The Impact of Land Grabbing on communities in Myanmar



Land in Our Hands Network
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Destroying People's Lives: The Impact of Land Grabbing on communities in Myanmar

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Front cover photo: This photo taken by the local field focal person shows a villager's farmland that was confiscated by government for the Tavoy town development project. Beside the Kan Nar Road, Dawei town, Tanintharyi Region. Date: August 22nd 2015

Summary

• The problem of land grabbing in Myanmar is widespread and longstanding. The data in this report comes from more than 2000 individuals in 62 townships in six states (Kachin, Kayah, Kayin, Mon, Chin, Shan (North & South) and seven regions (Yangon, Bago, Ayeyarwady, Mandalay, Sagaing, Magway and Thaninthayi). Three-quarters of the cases began in the 1990-2009 period, with many additional cases occurring after 2010 as well. All are ongoing: none have been resolved in a way that provides justice and closure for the farmers. The problem has simply accumulated and expanded over time.

• The patterns of land grabbing are varied, but have not changed over the decades. In some cases the original farmer-occupants were thrown off the land entirely. In others their land was grabbed, but then they are "allowed" to continue farming by making rent or share payments to the grabber (e.g., -- they lose control of the land, and now have to pay the grabber for the "right" to use it). The pace of grabbing is varied too, bringing different kinds of hardship. Some cases occur immediately, while others proceed slowly with twists and turns.

• The majority (76.4 percent) of respondents lost up to 10 acres of individual farmland. Many of them say that had been able to fulfill their family's basic needs (shelter, food, health, education, inheritance) before their land was confiscated, but are facing serious difficulties now.

• Whether before or after 2010, the possession of legal documents did not provide any significant defense or protection against land grabbing for farmers in the LIOH network: 1129 respondents (42.5 percent) said they possessed legal documents issued by the government when their land was confiscated, while 1058 respondents (39.8 percent) said that they did not possess any such kind of document – almost even odds.

• Whether before or after 2010, confiscations experienced by LIOH members totally failed to meeting international human rights standards. Comparing what people experienced with what is supposed to happen before, during and after an eviction according to the UN Guidelines on Eviction and Displacement, our findings show that the standard is routinely ignored.

• In almost half of the cases, confiscation directly involved either the military alone, or the military in combination with other actors, including local authorities, government ministries and departments, and domestic business elites and companies.

• The impacts of land grabbing are severe and ongoing, direct and indirect. They are not limited to one aspect (e.g., livelihood), to one moment in time (e.g., during confiscation), to one place (e.g., the area designated for confiscated), or even to just those people whose farmlands are taken. They are wide ranging across the economic, social, cultural and political spheres, and encompassing the physical and psychological dimensions of peoples' lives too, and continue to haunt and undermine peoples life chances long after a confiscation is begun.

Forewords

Land is heritage transmitted to us by our forefathers, it is capital that carries many meanings, it is currency and the economic system, and it is a precious and priceless commons system for future generations.

Land is the place not just where human beings are born and human societies are nurtured, but also where biodiversity itself – including all biological and botanical species -- are born and conserved. It is the place where food is produced, it is the place from which we learn our role in the social and natural environment, it is the sanctuary for safety, it is the survival of human cultures and the commons system to build peace.

Land is the history of human beings and their environment.

Land is the dignity of each individual, each family, each community and each society.

This report indicates that land grabbing through invented legal methods for political and economical pretexts is destroying the peaceful and safe ecosystem for humans and biodiversity.

This report helps the farmers who have lost land and community members themselves highlight the impacts of economic policies that look only at monetary benefits and that considers land only as a commodity, thus ignoring its other values.

Land is not a commodity.

Dr. Kyaw Thu (Paung Ku)

For us, the people living in Myanmar, what matters most is to address the issues of:

- Land
- Foreign investment
- Peace

Natural resources crosscut all three and will have the greatest impact on future generations. Without land security, natural resources can be auctioned off to the highest bidder, extracted, and disappear before the local communities can take the cases to court and get a ruling. Many of these natural resources are located in the ethnic states where armed conflict has continued for so long, and, in places where armed conflict has decreased, abuses such as land grabbing, rights violation, and environmental destruction have increased thus conflicts between the ruling elites in the centre and the local people in the borderlands continue, not able to give peace a chance.

Laphai Seng Raw

Why do we need research about people's lives?

Because we need good ideas as well as good will to improve our situation when it comes to governing the issues of the State. Good thinking and good methods will come only from analyzing and discussing the on-going context. That's why we need findings that are oriented towards assessments of and engagement with the current context.

The communities and civil society organizations involved in this study have collected as much as they can and presented their analysis and recommendations. What should we do next to make much the needed changes a reality? What needs to be done to discuss the research findings widely?

1) We now need to reach out widely, to different layers of the society and people from different backgrounds, also using creative means and artistic forms of presentation.

2) Land issues, poverty reduction, upgrading the quality of education, human dignity and better living conditions are all interrelated. Only when we see the linkages, will people become mobilized and we can move ahead on this journey.

3) No matter how important the issue is, doing such a presentation only once will not reach the minds of the people. We will need to reiterate this report and its findings and recommendations in different contexts on different days in different formats. What will the authorities and policy makers think of it? Well, we can't say. But consider this: it is said that policies and decisions that don't reflect the life of the communities will damage their political legitimacy (right to govern), which is directly linked to the support of the people. So it is impossible, or at least unwise, to ignore the research about the lives of the people.

Maung Myint Zaw

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1. Introduction

National political transitions can take many paths. The promising path is one that nurtures full and meaningful participation of all people and groups of people in the decisions that affect their lives. This path involves opening up political processes at all levels to groups that have traditionally been excluded. It involves making serious steps toward remedying past and present injustices. And it means holding those in power responsible for their decisions. Meaningful participation and real accountability are basic rights that belong to all people and peoples: they are not the privilege of those with power or money.

In Myanmar, access to these basic rights is rare, including in regard to land. Today there is a deep and growing social divide in Myanmar over the meaning and purpose of land and related natural resources like surface water and groundwater, inland and coastal forests and fisheries, and the oil and minerals deep in the soil and beneath the ocean. People in Myanmar are deeply divided today over who owns these resources and which uses of them are acceptable, and which are not. There is a profound struggle at all levels to control not only these natural resources now, but also the decision making over who has rights to them and how they will be used and for whose benefit long into the future.

This struggle is pivotal. Control of natural resources, including land, water, fisheries and forests, is necessary to realizing any vision of the future. Control of land is especially crucial because it often determines access to other natural resources as well, such forests or minerals, for example. More fundamentally, control of land also is a key factor in how rural poor people are able to organize (or not) their lives in their communities. The underlying issue is that not everyone can agree on which visions of the country's future are desirable or acceptable. But the real problem is a political one -- who ought to decide how land and its associated natural resources can be used, by who and for what purposes? How this question is answered will play an important role in determining what direction the country's transition eventually takes.

Many people are concerned about land grabbing these days, which is great. But we feel that the voices of the rural men and women and ethnic minority peoples whose livelihoods, identities, autonomy and vision of the future are most directly tied up with living and working on the land are still not being taken seriously. Our lives and the lives of many like us continue to be treated as "collateral damage" and as tools for some one else's profit.

This report is about land confiscation and how we - members of the Land In Our Hands Network -have been experiencing it. The report is part of our continuing effort to be taken seriously. It reveals the experiences and aspirations of 2657 individual respondents from 329 villages in sixty-two townships in seven states and six regions, whose lives have been deeply affected by land confiscation. Overall, the report confirms that the problem of land grabbing is not limited to one or 2 places, but it is widespread. What is reported here is just "scratching the surface", since many of our respondents knew of others affected by land grabbing too, and only time and budget limitations prevented us from following up these leads in time for this report. In the meantime, this report also confirms how land grabbing that began in the past continues to ensnare our daily lives and haunt our futures.

Many rural working people and customary communities across the country – including many of us who were already driven off our land in years past -- are still looking for a good future on the land. This aspiration runs very deep. It survives in spite of past repression and heavy pressures on us to move off the land to make way for someone else's profit, and in spite of heavy pressures on us to accept someone else's view of what kind of "development" is best for us. Today however our voices are increasingly being drowned out by powerful economic interests and arrogant assumptions of what means good development.

Until now, the aspirations of those of us who actually live and depend most on the land, water, fisheries and forests -- and who once did but were pushed off against our will -- are rarely considered. This is the ugly reality that festers like an open wound at the heart of the current transition. We hope that this report will help to change that.

2. Background

Land, water, fisheries and forests across the country have long been occupied, used, managed and protected by local people and customary communities according to diverse practices based on agroecological conditions, customary practices and customary laws. This includes community forests and water sources, grazing land and inland and coastal plantation taungya, individual fisheries, and communal garden plots, shifting taungya cultivation land, paddy land, farmland, and areas devoted to spiritual purposes (like sacred forests, burial grounds and cemeteries, and land for religious practice).

Since 2011 the Myanmar Government has embarked on rapid economic liberalization, and at the same time started ceasefire negotiations with different ethnic groups. It has been courting a wider range of foreign business interests, setting in place an "enabling environment", and trying to attract big investments for export oriented large-scale extractive industry, large-scale agribusiness, large-scale energy production, and mega infrastructure projects, not only but especially in ethnic border areas.

In March 2012 the Farmland Law and the Vacant, Fallow and Virgin Land Law were passed, changing the way land is regulated. The Farmland Law allowed land to be bought, sold and transferred on a land market with land use certificates. However, large numbers of people actually tilling the land either did not have and/or experienced great and often overwhelming difficulties in trying to obtain the required documents.

A second law -- the Vacant, Fallow and Virgin Land Law -- established that all land not formally registered with the government could now be reallocated to domestic and foreign investors. Neither law takes into account the land rights of ethnic minorities. Both fail to recognize customary and communal tenure systems in land, water, fisheries and forests. As a result, large numbers of farmers in the country, including most upland ethnic communities, have suddenly become 'squatters' under this law.

