to get it. Because we could not get it we continued to send [the letters]. Township, district, region, we continued to go and send”.

Daw Ei Phyu continued by identifying the assistance given by GPI as a critical turning point. “Only when we connected with the GPI group to present our case did the division give us a decision.” One example of the influence that GPI brought can be seen in how the group enrolled members of the Union Solidarity and Development Party (USDP) into the initiative. The USDP is the party of the former military dictatorship, and dozens of its high-level representatives have been implicated in or tied to land grabs across the country. The research team spoke with a local USDP member, who commented on his role. “I am USDP. And when we try to fix the land farmer issues, we put the party [interests] to the side for a while. In regards to the work that is done by the majority together, we do it.” The official viewed the resources and expertise given by GPI to be a boon rather than a threat to him:

'How to do things with the land law? How to do within that frame? So that the villagers are separated from danger. They come to understand because of the trainings given to them. And so, to the question how does one get their land back, we give to them the methods. So, because they come to understand it themselves and they follow according to the methods, there is success... Mainly it is necessary to give knowledge. Money is not necessary. If money is given it will be used up. And so, give money to GPI for giving knowledge to farmers. It is necessary for there to be money for their work. For them, talking only about pocket money, it is not that. It is necessary to fund the trainings of our GPI organization. Now the organization's strength, it's from own members' pockets, and they are working for the farmers. [emphases added]'

Noteworthy here is that the USDP member identifies strongly with being part of GPI – he uses the pronouns “we” and “our” when he talks about GPI. Through the collaboration, the USDP, GPI, and the community were together able to get nearly all of the land grabbed by the battalions returned. In the other case, GPI and the local community had similar success. According to the UDSP member, it was because they negotiated and remained within the law. “The farmers who do the plough protest or they hold a protest: they do that and they don’t get the land back. If you will do the plough protest, to get success is more difficult. That is arriving outside of the law. We work for them only within the boundaries of the law.”

At this point, however, things are still a bit unsure for the farmers. As a participant in the local group told the research team at a gathering in Kyaungkone: “It is said that nationally the lands that have been taken and kept will be given back. We will ask just two questions. Will the land be released? Will it come to be diverted to a different person?”

And even if the land is actually given back to the community, a vexing problem remains: the land has to be redistributed, and the farmers desire a systematic way to record precisely whose land is whose. As a GPI staff pointed out: “If they go down to work the land before it gets measured – [before it is] figured out what he owns, what I own, how much do you have, how much do I get – there will be a dispute... If there are enemies created, they will cut with a knife. And then they will go to prison.” Some argued that they had to wait for the government agency to make declarations. As one local group member put it: “The government [will say], ‘you take this, you take that,’ and only then will it be divided.” Only after the farmers get this official measurement can they finally apply for Form 7. And although according to the law, these measurements are supposed to be a free service of the government, “For doing the measurement, money is necessary,” as Daw Ei Phyu put it. These

are just some of the reasons that other locals opposed this line of action. Said the local USDP representative:

“Just give the permission to work the land... We on our own will continue to work fine. We do not need to wait. We will just measure it ourselves. On the government side, although they say they give it back, in reality they do not”.

This man here reflects the concern that these delays, seemingly merely procedural and bureaucratic, are actually a way of deflecting the current political pressure to resolve these issues in favor of locals.

4.4 Thabaung – Victory through plough protest and a window into “the official mind”

In Thabaung the research team had unprecedented access to local officials, due to particularly positive working relationships between GPI staff and these officials. Interviews were conducted with the Division-level MP of the USDP, the State Land Records Department (SLRD), the NLD president, and the Township GAD official. The research team also took motorboats into the small village of Hsat Thwa to spend one night and meet with local farm groups in the area had organized a successful plough protest. These interviews provided a number of different perspectives on land issues.