Previously, the military, often with other actors closely associated with the military, confiscated large areas often by force or threat of force. People and communities were driven off their lands and out of their forests and fishing grounds and away from traditional water sources, and into terrible situations as Internally Displaced Peoples (IDPs) and refugees. Others, including in ethnic (border) areas, managed to stay put without the legal documents, but under dire economic, social, political and militarized conditions. Today, large-scale development projects are underway that involve old and new powerful entities confiscating vast areas of the country and pushing the occupants out.

We, small-scale farmers and rural communities, are every day losing access and control of areas we have held and cared for historically and are being forced against our will into inhumane conditions. The case of our comrades who were thrown off their land to make way for the Paunglaung dam is a case in point.¹

The new laws are mainly benefitting commercial interest and have sparked a new wave of land confiscation. This is on top of past waves of confiscations that grab not only land that we have long used for farming, but also land that we use for food and medicinal gardens, grazing our animals, building our homes and sacred places, in addition to our communal forests, fisheries and water sources. Today's confiscations are very rapidly compounding existing land related problems, and spreading and creating even more conflict.

In response to the worsening situation, we founded Land In Our Hands (LIOH) in February 2014.² LIOH is a multi-ethnic network made up of more than 60 local farmers organizations, supportive community based organizations, and allied civil society organizations and ethnic rights activists from fourteen states and regions across the country. We are coordinated by fifteen representatives from Kachin, Kayah, Kayin, Chin, Mon, Rakhine, southern and northern Shan States as well as from Mandalay, Magway, Sagaing, Yangon, Bago, Ayeyarwaddy and Tanintharyi Regions.

We believe in striving for durable peace and genuinely equitable and sustainable development throughout the country. We believe that in the spirit of current democratic reforms the Government, the Congress and the Judiciary of the Union of Myanmar Republic must work to promote, protect, respect, and fulfill human rights and tenure rights of small-scale farmers and fishers, especially rural women and ethnic communities, and future generations. We believe that land belongs to those who actually live and work on and care for the land, and we are against land concentration and land speculation. We believe in land redistribution to the landless and in land restitution to people had previously lived and worked on the land but were forced off it because of armed conflict, natural disaster or similar situations. We advocate for a land use policy in federal system that is suitable and appropriate for the diverse traditional practices of ethnic people and other customary communities in the context of democratic principles and social justice for all. LIOH tries to engage every level of Government, Parliament, and Ethnic Armed Groups, in order to achieve this.

We link our members to activists and local and international human rights experts to provide farmers with the training and information they need. We also assist farmers who are facing land grabbing currently in a legal framework. Additionally, we try to formulate, along with other farmers and ethnic groups, problem solving mechanisms and processes in response to land grabbing issues, in order to participate, become well informed, and enhance our capacity to deal with this major problem.

When the National Land Use Policy (NLUP) process was opened up in 2014, we welcomed the chance to take part. Despite the constrained situation, we decided to act quickly to study, discuss and develop own responses and recommendations before the official public period started. We organized eight consultation workshops in different parts of the country to capture the opinions and voices of different member constituencies. These self-organized workshops took place under less-than-favorable conditions and circumstances. We submitted our response to the government in January 2015.³

Outside the NLUP process, thousands of natural resource-related conflicts continue to fester unresolved, and new ones are erupting across the country. The purpose of this report is to share how LIOH members have experienced and continue to experience resource grabbing and the failure of the government to deal with it effectively.

3. Methods

The aim of the research was to re-focus attention on how real people associated with LIOH experience land confiscation. This report does not pretend to be about anything else. It is about real people confronted by confiscation, how they have experienced this confiscation, and what they have tried to do about it. A combination of methods was used: (i) written survey questionnaire, (ii) participant observation by field researchers organic to the field sites, (iii) focus group discussion, (iv) key informant interviews, and (v) validation workshops.

The research was conceived and conducted by LIOH network members in 62 townships of the six states (Kachin, Kayah, Kayin, Mon, Chin, southern and northern Shan) and seven regions (Yangon, Bago, Ayeyarwaddy, Mandalay, Sagaing, Magway and Thaninthayi) where LIOH is present.⁴ The areas targeted for data collection were chosen according to three criteria. First, they are all areas where many people are suffering from land confiscation. Second, they are areas where – despite some risk to the researchers due to militarized settings and related security issues – the researchers still felt it was possible to navigate safely. Third, they are all areas where real solutions to the land problem are most urgently needed.

Sixteen organizations and farmers rights activists -all organic to the research sites and connected to LIOH -- participated in planning, designing and carrying out this research. Twenty-six (26) field focal persons and seventy-nine (79) additional field interviewers, along with two LIOH staff and two local research advisers were involved. The field researchers were chosen for their knowledge of the research area and their experience in data collection. All of the field researchers are organic to the respective research sites and trusted by local LIOH members. They have intimate understanding of what is going on in these places as participant-observers in the local land issues. This helped to ensure that interviewees would not be afraid to answer the questionnaire truthfully or not feel obliged to say what they thought the interviewer wanted to hear, thereby strengthening the quality of the data.

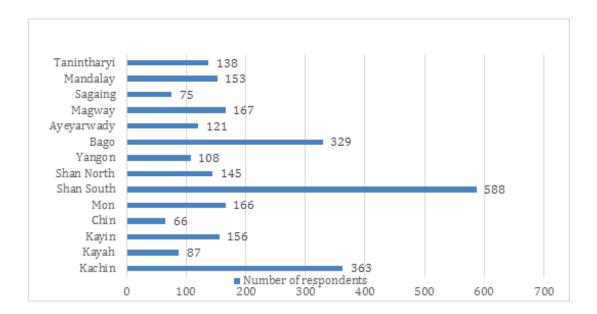
Before beginning the fieldwork, we conducted three workshops in Yangon. In the first workshop in July

2014, representatives of the network discussed the purpose of the research, the research design and the target research areas. In the second workshop in August 2014, the LIOH management committee and the field interviewers, along with two local research advisors, designed the research questionnaire and interview procedure, studied the target research areas, and discussed potential limitations of the research and how to mitigate them. This workshop included a pilot study. For the pilot study, the field researchers interviewed thirty-two farmers from the six villages (Alwan Sut, Yaydwingone, Phalan ywa, Thida Myaing, Ayemyathida and Myainthaya ywa) of Kyawktan, Thanlyn Township, Yangon Region who had lost their farms because of the project of Thilawa Business zone. Based on the experience, we reflected on the limitations we had faced in collecting the data and further revised the questionnaire. In the third workshop in October 2014, the same group met again to finalize the questionnaire.

The questionnaire aimed to surface the following information: (i) whose land and farms were confiscated, how much, and through what mechanisms (including whether or not they possessed written evidence of land ownership); (ii) which parties did the confiscating and for what purposes; (iii) what the actual confiscation process looked like (including to what extent there was free, prior and informed consent, and to what extent the process involved compensation); (iv) what have been the impacts of confiscation on the individual and their households; (v) what have been their responses to confiscation and its impacts; and (vi) what do the respondents think is needed to resolve the problem.

Initially we aimed to survey 3-5 individuals affected by confiscations per day. But time limitations and difficult field conditions (e.g., poor transportation and communication especially in upland areas) prevented the field interviewers from reaching as many villages as originally planned, or forced them to stay in some villages longer than planned (with a knock-on effect in the remaining schedule). We encountered many people affected by land grabs in the field. But in many research areas, the field interviewers and their interviewees came under tight military surveillance. They sometimes had to get permission from the government; they were interrogated and their movements monitored; and they were watched during the interview process by government staff. In such instances, both the interviewees and interviewers felt afraid to freely discuss the research and to share accurate information. As one of the field researchers recalled, '*While I was interviewing the farmers in the farm, the government staff took photo record and we were threatened with arrest*' (female data collector, Southern Shan state, interviewed 22 August 2015). In the end, 2657 individuals were surveyed, although more could have participated under better conditions (Figure 1).

Figure 1. Number of survey respondents per state/ region



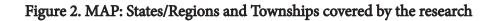
For data analysis, we used a two-step process. First, we registered the survey questionnaire data in an Excel file to create the centralized electronic dataset. The local research team members supervised three data processors during the data entry phase. The resulting dataset was analyzed and organized into different presentation formats with the assistance of IT experts. Second, we validated these findings in focus group discussions with the interviewers and where possible some interviewees from the different research sites. In August 2015, we conducted six validation workshops, each with the participation of both the interviewers and some of the interviewees from that specific state or division.

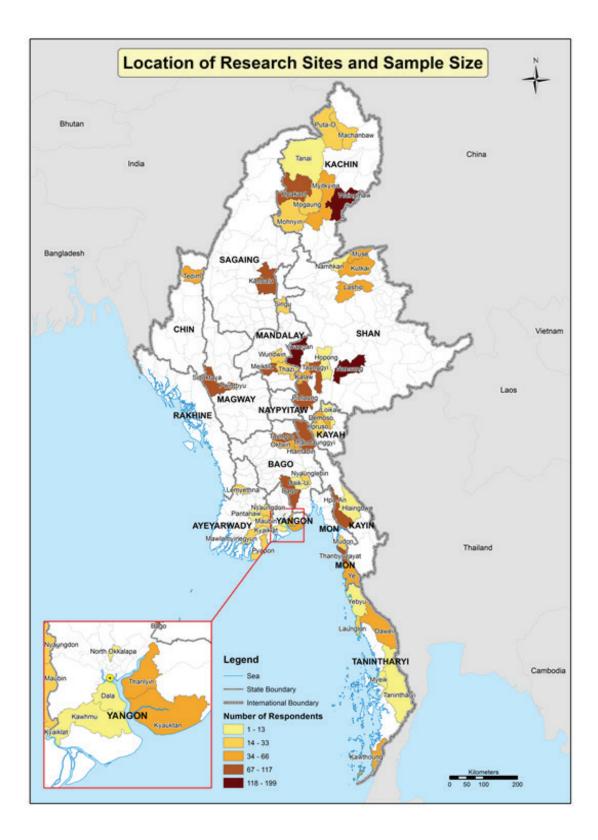
Workshops were held in: (i) Yangon with participants from Yangon Region (2 persons), Bago Region (5 persons), Ayeyarwaddy Region (8 persons); (ii) Loikaw with 12 participants from Kayah State; (iii) Maungmagan with 44 participants from Tanintharyi Region; (iv) Aung Ban with 27 participants from southern Shan State; (v) Lashio with 30 participants from northern Shan State; and (vi) Myitkyina with 35 participants from Kachin State. Each workshop aimed to: (i) review the history, background, purposes and process of the research; (ii) reflect on the research report design and the importance of data accuracy; (iii) present the first draft report; (iv) validate the preliminary findings with participants from different research sites; (v) deepen the information previously gathered; and (vi) interpret the initial findings.

Finally, we complemented the survey results with individual testimonials to further validate findings and deepen our information on specific cases of confiscation. Between August and October 2015, we conducted phone interviews with fifteen (15) focal people, plus seventy-eight (78) of the participants in the different validation workshops (61 using video camera, 17 using tape recorder), for a total of ninety-three (93) key informant interviews.

4. Scope and limitations

To understand how LIOH members in different states/ regions were experiencing land confiscation, and to know how one person's experience in one region/ state might be similar or different from someone in another state /region, we included all states and regions where LIOH network is present. We selected respondents based on existing contacts of LIOH focal people and field focal people. We did not attempt to take a random sampling, or to fix the number of survey respondents per state/ region according to population. Our findings are about experiences and perceptions of people who agreed to participate in the study, nothing more – or less -- than that. In each area we identified people directly affected by land confiscation, and asked them when and how it happened, how much was taken and who was involved, what impacts confiscation has had for them, and if and how they tried to change the situation. Each experience is revealing – for what happened and for what did not happen.





5. Findings

5.1 Many types of confiscation, many injustices

Land confiscation in Myanmar does not follow a single pattern, but several patterns. We found three broad patterns.

Type 1: Grabbing land, not labor

Sometimes confiscation involved throwing people off the land entirely. To illustrate, as one farmer recalled, "*They confiscated the Hway Hkoke village land and made a plantation. There was no consultation or negotiation. They even fine us if our cows or buffalos entered into the land that they confiscated*" (a farmer, Hway Hkoke Village, En Man Ho Kyan Village Tract, Kutkai Township, Shan State, interviewed on 25 August 2015). Here, confiscation left the farmers landless, totally cut-off from their land and their envisioned future on it.

Another example of this same type is in Hpruso Township, Kayah State. In 1994 the military confiscated 400 acres including farmland belonging to Myo Ma Village. In 2013 they expanded the confiscated area to 500 acres by grabbing land belonging to So Lyah Koo Village, including villagers' farmland. To the villagers' surprise, the military personnel responsible for this grab informed them at this time that the expansion area had been confiscated since 1994 – nearly twenty years earlier. In this case, confiscation also stole twenty years' worth of time, knowledge, labor, money and effort etc that the farmers had made individually and collectively into making their community.

In another case, the land that was grabbed had been set aside for pasture and could have been used by the growing community for village expansion. "For the current village where we stay now, we won't get a piece of land to build toilets. There is no place to build a well. Three families have to stay in one house and we can't stay separately. This village has been around for about 48 years. The pastureland is the main place where we can find food. There are about 14 kinds of seasonal fruits that grow naturally. Men do not need to plant them. But now, we can't enter into the area as they are all being fenced" (U --- (Male), Ka Ve Na Pin Village, Maung Ma Kan (5) Quarter, Launglon Township, interviewed 19 August 2015). The villagers' food self-sufficiency and future growth as a community is taken away when their land is confiscated.

Type 2: Grabbing land and labor

Sometimes confiscation involved not just grabbing their land *but also ensnaring the farmers into new exploitative economic arrangements – very often involving allowing the original farmer-occupants to keep farming on the very land that was confiscated in exchange for a rent payment or share payment.* In essence, the once independent farmers have been turned into tenants who do not receive a wage, but instead now have to pay the grabber for the "right" to farm on the land that was taken. The case of Myanmar Gold Star Company (Box 1) illustrates: the company, aided by government authorities, takes the land and turns previously free farmers into sharecropping tenants.

BOX 1. Myanmar Gold Star Company

From 1998 to 1999, Myanmar Gold Star Company got permission to do an agricultural project on 5195 acres of land in Tar Pet (East), K'Wat Kin, and Htain Ngu Village Tracts in Maubin Township, Ayeyarwaddy Region. However, they asked the farmers to work on the land by leasing the land back to them with 7 basket of grain per acre until 2013. Then in 2014-2015, the company sued 30 farmers for failure to make the lease payment. 2209 acres of land on which no project was implemented were given back in 2006-2007. The Ayeyarwaddy land dispute solving assistance committee learned about the land which was given back only when they asked the company. When they asked the government departments, the department couldn't answer which land was returned, but only replied that they would check for them. In the discussion with villagers in September 2015, the company declared that they will only take 644.30 acres of land for the fishponds and that they will give back the land. But they didn't say clearly whose land or which land they will give back.#

Here, the conditions under which the confiscated farmers entered into the new "lessor-lessee" arrangements were neither free nor fair. Later, a third injustice is committed when the company sues the farmers for "failing" to make the "lease" payments to use land that was had been grabbed from the farmers in the first place. The arbitrary character of the "law" is further revealed when the company, under pressure from the farmers, says it will return some of the land -- but without specifying which land, when or how. The implementation of "laws" that are made by and for the company for its own benefit is not the same thing as democratic "rule of law".

Type 3: Mixture of Type 1 and Type 2

Sometimes confiscation blends together these different patterns.

In one case in southern Shan State (Area No.3 and 4 Myo Oo Kwet Thit, South ward Kalah Kone Area No.5 Section, Hopong Town, Hopong Township in Taunggyi District), what began as a land-and-labor grab, later became a land grab. In 1992, 85 acres of villagers' farmland were confiscated by the military. The confiscated area also includes the natural spring where the villagers get their drinking water. The military then "allowed" villagers to work on the land, but only by paying "rental" charges annually according to the military decision. Later, in March 2012, the Tatmadaw Computer and Technology school suddenly told the villagers that they are no longer allowed to work on the land anymore.

In a case from northern Shan State, in 2001-2002, the military confiscated over 300 acres of hilly tea plantations in Kutkai Township, Tarmoenye Town, Section No. 6, claiming it as military owned land. But the villagers had been working on those plantations long before the military arrived in the region. At first they allowed the confiscated farmers to remain, but having them pay a share of the harvest. Later, the military took control of the entire operation, throwing out the confiscated farmers altogether and giving the work of plucking tea leaves instead to members of soldiers' families. This new rule was enforced by threats and intimidation. As one villager recalled, "In 2014, they threatened that do not come and pluck the tea leaves anymore. We do not rent the plantation anymore. If you come and pluck the tea leaves, there will be a conflict. If we mistakenly shoot at you, it will not be good. Now, the residents have to work odd *jobs*" (A villager whose lands were being confiscated, Section No.(6), Tarmoenye Town, Kutkai Township, interviewed on 25 August 2015).

Sometimes the confiscated farmers are able to stay on the land by becoming renters. But those who cannot afford to pay rent are forced to leave. This happened in Tha Pyay Chaung and Za Har Villages in Dawei Township, Tanintharyi Region, when the military confiscated the land between 1990 and 1994. Farmers said that they were not informed ahead of time; the military just came and took over the land without any documents. Instead of implementing a project, the confiscated land was leased back to the farmers who could pay rent, or leased out to new people who were not among the original farmer-occupants. Those who couldn't afford to pay rent were forced leave; some went to Kaw Thaung, others to the Thai border, and others went anywhere they could find work.

In Nan See Village Tract in Taunggyi Township, local villagers generally knew that the government authorities and a Russian company started the implementation of Pin Pat Steel factory in 2004. And then the Government confiscated over 4000 acres of land in 2004, telling the villagers that they were going to build a school and provide wells, as well as electricity, and they were told that there would be job opportunities once a factory was built. However, in reality, they built only two wells for 500 villagers and the water was not clean, and provided just two Solar panels for the whole area. In terms of new jobs, when a farmer asked for them to give a job to his daughter, they replied that in order to get the job she would have to graduate. But the people whose lands had been confiscated could no long farm and so could not support their children in education.

BOX 2. Nam Tawng Village, Pan Sai (Kyu Koke) Sub-township Village Tract in Muse District, northern Shan State

In 1996, 2006 and 2008 with the cooperation of local authorities, four business cronies confiscated 338 acres of land. Local ethnic people had lived on and farmed these lands since their ancestors' time, and farming was their main source of livelihood. The reason given for the confiscation was that the land was to be used for a government agricultural project. The confiscated areas included 50 percent of the villagers' best farmland (good, fertile, flat), of which a portion was then rented out to Chinese workers for a sugarcane plantation. Other portions were rented out to the relatives of the four crony businessmen. Another forty-four acres of the confiscated land was supposedly for a government cement factory, but was subsequently used just for agriculture and animal husbandry. These lands are connected to the water source of the village, and villagers worry that the water will be polluted because of the chemicals being used in the crony farms. Moreover, the village water

source protection forest is disappearing due to expansion of the confiscated area, and the amount of water coming from the source has decreased. Since the confiscation, some of the farmers who lost their land have had to seek work on very difficult to reach plantations, while others have had to look for odd jobs in oppressive conditions on the border with China. Currently, the villagers' population and the area where villagers can do plantations are not balanced and the villagers are becoming poorer and poorer.#

In all these different types of confiscations, the original injustice is clearly the land grab, with further injustices closely linked to and made possible by having taken control of the land, flowing out from there.

5.2. Amount of confiscated farmland and timing of reported confiscations

The amount of land lost to confiscation ranged from 1 acre to 244 acres of individual farmland per respondent. The majority (76.4 percent) of respondents lost up to 10 acres of individual farmland (see Table 1).