Hsat Thwa, not reachable by land during the monsoon, is like many areas of Thabaung in that it deals with water issues – either too much during the monsoon OR not enough (due to silting of rivers and lack of canals). Farmers and fishers and officials repeatedly described struggles to improve access to the right amount of water. But then there was the issue of who controlled the land – and here farmers described the thousands of acres of land grabbed by ‘crony’ companies. An MP of the regional parliament of the USDP party provided a slightly different interpretation:

“Talking about land that was taken, a long time ago companies and there were farmers who had business they



Figure 5, Hsat Thwa, Thabaung Tsp, where dirt path gives way to waterway

could not work. There were lands but the farmers were not able to work them. They became reed fields. So, these businesses, they cut and cleared the reed fields and they dug a canal in order to go get water. When the digging like this was done, they coordinated together with the farmers. In the area that can be called a connection, on that side money was taken out and given. After that, that company did not continue working. When the company Aye-ya Shwe-wa did not do the work, they gave the land back. The acres they gave back were even over 40,000 acres. In this township, it was more than 30,000. In the area that was given back, there were some small problems”.

The MP here describes a more symbiotic relationship – in which the company made improvements to the area so that the land is now viable. And consistent with this win-win situation, the MP outlined his role as mostly technocratic – trying to improve the development situation to the extent possible given the ecological challenges that the region faces: “What I’m doing now I’ve been doing the whole time there was a parliament, and that started from 2011. In regards to land there has been work done to bring success to cultivatable land issues. I am working so that cultivation is improved... If a lot of water doesn’t fall, then significant cultivation cannot be had. So, for getting that ground water we have to dig a canal. The areas in which one couldn’t cultivate because there was no water, now they are quite cultivatable. That is it, roughly.” The General Administration Department Township authority that we interviewed described a similarly orderly process for resolving conflicts:

“Take this village. In this village land was taken. It was 100 acres. When the land that had been taken was abandoned back, who should get it, I did not know. The village people will know. The village leader, the elders will be there. The supporting committee, social affairs businesses will be there. And with these people together, these people, who should get what area and why; when people complained, they presented it. When that happened, there weren’t really any problems. It was not those people take, these people take. In the village and wards, these proposed lands were given back and confirmation was given”.

He stresses the role of local CSOs and respected locals who can help clarify the situation. The USDP MP outlined a similar need for CSOs to fill in information gaps, the CSO working as a valuable and trusted intermediary, bringing important information to politicians who lack on-the-ground knowledge:

"The CSOs present the needs, and also the locals present to them. The CSOs are not able to give a lot of help [themselves]. In their local areas they will discuss the issues; farmers with each other, workers with each other, they discuss. And we, as we are MPs, as we are always traveling, we do not know these difficulties".

These officials were joined by a Land Records Department official in noting the orderly and systematic nature of the various relevant authorities. He described the tasks for which he is responsible: scrutinizing the land cases; measuring plot sizes so that farmers can apply for Form 7; helping two sides in a dispute divide up land if there is no original documentation; examining the embankments and local witnesses, etc. But noteworthy about the exchange was the fact that the SLRD representative was the only person during the entire research trip who requested to not have the interview recorded. A regional journalist and GPI member who was present for the interview later described why:

"The land records department is the most important thing in regards to land. There is nothing that is more important than it. And for land problems, the SLRD's partiality and corruption is the highest. The person you interviewed was very afraid. He did not dare to have his voice recorded. No one is separated from the corruption. Even if it is not ok to present supporting evidence, definitely no one is separated from it. The corruption for the SLRD in Myanmar is such that no one is separated from it, I swear, may lightening strike me".

This GPI member described the necessity of cultivating good relationships with such actors: "We are very close with them. Talking about that familiarity, it's not like buttering them up. If they don't work, we complain, go to the office. However, they do remember us..."

These interviews help illustrate the gap between idealized role of government officials and how things actually proceed on the ground. The repeated descriptions of thwarted attempts by locals to get their land back – and indeed there were many descriptions of plough protests by locals in the Thabaung area – become more understandable. To provide a glimpse into this angst, take the statement of a farmer in Hsat Thwa village, beside himself with frustration:

"Those big people on top, why don't they come down to see? Don't they look? I am saying this again, do they not hear? What we are saying, everything is gone. I am tired of saying the same thing over and over again. Next time I no longer will say it slowly

and gently to them. I am going to say it with rudeness, I am going to say it with anger. These are simply the words for saying this. What I have to say, if I have to curse the minister, I am going to curse. If we are talking about punching him, I'm going to punch. I said that last week was not strange. It is said to U San Maung. If what I'm saying is not believed, slit my throat... If our children are not taken care of larger problems will come".