Table 1. Aggregate amount of confiscated farmland per respondent

Below 5 acres	5-10 acres	11-50 acres	Above 50 acres
1107 (41.7%)	922 (34.7%)	596 (22.4%)	32 (1.2%)

For all states/ regions except Yangon and Sagaing, confiscation of an individual farmland of less than 10 acres was reported by the majority of respondents in that state/region (see Table 2). In Yangon and Sagaing, the size of the confiscated farmland was relatively more evenly distributed across the respondents in that state/region.

I able 2. Amount of confiscated farmland per respondent in each state/ region								
	Below 5 acres	5-10 acres	11-50 acres	Above 50 acres				
Kachin	183 (50.4%)	125 (34.4%)	54 (14.9%)	1 (0.3%)				
Kayah	47 (54.0%)	20 (23.0%)	20(23.0%)	0				
Kayin	52 (33.3%)	67 (43.0%)	37(23.7%)	0				
Chin	55 (83.3%)	9 (13.6%)	2(3.03%)	0				
Mon	62 (83.5%)	52 (32.3%)	46 (28.6%)	1 (0.6%)				
Shan South	311 (52.9%)	148 (25.2%)	123 (21.0%)	6 (1.02%)				
Shan North	57 (39.3%)	64 (44.1%)	23 (15.9%)	1 (0.7%)				
Yangon	11 (10.2%)	39 (36.1%)	52 (48.1%)	6 (5.6%)				
Bago	118(35.9%)	143 (43.5%)	67 (20.4%)	1 (0.3%)				
Ayeyarwaddy	22(18.2%)	61 (50.4%)	36 (29.8%)	2 (1.7%)				
Magway	86(51.5%)	62 (37.1%)	19 (11.4%)	0				
Sagaing	4(5.3%)	11 (14.7%)	47 (62.7%)	13 (17.3%)				
Mandalay	51(33.3%)	66 (43.1%)	35 (22.9%)	1 (0.7%)				
Tanintharyi	48(34.8%)	55 (39.9%)	35 (25.4%)	0				

Table 2. Amount of confiscated farmland per respondent in each state/ region

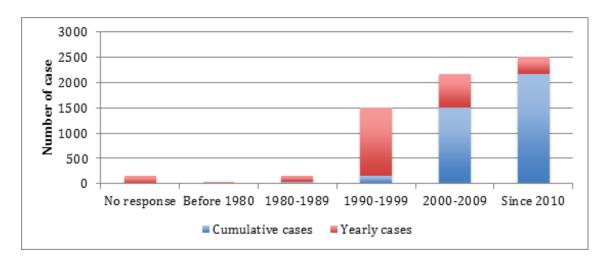
Many of the reported confiscations began during the years 1990 to 2009 (see Table 3 below). Half of the reported confiscations began between 1990 and 1999 (50.7 percent), with another 24.8 percent beginning between 2000 and 2009. Confiscation began in the 1990-99 period for majority of respondents in Kachin, Kayah, Kayin, Chin, southern and northern Shan States and in Yangon, Bago, Ayeyarwaddy, Sagaing, Mandalay and Tanintharyi Regions. Confiscation began in the 2000-09 period for majority of respondents in Mon State and Magway Region. A total of 75.5 percent of the reported land confiscations began during this 20-year period.

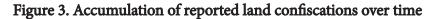
Table 3. Year	that land	confiscation	began	per re	spondent
I ubic of I cui	that hand	competition	Degan	per re	sponaene

Before 1980	1980-1989	1990 - 1999	2000-2009	Since 2010	No response
44 (1.7%)	117 (4.4%)	1347 (50.7%)	660 (24.8%)	338 (12.7%)	151 (5.7%)

Figure 3 (below) shows how confiscation is an experience that accumulates over time in Myanmar. None of these cases has ever gotten fully resolved in a way that provides real justice and therefore closure for the farmers. The following quote -- from a farmer who became a land activist after her family's farmland was confiscated -- illustrates this point:

"...*My* father cleared the vacant land where nobody was working and did family farming on those lands. In 1996, the land was confiscated. The local authorities and police came to the farm and arrested my father. They sued him on various charges and he was jailed for one year. While he was in jail the village leader demarcated our land and sold it out. I pleaded with him not to do this, but they just confiscated it by force. As my father was still jailed and the farm was confiscated, my sisters and I had to drop out from the school. We faced many difficulties, and have had to struggle for our lives against different forms of oppression" (Ma---, Pyapon Township, Ayeyarwaddy Region, interviewed 9 August 2015).





Injustices are left to fester, even as more injustices are committed and get added to the pile. In this way the story of land confiscation in Myanmar can be seen as pile that grows ever larger as time wears on, where the injustices continue to accumulate, and nothing is ever done to try to stop the pile from growing, much less reduce its size.

LIOH

	Before 1980	1980-89	1990-99	2000-09	2010 and after	Blank
Kachin	6 (1.7%)	31 (8.5%)	158 (43.5%)	142 (39.1%)	21 (5.8%)	5 (1.4%)
Kayah	0	0	46 (52.9%)	1 (1.1%)	32 (36.8%)	8 (9.2%)
Kayin	0	12 (7.7%)	112 (71.8%)	22 (14.1%)	5 (3.2%)	5 (3.2%)
Chin	0	2 (3%)	34 (51.5%)	1 (1.5%)	29 (43.9%)	0
Mon	0	1 (0.6%)	40 (24.8%)	97 (60.3%)	13 (8.1%)	10 (6.2%)
Shan S.	15 (2.6%)	43 (7.3%)	332 (56.5%)	172 (29.3%)	9 (1.5%)	17 (2.9%)
Shan N.	0	3 (2%)	102 (70.3%)	23 (15.9%)	8 (5.5%)	9 (6.2%)
Yangon	3 (2.8%)	15 (13.9%)	47 (43.5%)	9 (8.3%)	25 (23.1%)	9 (8.3%)
Bago	0	0	185 (56.2%)	2 (0.6%)	78 (23.7%)	64 (19.5%)
Ayeyarwaddy	5 (4.1%)	1 (0.8%)	58 (47.9%)	53 (43.8%)	1 (0.8%)	3 (2.4%)
Magway	0	0	35 (20.9%)	94 (56.3%)	37 (22.1%)	1 (0.6%)
Sagaing	0	0	74 (98.7%)	0	0	1 (1.3%)
Mandalay	15 (9.8%)	4 (2.6%)	66 (43.1%)	9 (5.9%)	59 (38.6%)	0
Tanintharyi	0	5 (3.6%)	58 (42%)	35 (25.3%)	21 (15.2%)	19 (13.8%)

Table 4. Year that land confiscation began per respondent in each state/region

But the pace of confiscation varies from one case to another. In some cases confiscation happens more or less immediately. For example, in 2011-2012, the order letter of land confiscation from the military arrived to the farmers of Mar Kha Yaw Shey Village Tract in Hpruso Township, Kayah State. The letter informed the villagers that whether they agree or not, they have to remove from the plantation field and receive the compensation. The villagers did not want to leave and refused to accept the compensation. But in 2012, during the harvest time, the military told the villagers that their land was to be confiscated immediately in order to begin construction. Then, the military came with machines, cleared the land and constructed military buildings and fenced the land.

In another case, the process was even quicker, as one participant in the validation workshop recalled: "*They told us that they won't rent the land anymore and asked us to remove from our land. Then, we went to the police station. When we arrived at the police station, they told us to discuss with the army. When we went and discussed with the military, they told us not to plough and if people entered into the farm, they will shoot the foot with gun and the animal entered, they will plant landmine. Then, they asked us to remove. Therefore, as we were afraid, we left the farm and left in three days*" (A farmer whose land was being confiscated, Win Ka Baw Village, Bago Township, Bago (East) Region (Interviewed 9 August 2015).

BOX 3. Daw So Shey Village, Demoso Township, Kayah State

In another example from Kayah State, in 2014 the military informed the villagers of Daw So Shey Village in Demoso Township, that their lands had been confiscated earlier in 2012. The villagers were working on those lands since their ancestor time and were just informed in 2014 that they are not allowed working on those lands anymore. They were told that if they want their land back they would have to show some documents for the land, but most of the plantation owners from the ethnic area use the customary land practices which are not based on documents and not accepted by the government anyway. Meanwhile, there was no process of informing the villagers about the land confiscation since 2012, but only in July 2014 did they come and tell the people about that. After two days, the military accused villagers of "trespassing in military-owned land" and fired their guns twice and then brought the villagers to the police station. There, they sued seven villagers for trespassing. One farmer recalled: "On July 29th 2014, the military came and informed us that the land where we are working on for plantation since our ancestor time was owned by military since 2012 and they asked us not to do the plantation anymore and also asked us to move away. When we asked how our family members are going to survive if we do not do the plantation, they told us to ask the above leaders and if we continue, they will arrest us." (Plantation owner whose land is being confiscated, Daw So Shey Village, Demoso Township, Kayah State, interviewed on 16 August 2015). The villagers want the land back and have tried to claim for their rights, but because the military has threatened them, it is not clear now where they can turn to report the case and find justice.#

Sometimes the confiscation process unfolds more slowly with unexpected twists and turns. Here, the original injustice of being forcibly confiscated, and all the hardship which that brings, is further compounded by the stress of having to deal with many obstacles and uncertainties in trying to claim their rights and trace the problem administratively, including unhelpful government authorities.

In 2003 in Tarmoenye Town, Kutkai Township (Shan State North), for example, the military confiscated over 300 acres that the villagers used as pasture and for shifting cultivation from five villages. After they confiscated the land, the military grew corn and vegetables. The residents had to do odd jobs to survive. Later, the military left the land vacant without any plantation. Because the residents urged that they wanted their land back, the military gave back the land in 2013. But when the people asked the local administrative and government staffs, they replied that the military is still controlling the land and haven't given back yet. The resident farmers are facing difficulties with whether or not they have to work on their land.