In the context of these plough protests, the township head of the NLD explicitly refuted some of the information provided by the government: "To resolve the issue of Aye-ya ShweWa taking altogether 41,000 acres that they had asked for, that still exists. Up to now they have quite conspicuously not given any back yet. Land is not being given back." When asked if *any* plough protests were successful, the NLD head provided his interpretation of the broader context:

"In some areas land was given back. But in some areas they went to prison. All of them, no. Talking about here, there were over 10 farmers who did a plough protests. In two areas. In one area they got it back. In one area they went to prison. For intruding".

In still another area, KonMin, people went to jail even though they didn't hold a plough protest at all: "They didn't do a plough protest. However, they got charged with invading."

The research team spoke at length with Myo Min Htun, of KaNyinChaung village (Shaw Ywa Koun village tract), a leader of one of these plough protests. He is a member of GPI, and also works as a land trainer: "In 1998 Aye-ya-Shwe-Wa company declared the land to be wild and what was worked by the farmers was lost. That lost area from '98 has been grabbed and held until 2014." In 2012 the farmers came together and formed a group, and began taking actions:

"Back then we went up and asked for it back. Official complaint letters were sent but we did not get them back. We sent the letters. We sent them to the ministries. We sent them up to the president office. And although we sent them to the president office, there was only an examination. It was not given back to the original owners".

Myo Min Htun described how farmers' unions and GPI got involved, but the land was still not given back. At this point, the farmers decided to proceed to the plough protest. The situation

was not taken lightly. Myo Min Htun relayed the thinking that went into the decision-making process:

"Talking about how we would do the plough protest, it was at least two or three months that our side [considered] if they would be able. 'Will we go to prison? Going to prison may happen. Not going to prison may happen. We will do the plough protest. If we are talking about going to prison, we will go.' We made a decision to hold the plough protest saying that the families who don't end up in prison yet will continue to work the land".

The people in the group and those who participated in the protest were not merely the ones who had had their land grabbed: "Those who did not have their land taken participated and protested and knew the true grievances and gave the help. Our kind of people knew the grievances and helped each other." This kind of solidarity and mutual assistance is often identified by GPI as a critical variable in predicting success. Myo Min Htun elaborated further on the effects of this solidarity: "When the truth was not known, the plough protest was done and when the masses had the intention of rebelling the government started to concentrate [on the issue]."

In 2013 the group held its plough protest; Myo Min Htun went on to describe its consequences:

"Because only when we held a plough protest did they come to reexamine this issue, and only after they examined was it given back. Because the first time the examination was provided, talking about that they went around without knowing. They just gave amongst themselves. It was not given to the original owners. Only when the original owners were not able to receive it did they do the plough protest. And so, when the plough protest was done, it was not ok [possible?] at all to conceal it. The population who did it was over 2000. In one area it was over 2000. In one area it was over 1,800. Two areas did it. Two areas got it all back; one area got 298 acres and the other area got 180. Altogether that's over 400 acres. They applied and got Form 7".

After the plough protest nearly 40 farmers were charged with trespassing and destroying crops. Often in these cases the farmers would end up in prison, but the arrest and charging in this particular situation gave the farmers an opportunity to present the evidence that they had been unjustly dispossessed. "They did not go to prison. Because there were witnesses

and evidence and the witnesses were able to show that the owners had full evidence of ownership."

Although it is not representative of the median case, the story describes a remarkable victory achieved through collective action. The NLD representative notes that most groups do not have the combination of courage and luck necessary to gain victory. The road ahead in Thabaung is uncertain:

"Currently, although the battle [for the land back] can be entered, because the farmers who enter the battle have their power depressed and their minds broken and are worried, for the NLD, there is only leading and implementing for them. However, sir, because of these losses, getting it back is not guaranteed. And yet, I can't say that the NLD from Thabaung township will get it; I can't say we won't get it. We have to work like this".

4.5 Pantanaw (Laymyet-Hna) – Law and negotiation

The last case study does not lead to explicit success, and in fact illustrates some of the complexities in engaging the law – it has drained the coffers of the farmers, but has (arguably) put them in a positive negotiating position vis-à-vis those who currently occupy their land.

Before arriving in Pantanaw, the research team met with a local official in Laymyet-hna who described the confusing bureaucratic context:

"There is the Form 1 application level. If one applies at the Form 1 level, one can apply for Form 2. If one gets Form 2, if someone enters and works one's land, one can prevent them. If that is finished, the true applicant is unsuccessful, he has to enter an appeal. The person who wins can get Form 7. If one gets Form 7, one doesn't have to be the original owner. If one gets Form 2, one can prevent others. Saying that, one can enter an appeal. If one wins the appeal, one can get Form 7. Now the problem is what to put up, as one cannot stick up a 'do not enter' sign. Because one cannot stick, the others can enter and work the land. Those who enter and work do not know [the owner]. And so, those who enter to work go get the Form 7. For this, one has to appeal again. In Ayeyawaddy, there are so many who pay the money and get the Form 7".

In regards to the specific land grab in Pantanaw, farmers were engaged in a land dispute with a company and a local politician U Kyaw Shwe, the leader of these aggrieved farmers,

described how 34 households had been growing various crops – he, for his part, grew chili, eggplant, watermelon, and barley. However, a local MP entered the land and fenced it off, replacing the fields with a mango orchard: “The MP is U Thein Htun. He had been our ward/village chairperson. When he was the chairperson he grabbed the land.” The land was reportedly taken in 2002 / 2003 and on those 100 acres by 2006 to 2007, teak and mango trees were being grown by Myo Kyaw Lin company.

The farmers came together and decided to sue the company. Out of the 34 households, 11 came together to sue the MP but “the remaining ones did not dare to complain. Because they were afraid they did not dare to complain.” The farmer leader went on to describe the enervating process that ensued:

“First there was the suing, in the court, as it was in regards to land, [the courts] did not have the power to authorize administration of it. Because of these necessities, we ordered the lawyer to build the resolution to the case. In up to 28 court appearances in 2014 there was no outcome at all. Since 2012 when we started to complain nothing at all has been made for us. The cost for the lawyer to come from Yangon to here has exhausted all of the farmers’ money. For we farmers, there is not any more money to call and hire another lawyer. There is not enough money to pay the lawyer cost. The money is gone... The case that is being prosecuted to build the resolution of the case is temporarily on hold, and we currently are sending letters to the district”.

While the legal avenue had been engaged, it did not deliver direct benefits. It did, however, make the conflict visible to others in the area – including government officials and “important people” who wield influence in the area. As U Kyaw Shwe put it, “The big important people get to know about this issue. When they get to know the important people say that the company has to pay the compensation. Currently the company has not yet paid the compensation.” The farmers also connected with GPI and proceeded to try to engage the company and MP in negotiations:

“In the domain of resolving [our case], it is necessary to have a four-side resolution meeting: the supporting organizations, the farmers, Moe Kyaw Lin company, and the local government would be in the four-sided talk. And so, it is not necessary to send letters [anymore]. It is not necessary to sue them. It is not necessary to protest. It will be completed only by making a discussion”.

In such a situation, "discussion" – meaning compromise and dividing of the resources – may be the only just option. U Kyaw Shwe even acknowledged that the other side had a strong claim on the land as well – that they have worked there for a long time as well, and even have evidence for it.

And what role for the law? Interestingly, U Kyaw Shwe wants to bring the law – a domain in whose formal, real channels his group has had no success – with him into the discussion space: "We will go inside the realm of the law. Inside the domain of the law one person and another will discuss and we will go decide. It is that way and will be that way. So that it can become that way, in a discussion circle we discuss and in the law we will go."

5. Conclusion

Land grabbing is an issue that continues to affect thousands of communities and families in Myanmar. Combined by with the increasing possibility of collective social action and civil society advocacy, these land grabs have stimulated a number of vigorous responses from both those directly affected and those who stand with the victims. However, there is yet much unclear about how these resistance and reclamation activities are working on and generated certain outcomes.