Other cases are neither immediate nor meandering. Rather, what weighs heavily on people is the threat of confiscation and the uncertainty knowing when or how it may happen. Take the case of the Hanthawaddy Airport construction project in Bago Region. In 2012, the villagers learned that the government was confiscating 9400 acres of land for this airport. The administrator requested villages including War Ma Yan Village and Ah Laing Ni Village to relocate. There is no discussion or compensation for the farmland of the 70 villagers who had to relocate. Eventually, without any farmland to work on, the villagers went back to the confiscated area to work on the land. As the villagers live in one place and the plantation is in another place, some farmers went back and stay in their farmland. Until 2012, the government had been giving out the land title for their farmland, but it has been observed that they never do in 2013. For now, as there is no systematic implementation of the project, and the villagers are still working on their land. Even though the villagers heard that the government is giving back 900 acres of land (out of the total confiscated 9,400 acres), they do not know which lands are being returned. In mid-2015, the government announced that the airport project was postponed for four years because of the budgeting situation. This news gave the villagers some relief for their everyday livelihood problem. But they worry everyday about the time when they will lose their land and will not be able to work on the plantation anymore.

5.3 The people targeted for confiscation and their relationship to the land

More than half -- 57.4 percent -- of the respondents based their right to the confiscated land on customary law (Table 5 below). To illustrate, in 2002 in Thandaunggyi Township (Kayin State), the Ananda Company confiscated 62 acres of land in Ywar Gyi Village Tract including Pyar Sakhan, Tha HtayGone and Nga Pyaw Taw Outywar Villages. Villagers had been using this land for many years according to customary practice. Although the land was confiscated for an agriculture project, the villagers observed that only 6 acres was planted to cocoa for producing chocolate. Seeing this, the villagers re-entered their land. The company then offered to return part of the land (22 acres), but the villagers want the entire 62 acres of village land returned.

Another 30.3 percent based their right on long-term occupation-usage. One example of this kind of situation is in Ayeyarwaddy Region. In 1989, local authorities allocated land from Thone Gwa Island to villagers from Poe San Village, Maubin township to farm. For ten years, the villagers farmed in their respective areas without argument and recognized by the village leaders. Some got crop tax receipts from the government, while others did not. In 1999-2000, Myanmar Gold Star Company entered the area and said that they had gotten authorization to use the land. In this case the villagers claim is based on the fact of their long-term occupation-usage of the land before the company came in and confiscated it.

A total of 87.7 percent of the respondents thus based their right to the land that has been the target of confiscation on pre-existing non-state regulatory arrangements that were recognized by others up until the moment when the reported confiscation processes began.

Most of the remaining respondents based their right on a purchase or lease agreement (combined 217 respondents, or 8.2 percent).



Inherited right	Right based on	Land right	Land right	Other	No response/			
via	occupation-	purchased	leased		blank			
customary law	usage							
1526 (57.4%)	805 (30.3%)	216 (8.1%)	1 (0.1%)	16 (0.6%)	93 (3.5%)			

Table 5. Basis of right to the land that was confiscated per responded	nt
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Table 6. Basis of right to the land that was confiscated per respondent in each state/region

	Inherited customary right	Right based on occupation- usage	Land right purchased	Land right leased	Other	No response/ blank
Kachin	11 (3.03%)	329 (90.6%)	10 (2.8%)	0	0	13 (3.58%)
Kayah	67 (77.0%)	12 (13.8%)	8 (9.2%)	0	0	0
Kayin	135 (86.5%)	1 (0.6%)	18 (11.5%)	0	0	2 (1.3%)
Chin	36 (54.5%)	29 (43.9%)	0	0	1 (1.5%)	0
Mon	41 (25.5%)	25 (15.5%)	77 (47.8%)	0	0	18 (11.2%)
Shan South	438 (74.5%)	94 (16%)	27 (4.6%)	0	4 (0.7%)	25 (4.3%)
Shan North	104 (71.7%)	34 (23.4%)	4 (2.8%)	0	2 (1.4%)	1 (0.7%)
Yangon	72 (66.7%)	17 (15.7%)	12 (11.1%)	0	4 (3.7%)	3 (2.8%)
Bago	264 (80.2%)	44 (13.4%)	0	0	2 (0.6%)	19 (5.8%)
Ayeyarwaddy	55 (45.5%)	64 (52.9%)	2 (1.7%)	0	0	0
Magway	121 (72.5%)	32 (19.2%)	14 (8.4%)	0	0	0
Sagaing	6 (8.0%)	67 (89.3%)	1 (1.3%)	0	0	1 (1.3%)
Mandalay	131 (85.6%)	12 (7.8%)	10 (6.5%)	0	0	0
Tanintharyi	45 (32.6%)	45 (32.6%)	33 (23.9%)	1 (0.7%)	3 (2.2%)	11 (7.9%)

A related finding has to do with the possession (or not) of relevant legal documents establishing some kind of right to the land. On aggregate, 1129 respondents (42.5 percent) said that they possessed legal documents issued by the government, while 1058 respondents (39.8 percent) said that they did not possess any such kind of document. Table 7 shows the breakdown of responses by state/region.

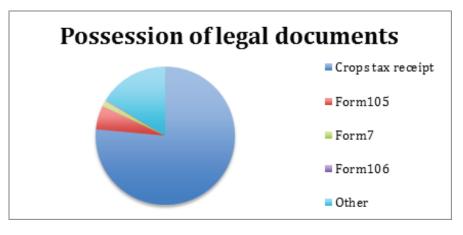
For those who reported having legal documents, the most common types of legal documents possessed by the respondents were: Crops tax receipts (718 respondents); Form 105 (80 respondents); Form 106 (32 respondents); and Form 7 (11 respondents) (see Figure 4 below). Other types included purchase contracts.

Some people did not respond to the question (470 or 17.7% of the respondents) for various reasons. In the validation workshops, it emerged that many respondents who don't possess legal documents feared that answering 'No' to the question would complicate and reduce or eliminate their chances of getting the land back. Especially in ethnic areas, experience has fostered strong doubts about the legal process and the courts are not perceived as a place that farmers can go to claim their rights.

IaD										
YES		State/ Region	NO		No Response					
136	(37.5 %)	Kachin	184	(50.7 %)	43 (11.8%)					
7	(8.04 %)	Kayah	76	(87.4 %)	4 (4.6%)					
47	(30.1 %)	Kayin	32	(20.5 %)	77 (49.3%)					
52	(78.8%)	Chin	14	(21.2%)	0					
88	(54.7%)	Mon	43	(26.7%)	30 (18.6%)					
122	(20.7 %)	Shan South	356	(60.5 %)	110 (18.7%)					
47	(32.4 %)	Shan North	76	(52.4 %)	22 (15.1%)					
84	(77.8 %)	Yangon	15	(13.9 %)	9 (8.3%)					
207	(62.9 %)	Bago	0		122 (37.1%)					
81	(66.9 %)	Ayeyarwaddy	39	(32.2 %)	1 (0.8%)					
71	(42.5 %)	Magway	72	(43.1 %)	24 (14.4%)					
5	(6.7 %)	Sagaing	69	(92.0 %)	1 (1.3%)					
100	(65.4 %)	Mandalay	44	(28.8 %)	9 (5.9%)					
82	(59.4%)	Tanintharyi	38	(27.5%)	18 (13.0%)					

Table 7. Possession of written legal documents per respondent in each state/region

Figure 4. Legal documents possessed per respondent



Apart from whether or not people actually possess legal documents, is the question of whether or not they are able to get such documents when they want them. What we found is that not everyone is able to get documents even when they try to apply for them.

For example, in 1994-1995 the Southern Military Headquarters confiscated 700 acres of village land from Yay Shan, Zee Phyu Kone, Seik Kyi and Pyin Gan Villages in Tantabin Township, Bago Region. While some of the original owner-occupants were allowed to continue farming on their land, other parts were leased out to farmers from other areas and also to some business people. 10 farmers from Seik Kyi Village, for instance, could no longer work on their land. Some of the farmers who had been allowed to remain, however, went to various government departments to report what had happened. In 2014 some of the farmers from Pyin Gan Village were able to get official permits for 200 acres of the land. But others were not given permits, and when they asked the land registration department about this, they were told it was because the land was owned by the Defense Ministry owned land.

In Khaung Yan Village in Oak Twin Township, Bago Region, when the farmers wrote to the respective government offices in order to get a permit for their farmland, some were given permits but others were not. There seems to be no clear reason why some got the permit letter, while others did not, and there seems to be no clear procedure for applying for the letter. As a result, they all fear being confiscated at anytime.

The importance of documents is undermined – first by the seemingly arbitrary manner in which legal documents are issued if they are issued at all, and second by the fact that village and farmland is being confiscated even when the farmer-occupants do possess such documents. In fact, among those whose lands were confiscated, the proportion of those who possessed legal documents, versus those who did not, was almost even: 42.5 percent (1129 respondents) said that they possessed legal documents issued by the government, while 39.8 percent (1058 respondents) said that they did not possess such kinds of documents.

In sum, mere possession of legal documents was not a significant factor in determining whose lands would NOT be confiscated, versus whose would. In other words, the possession of legal documents has not provided any significant defense or protection against land confiscation to farmers in the LIOH network.

5.4 Characteristics of the confiscation process and related procedures

None of the confiscations reported by respondents met international human rights standards. According to the UN Guidelines on Eviction and Displacement, three interlinked sets of criteria that must be met -- *before*, *during*, *and after* – for an eviction or displacement to be human rights compliant.

The vast majority of land confiscations experienced directly by members of the LIOH network were undertaken without them being informed ahead of time (see Figure 5 below). For example, when the Pa Thi Dam was built in Thandaunggyi Township, Karen State in 1994, the government didn't do any consultation; no relocation sites were prepared for the villagers who had to be relocated; and no compensation was given. A total of 102 households were displaced by the dam: 53 households of Ywa Gyi Village and 49 households of Nant Tha Kone Village. Approximately 500 acres of villagers' farmland was confiscated in the process. On their own, the villagers were forced to look for vacant land in nearby villages. Meanwhile the Ministry of Industry used some of the land to establish a rubber plantation, the military used some to expand their army bases, and some crony businessmen reportedly also confiscated some of the villagers' land as well. In 2015, in order to survive, the villagers began to clear and plant on land that had previously been confiscated by the agriculture department and subsequently abandoned.

But being informed by government authorities prior to a confiscation is even just a small part of the minimum requirements for a confiscation to be eligible to become legitimate. If we compare what happened in these cases in Myanmar with what the UN Guidelines say ought to happen before people get evicted (see Box 4 below), the degree of compliance is virtually nil, as the example above illustrates.

BOX 4. Establishing human rights compliance before confiscation begins

According to the UN Guidelines on Eviction and Displacement there at least six actions that should be ensured by the government in the very first instance before a confiscation even begins:

• Give appropriate notice to all potentially affected persons that eviction being considered and that there will be public hearings on the proposed plans and alternatives;

• Undertake effective dissemination of relevant information in advance, including land records and proposed comprehensive resettlement plans specifically addressing efforts to protect vulnerable groups;

• Provide a reasonable time period for public review of, comment on, and/or objection to the proposed plan;

• Provide opportunities and efforts to facilitate the provision of legal, technical and other advice to affected persons about their rights and options; and

• Hold public hearings that provide affected persons and the advocates with opportunities to challenge the eviction decision and/or present alternative proposals and to articulate their demands and development priorities.

• Explore fully all possible alternatives to eviction.#

Source: http://www.hic-sarp.org/documents/Hand book%20on%20UN%20Guidelines_2011.pdf

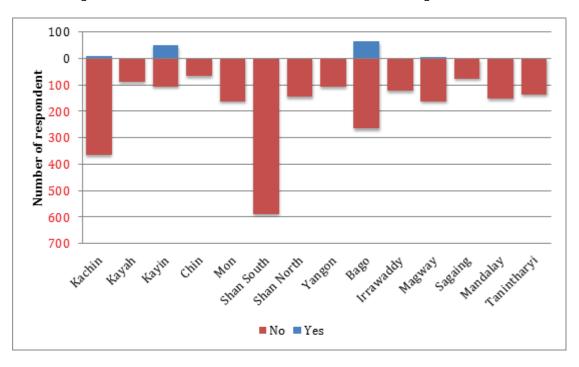


Figure 5. Was respondent informed that the land would be confiscated prior to confiscation?

BOX 5. Case: Tavoy Town Development Project, Dawei Township, Tanintharyi Region

In 1990, without prior consultation or even explanation, the government launched a Tavoy Town project by demarcating farmland for conversion into housing land. The villagers working on the land didn't know whether their farmlands were under the project area or not and whether they would have to move or not. In 2010, the government confiscated another 300 acres of farmland for the project and started to build ministry offices and housing on some land. Individual farmlands of 64 villagers were included in the demarcation process. For the next three years the farmers continued their farming activities in order to live, but now with frightened hearts.

In 2013, government authorities announced that they were going to implement the project on the 300 acres of land and that there would be a meeting at the town hall of Tavoy Township. But they said that only those with ownership document could attend the meeting, and that those without land ownership papers and other unrelated people would not be allowed to join. Among those 64 farmers whose farmlands had been demarcated, over half had been peacefully working on their land for so many years without any documents. In the meeting, the authorities announced that they would give each of the confiscated farmers a $40^{\circ} \times 60^{\circ}$ piece of replacement land for the 3 acres of confiscated land. Those who wouldn't accept this "compensation" were told to go to court to solve the problem. Only 6 farmers chose to sign at that time.

In June 2014, twenty of the confiscated farmers were sued for disturbing the peace and for cursing, after they had appealed to the authorities to let them continue working on their land. At that point one of the farmers decided to accept what the government had offered and was released. The remaining 19 farmers again chose not to sign and were left to face the charges. One farmer was jailed for 6 month and 15 days; others were jailed for 3 months; some had to pay a fine. Currently, buildings are being constructed on all the 300 acres of land, even though some of the farmers have not moved and continue to farm. For those farmers, who have been working these farmlands already for many years, the reason is clear: the government didn't provide fair compensation, but more importantly, if they lost this land, there would be no place for them to live and farm. Farming is their life and livelihood, and so they will continue to resist the confiscation and to work in their fields.#

BOX 6. Case: Mone Hydropower Dam, Sidoktaya Township, Magway Region

Construction of the Mone hydropower dam began in 1995 and finished in 2004. When it was finished, 13 villages including all the villagers' farmland from the upper part of the dam were flooded. How this happened was terrible: there was no clear announcement for the reservoir and when the water level rose up it was midnight when the villagers first knew and were forced to flee at that time. In this way the villagers ended up on the mountainside.

The government then gathered the villagers from the flooded area in the lower part of the dam on eastern side of the Mone River and told them that a new village would be created for them in Than Sel Town and forced the villagers to move off the mountainside. But the area where they relocated the villagers was actually farmland owned by the Than Sel villagers. The government gave only 5,000 to 30,000 kyat each for them to build their houses and then never came to check and take action for them. By late 2004, the promised Than Sel new town project had still not happened. The displaced villagers were still living on land borrowed from the Than Sel villagers. They had no land of their own to work on and encountered so many difficulties.

Under these circumstances, all the villagers from 13 villages who had been forcibly relocated to Than Sel eventually decided to move back to the mountainous area near their flooded villages on their own. There they survived by farming on land which appeared when the water level fell, as well as by cutting bamboo and wood and doing odd jobs.

When the people from flooded area asked the respective authorities about compensation, rehabilitation and about their rights to do farming, the official replied that the land had not been confiscated, but flooded, implying that compensation was not required in this case. In this way the affected villagers found out that the government would not take responsibility for their plight. The residents do not know how much hydropower electricity is being produced from the dam. Nor do they know where it goes, although they have heard that the electricity goes to Sidoktaya Town. They only suffer from negative impacts but receive no benefits at all. #

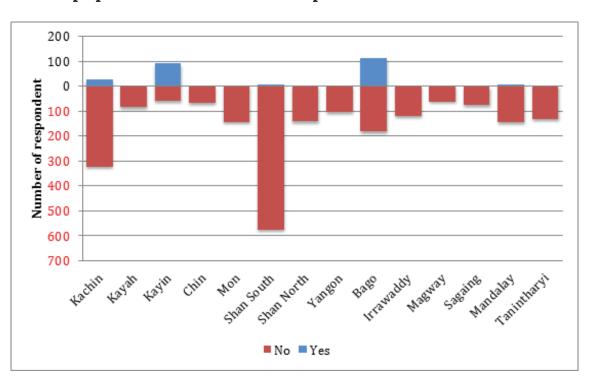
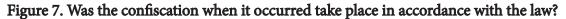
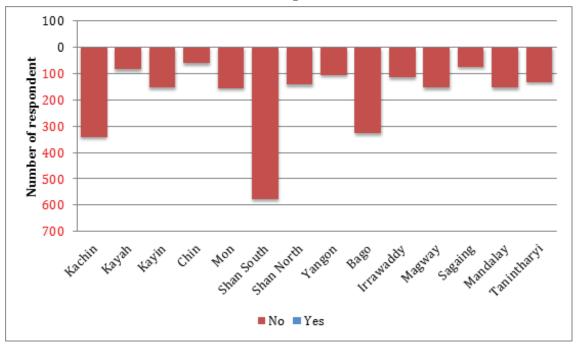


Figure 6. Was the purpose of the confiscation disclosed prior to the confiscation?





There is an overwhelming belief among the respondents that the confiscations that they have suffered do not comply with the law, for example the Land Acquisition Act of 1894 (see Figure 7 above). But the many examples already mentioned clearly show how and why, these days, *official talk about the "rule of law" in Myanmar is deeply contradictory – because its expression in reality is endemic lawlessness on the part of military and government authorities, and deep injustices committed with impunity by people in positions of authority and power.*

Some more examples can be added here that help to reveal further how negatively people experience and therefore view the actions of the government.

One example comes from Pinlaung Township in Shan State, where the government confiscated the villager's land and demarcated them as housing places in order to create a new "sub-township" called Naungtayar. As one of the interviewees recalled, "On some of the confiscated land, they built a land tenure office, a development committee office, as well as other related government offices and staff houses. But there is no transparency with their plans. Some of the confiscated land was then leased back to the local people. They not only confiscated the villagers' land but when they leased back the land to the villagers, the villagers had to sign a leasing agreement. If the confiscated land is included in the police demarcation, the villagers have to pay rental charges to the police station. If the land is in the government office area, they have to pay it to the government office. And even though they do not need to pay the rental charges for 2015, the villagers are worried about the day when they will forbid them to work on the land and tell them to move" (A local female data collector, southern Shan State, interviewed 22 August 2015).

In another case, villagers reported that the farmland they had worked on for over 40 years in Waingmaw Township (Wuyang Village Tract including La Myan Village) was being confiscated as forestry land. Later, the Border Guard Force (BGF - local militia under control of the Myanmar Army), local administrative leaders and cronies got permission to use these lands. Without transparency or access to justice, cronies and Chinese companies began implementing projects on the confiscated land. In response, the local people have written joint complaint letters to the respective government departments and to Pyithu Hluttaw. At present, Chinese companies are planting banana trees on the confiscated land. In late 2014, the Pyithu Hluttaw land committee produced a letter allowing the local people to work on the confiscated farmland again. But the local leaders are reportedly failing to implement this decision.

Another example highlights how the "rule of law" is actually used against those who it ought to serve and protect from arbitrary rule and abuse of power. In 1991-1992, in Nansang Township (Group No.5, southern Shan State), the military confiscated about 2,000 acres of land including an ethnic Shan village, telling the people that the area is military-owned land. After confiscation, some people migrated either to another country like Thailand or to other places inside Myanmar as migrant workers, while others remained to work on the land. For those who remained, based on the amount of land that they were working on, they had to pay rental charges to the military until 2013. When they tried to demand their land back, they were threatened by the Military. As one of the villagers recalled, "The villagers whose lands were confiscated had been working on those lands for many years since before 1991. When they asked their land back from the Military or wherever they report about the case, they never win. The military told them that they can even sue the farmers back for trespassing" (A farmer whose land was confiscated, Group (5), Nansang Township, Southern Shan State, interviewed on 22 August 2015). Although since 2014 the farmers have not had to pay the rental charges, they are deeply worried and concerned about what will happen in the future, and are living and working under a cloud of uncertainty.