The researched focused on the way the organizations work and engage with the legal system and enhance legal knowledge and actions toward generating certain outcomes. The research found that in order to achieve restitution of land, a complex multiple layered tactic that addresses various areas needs to be implemented. More specifically, the successful tactic typically includes some combination of; enhancing the legal knowledge of the community in order for them to appeal to institutions; internally unification of the community; sufficient resources for the community; cooperation of the community with a CSO that has capacity, will and strategy to advocate; understanding of the political contexts. For GPI this meant that they had a three tangible assistance towards the community. They gives members trainings, provides them with advocacy support, and facilitates connections with relevant parties whom the local members could not successfully contact on their own. The decentralized network model of GPI also enough autonomy of the network members to make their own decisions based on their own understanding of their own situations. This in turn acts as a risk management tactic for GPI, as the organization not caught up or made guilty by association if a local member breaks the law (for instance, by holding a plough protest). Moreover, knowledge of the law creates a common platform for farmers around which to mobilize themselves, allows them to appeal to levels above the local, and allows them to engage in informal discussion with other parties to the conflict. Even though there is an important role for legal when it comes to delivering actual resolutions, informal discussions between parties to a conflict are often more effective. In this process of negotiation, there can be an important role for the CSO as they have the possibility to create a setting were people come together to resolve the issues. Besides the roll of the CSO, local officials can also play a role in the solution to land problems even though it is well-known that local officials are often involved in corrupt practices, others can be enrolled as partners. The final important strategy can be protest. protest can work, sometimes directly in the favour of the protester but more

often for others around them. The protest would make it easier for others to afterwards proceed their claims.

Despite the above mentioned tactics and strategies, the successful outcomes are often partial. It frequently occurs that the restitution is incomplete or not transferred, that the restitution is inadequate and for the farmer not equal to their loss or that the restitution is not (yet) legally recognized. Another key issue that became visible, is that the formalized land law can be in conflict with customary law and may not favour the farmers. Moreover, the land laws may provide a technical system that can be taken advantage of by those with more technical skill (or unofficial connections with those in power). Further, the formal system privileges "the law of the paper" (as it is described by locals) and disregards long-standing traditional customary tenure arrangements. The formal legal system has complex procedures that often result in multiple hearings, processes that are economically (and emotionally) unbearable for poor farmers or forcing farmers to go into debt. And even in situations where land is returned, locals dispute amongst themselves about who has claims to what. As there is no clear official statement on it, peasants express the need for government institutions to make official measurements to resolve this kind of situations.

Appendix 1- Research Questions

Organization

1. How have community associations organized themselves (for the purpose of getting their land back)? How have they made collective decisions?
2. Have external actors (such as NGOs) organized them, and how?

Legal Knowledge / Context Analysis

3. How were knowledge of the land laws and knowledge of rights guaranteed by other legal instruments (such as the Constitution) important for those mobilizing for redress? What role did they play in success?
4. What kind of legal knowledge did local communities begin with and what role did NGOs play (i.e. training) in assisting learning processes?
5. What role did proper analysis of the political context play in determining tactics / actions (and how was that political context ascertained)?

Actions

6. What role did local community actions play in achieving or undermining success? Did they change their tactics (regarding how farmers navigated the law, authorities, etc.) throughout the course of their engagement with the NGOs?
7. What role did NGO pressure / advocacy brought to bear on relevant actors play?
8. How did legal processes influence the outcome – for instance, did farmers face arrest and imprisonment? Alternatively, were they able to bring litigation against the land grabber?

External Factors

9. What role did the type of land grabber play (army, company, government ministry, etc)?
10. What role did type and size of the land grabbed play?

Outcomes

11. For those farmers who were able to return to their land, have they secured land title for the land, or are they just allowed to use it?
12. Conversely, have farmers been given official recognition of returned land yet been prevented in reality from accessing and cultivating that land?
13. For those who got compensation, was it adequate for them to reproduce their lifestyles: to purchase replacement land, to continue sending their children to school (if they had been sending them to school before), etc.?