BOX 7. Confiscation of Chin Christian Cemetery

In March 2014, the Kale Township Municipal Committee suddenly announced the closure of the Chin Christian cemetery in Taung Hpee Lah section, Kale Town, Sagaing Region for "development". The cemetery had been in use since December 1914. To the surprise and dismay of religious leaders and local residents, the committee produced a document showing that announcement that the graveyard was to be closed down and ordering the people to remove it completely within one month had been made 2 years earlier in 2012. Villagers only knew about this plan, however, when the document was produced in 2014. The 100-year old cemetery was extremely important to the villagers of Taung Hpee Lah as part of their traditional practices and they had always planned to maintain it in a customary way.

The villagers sent letters protesting against the confiscation to different government departments of Union of Myanmar. After several meetings with the religious leaders and local residents, the Municipal committee requested them to donate at least some of the land if they could not give the entire 2.60 acres of land. However, the religious leader and the local residents, thinking that it didn't make sense to

break-up the precious land into pieces, refused. Then in June 2015, without warning at 2 o'clock in the morning when everyone was sleeping, the development committee came with bulldozers into the graveyard and began clearing it of all the trees and tombs. A huge number of police were on hand to guard the bull dozers as they worked. Only after the entire cemetery had been destroyed, the local residents were allowed to go and collect the bones, which had become all mixed up.

The cemetery was thus destroyed without warning even as talks and negotiations over its fate were still ongoing, according to the villagers. Immediately afterward, the villagers tried to meet with officials from the Sagaing Region administrative office and other related offices, but they were refused. Later, staff from the Sagaing Region District administrative office informed the villagers that the order to confiscate and bulldoze the cemetery had come from above, leaving them no choice. Currently, the cemetery remains cleared and empty (no project has been implemented yet), while the villagers continue to protest the injustice and to demand that the land be returned.#

BOX 8. Establishing human rights compliance during confiscation

According to the UN Guidelines on Eviction and Displacement there are at least four actions that should be ensured by the government during a confiscation:

• Mandatory presence of governmental officials or their representatives on site;

• Manner should not violate the dignity and human rights to life and security of those affected;

• Must not take place during inclement weather, at night, during festivals or religious holidays, prior to elections or during or just prior to school examinations;

• Must ensure no one is subject to direct or indiscriminate attacks or other acts of violence.

BOX 9. Establishing human rights compliance after confiscation

According to the UN Guidelines on Eviction and Displacement there are at least eight measures related to relief and relocation that the government must ensure are in place immediately after an eviction:

• At minimum, regardless of circumstances and without discrimination, competent authorities must ensure:

• Essential food, potable drinking water & sanitation;

- Basic shelter & housing;
- Appropriate clothing;
- Essential medical services;
- Livelihood sources;

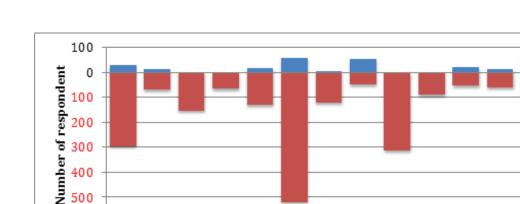
• Fodder for livestock, access to common property resources previously depended upon;

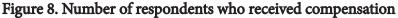
• Education for children & childcare facilities;

• Ensure that members of same family & community are not separated.

All these cases show that although the UN Guidelines on eviction and displacement establish strict criteria for human rights compliance, these are routinely ignored. When a confiscation fails the human rights test in the first stage (e.g., before an eviction occurs), and yet proceeds to unfold anyway, the confiscation cannot be considered human rights compliant. None of the land confiscations covered in this research met the requirements for being human rights compliant at this stage.

This failure to be human rights compliant in the first instance influences the perceptions, calculations and actions of the affected people also in subsequent stages (e.g., during and after eviction or displacement). Land confiscation is a devastating and illegitimate experience that must be understood first and foremost as a matter of human rights, and not simply a matter of business. It is from this human rights perspective that the question of how people dealt with compensation must be faced. While most of our respondents said that they did not receive compensation, some people said that they did receive compensation, and in a few places the proportion of those who said that they did receive compensation is significant, as in Yangon, in Shan (South) and in Mandalay (Figure 8 below).





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500 600

None of those who accepted the compensation that was offered said that they were satisfied with it, giving a variety of reasons, including: that what was given was "not enough"; that they had "confiscated my lands" (implying that no amount of compensation would ever be enough); that their "livelihood depends on my land"; and that the amount of compensation offered was "unfair".

■No ■Yes

Frawaddy

Magway

538aine

Mandalas

For example, in 2010-2011, in Sidoktaya Township, Section No. 2, Southern Ktaya Village and Ywarthit Village, the Tatmadaw Defense Weapon Factory No. 20 confiscated about 100 acres of land to build a military factory compound. They asked the plantation owners to sign the agreement. Villagers felt compelled to accept the compensation that was offered -- 36 kyat per acre and 5,000 kyat per person. The military officials told the villagers that this was all according to the law and based on the current situation. The farmers until now do not have any land to farm and are forced to do odd jobs in order to survive.

Many respondents said that that they were "afraid of the military" and that there had been "no negotiation" and that they had been given no choice or chance to decline or disagree. To illustrate, in Se Kone, Sin Mee, Chone Soon and Hta Naung Kan Villages, Meiktila Township, Mandalay Region, approximately 5000 acres of villagers' land was confiscated by the military in 2010. The confiscated area included their individual farmlands, village owned land, communal pasture area, a communal pond and a communal forest that villagers used to collect firewood. Over 100 villagers were directly affected. Later, the military gave 1 million kyat per acre of farmland and 500,000 kyat per acre of plantation as compensation. The villagers were asked to sign an agreement and told that whether they took the compensation or not their land would be confiscated. Fearing trouble if they did not accept, the villagers submitted. In some cases, the promised compensation was never paid.

In sum, the vast majority of the reported confiscations experienced by LIOH members have failed *in the very first instance* to meet the most basic human rights requirements specified by the UN Guidelines on Eviction and Displacement. In practice, what an actual confiscation fails to do in this stage cannot simply be dismissed or somehow remedied in a later stage (either during and after). *Compensation cannot remedy the government's failure to meet its human rights obligations before, during, and after confiscation.* Once a confiscation fails in practice to cross the minimum threshold in terms of human rights obligations, and lives are disrupted and destroyed, any legitimacy that a confiscation might have had is lost forever.

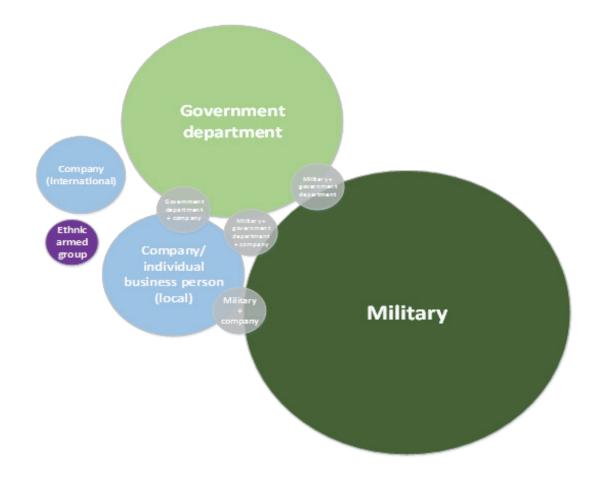
5.5 Who is responsible for the confiscations and their associated injustices

In almost half of the cases, confiscation directly involved either the military alone, or the military in combination with other actors (see Table 8 below). The other half of cases are mainly linked to various government departments, to business actors especially domestic companies, and to local authorities.

Table 8. Who is responsible for the confiscation of their land according to respondents

	Number of respondents	Percentage of total
Military	1268	47.7%
Government department	500	18.8%
Company	370	13.9%
Local authority	154	5.8%
Foreign company	118	4.4%
Military with government department and company	35	1.3%
Military with government department	35	1.3%
Government department with local authority	26	1%
Individual	26	1%
Ethnic armed group	23	0.9%
Government department with company	10	0.4%
Military with company	10	0.4%
Unknown	7	0.3%
Blank	75	2.8%

Figure 9. Who is responsible for the confiscation of their land according to respondents?



5.6 Impacts of land grabbing

As some of the examples already mentioned have shown, the impacts of land grabbing on the lives of the people whose lands have been taken have been severe. Moreover, the impacts are not confined to one aspect (e.g., livelihood), or to moment in time (e.g., during confiscation), nor are the impacts confined to one place (e.g., the area designated for confiscated). Instead, the impacts are wide ranging across the economic, social, cultural and political spheres, and encompass the physical and psychological dimensions of peoples' lives too.

"In 1996, local government authorities and Chinese businessmen confiscated the farmland that I worked on. The reason they gave was that they were going to build a government cement factory. Then, they did not do anything on the land but they just sold the land out. We have had to go looking for work in the hills, which are very difficult to travel and there are also landmines, which they planted for the security of the region. Two residents have been hit by landmine. We are also afraid of that. It would be great if we can work on the confiscated land" (a farmer whose land was confiscated, Nam Tawng Village, Pan Sai (Kyu Koke) Sub-Township, Muse District, Shan State, interviewed on 25 August 2015).

The impacts of land grabbing on people are likely to spill over from one place to another: they are likely to be felt even by people whose lands were not grabbed, but happened to be living nearby – as in the case of the villagers whose farmlands were for a time occupied by the families whose lands were suddenly flooded Mone Hydropower Dam (see Box 6 above).

Impacts also extend to what is done to the land after it is grabbed -- as in the case of Ma Sei Seik, War Thein Kha and Hmaw Taw Villages, Kawhmu Township, Yangon Region, where village pastureland that was confiscated by the military ended up in the hands of a business crony who made it into a fishpond. Later, the villagers' buffalos and cows died from poisoning after eating grass around the fishpond area.

_ radie 9. Impact of fand confiscation on addity to continue far ming	
Number of respondents who were farmers before	Number of respondents who were farmers after
confiscation	confiscation
2235	508

Table 9. Impact of land confiscation on ability to continue farming

Likewise, the impacts of land grabbing go beyond one moment in time, to impact on peoples lives and livelihoods for years afterward. Our research confirms that large numbers of people, who had previously built lives and livelihoods around farming, were driven by land grabbing and against their will, out of farming completely (see Table 9 above), and into less satisfying and often more precarious non-farming economic activities including casual labor situations. These numbers do not reflect the aspirations of the people behind the numbers; interview data suggests that many did not want to leave farming and would go back to it if they could.

Deprived of their farmland and farm-based livelihoods, families are broken apart as individual family members are compelled to migrate in search of work, whether inside Myanmar or, as often is the case, outside the country, which frequently places them in very uncertain and difficult situations under oppressive and exploitative working conditions. For example, in 1990-1991 in Lwai Lwee Village, Tee Tain Township in Chin State, the military confiscated and set up camp in about 300 acres of villagers' shifting cultivation land. Thus, the farmers couldn't farm on it anymore. Then in 2011, in order to expand this Tatmadaw encampment, the military confiscated a further 100 acres of farmland in Tat Lwee Village. Villagers have only the little amount of land left over to farm, and most people have had to go to foreign countries for their livelihood.

Many people from Hkay Nin Village Tract in Lashio Township, northern Shan State, are suffering a similar fate. From 1995 to 1996, the military confiscated the farmland, housing areas and village land and gave permission

to some businessmen to use most of it. Deprived of their farmland on which their livelihoods depended, the local people at first asked for permission to work on the land in exchange for paying rent. But permission was not given. As a result, in search of work, some of the confiscated villagers have been forced to migrate to China, where they again face many difficulties.

BOX 10. Man Naung and Man Ton Villages, En Man Ho Kyan Village Tract, Kutkai Township, northern Shan State

This case concerns 236 acres of village farmland, which the township land management committee from Kutkai Town has recently begun to use for an Urban Expansion project. Farmers from Man Naung and Man Ton Villages have been working on that land for well over 20 years since their ancestors' time. The land was first confiscated in 1997 by the Tatmadaw, which did not do anything with the land. So the local farmers continued to farm the land, despite the potential risks. In 2014 the defense ministry announced a plan to return the land, saying that the original farmers whose lands had been confiscated could apply to work on it again. Thus the farmers who had been confiscated filled out the forms and submitted them to the village land management committee. But there was no response from the township committee and none of the land was returned either. Then in 2015, the design for an Urban Expansion Project was announced and villagers were given one month to comment in it. But the villagers, who opposed the project and demanded their land back, were ignored and implementation of the project moved forward. They are now facing severe livelihood problems. "They confiscated our land because they are going to implement the Urban Expansion project. They said that they will only give a piece of land for each farmer in whatever way we try. We are farmers. We can only do agricultural farming. What can we do with that piece of land?" (a farmer whose land was confiscated, En Man Ho Kyan Village Tract, Kutkai Township, northern Shan State, interviewed on 25 August 2015).

5.7 Responses to confiscation

Finally, our research showed that respondents have tried to challenge the land confiscation - 1527 respondents (57.5%) reported that they tried different (and often more than one) means to change the situation, including: writing letters of appeal making (1332)respondents), demonstrations (353 respondents), soliciting support for statements of solidarity (530 respondents), contacting people from the media (667 respondents), joining initiatives to organize farmers (499 respondents), denying compensation offered (163 respondents), and refraining from negotiation (2437), among other protest actions (230 respondents).

Among other kinds of actions taken, some of those whose land were confiscated have engaged in ploughing protest to demonstrate their anger and call attention to their difficult situation. One case of a ploughing protest comes from Sagaing Region, Kanbalu Township. Here, about 12,000 acres of villagers' farmland from Hnget Pyaw Taing , Htauk Sha I, Pay Kyi and Kha Ohn Tar villages and other neighbouring villages was confiscated by the Myanmar Economic Company (MEC) for building a sugarcane plantation and a sugar factory. The military authorities then turned around and "gave permission" to some of the original land owners and farmers from other areas to rent some of the land back from the military – land that had originally been theirs to begin with and had been grabbed illicitly as far as the farmers were concerned. Eventually, the farmers joined together and forcibly re-entered their land and did ploughing to demonstrate their determination to fight to reclaim their land. In response, the military sued the farmers for trespassing and 56 farmers were put in jail and over 200 villagers were prosecuted in the court. Despite this, the villagers are continuing to submit letters to the relevant Government authorities to take action to return the land to them. The villagers were able to reclaim about 1500 acres of the confiscated land in early 2014. In other parts of the confiscated land, the military allowed some of the original farmer-occupants to farm in exchange for paying a crop tax, which they call "sharecropping with the villagers".

BOX 11. Case of Yuzana land grab in Kachin State

Yuzana company confiscated 250,000 acres of land including plantations and villages from Hpakant and Tanai Townships in Kachin State, claiming that they had gotten permission to work on these lands. In 2006- 2007, they started to confiscate the land and constructing a road, telling the villagers that it was for development projects, although villagers saw only company vehicles using the road. Once it was constructed, they started confiscating more of the villagers' farmland step by step, until finally in 2010 the whole village from Wa Ra Zut village tract in Hpakant Township was displaced. At the same time, one night they came with bulldozers and destroyed the farmers' plantations in Kawng Ra Village, and then started demarcating the land. Then they moved the Wa Ra Zut villagers who were displaced to a relocation site, where they were given no farmland, but only a place for housing and 50 pieces of 6' tin roofs, and then were expected to build their own houses. Some of the widows could not build the house well and until now the villagers are still building their houses. Compensation was never discussed with the displaced villagers. Some of the villagers refused to move; those who resisted suffered threats.

The situation has caused conflict amongst the company, local leaders and villagers, with the latter protesting and making demands. In early 2010, several villages were arrested and detained by the police for three weeks, including a young mother (of a 2-month-old baby) and two women and two men over 50 years old. In May 2010 local land activists and 140 villagers decided to sue the Yuzana Company for its role in their forcible displacement and unjust land confiscation. In 2012 the villagers gathered for a protest in front of the Yuzana company office, and wrote complaint letters to various authorities, parliamentarians, and international organizations regarding this case and the related human rights violations that have occurred.

From that time onward, under increasing pressure as a result of the villagers' protest actions,, the company began offering to pay cash as compensation to the villagers (10,000-80,000 kyats) for the lands that were confiscated and asking them to sign letters of agreement. At the same time, the company has also been making direct and indirect threats directed at anyone who might have been contemplating legal action against the company. Although some of the villagers felt compelled to accept the compensation, one group of 17 villagers rejected the compensation offer and decided to sue the company in cooperation with local land activists.

Eventually, company officials and local authorities went to the villagers who had sued to say that they will return the land to those who had sued, although it would be up to the villagers to do whatever repair work necessary to make the land suitable again for farming. Rather than accept this deal, the villagers demanded instead that the company repair the land and in addition compensate them for the 9 years they have lost while the land was confiscated. They also demanded that full permission be given for all the other villagers to be able to work on their land again.

However, until today, there is no justice and the villagers are still facing serious difficulties for their livelihoods. The confiscated farmers' lawsuit against the company remains ongoing.#

6. Conclusion and recommendations

The problem of land grabbing in Myanmar is very serious and affecting large numbers of people. The data presented in the report speaks for itself, and shows different patterns and cases of land grabbing, and the lack of opportunity for local communities to resist land grabbing or to seek proper recourse or remedy. The report also documents the severe consequences of these cases on people's lives and livelihoods. People from our network say land grabbing in Myanmar is 'destroying our past' and 'haunting our future'.

Meaningful participation and real accountability are basic rights that belong to all people and peoples across the globe. In Myanmar, however, access to these basic rights is extremely rare, including and perhaps especially when it comes to questions around access and control of land and natural resources. While there is growing concern these days about land grabbing in Myanmar, the voices of the rural men and women and ethnic minority peoples whose livelihoods, identities, autonomy and vision of the future are most directly tied up with living and working on the land are not being heard or taken seriously enough.

This report is an attempt to remedy this gap in the discussion. It has shown that the problem of land grabbing in Myanmar is widespread and longstanding, occurring in all states and regions and dating back to well before 2010, with many cases first arising in the 1990-2009 period and many additional cases arising after 2010. The patterns and impacts of land grabbing as experienced by members of the LIOH network have remained largely unchanged.

Prior to being confiscated, the majority of those affected by land grabbing had been peacefully farming up to 10 acres of individual farmland (and more in some cases), which was enough for them to fulfill their family's basic needs (shelter, food, health, education, inheritance). In some cases, when confiscation came, the original farmer-occupants were thrown off the land entirely. In other cases their land was grabbed, but then they were offered the "opportunity" to pay for the "right" to continue farming by making rent or share payments to the grabber. In many cases this meant making payments to the military: in almost half of the cases, confiscation directly involved either the military

alone, or the military in combination with other actors, including local authorities, government ministries and departments, and domestic business elites and companies.

Whether before or after 2010, none of the confiscations reported here came close to meeting international human rights standards, whether before, during or after evictions occurred. Our findings also show, meanwhile, that the possession of legal documents did not provide any significant defense or protection against land grabbing: roughly half of those whose lands had been grabbed possessed legal documents, while half did not. This is surely an important cautionary finding to keep in mind today, when so much attention is being given in policy discussions to the need to give "legal recognition" (with documents) to customary and other tenure rights holders.

While it is appreciated the government has initiated the National Land Use Policy (NLUP), in order to address land conflicts and have a fair land policy in place we want this NLUP to fully reflect our demands. Furthermore, as long as the 2012 legal land framework is in place, we will continue our struggle for the rights of small famers and solve the problem of land grabbing in Myanmar.

Finally, none of the cases of land confiscation covered in this study have been resolved and it's clear too that those whose lands and lives have been affected most directly still aspire to return to the land: this is not a problem that is likely to go away by ignoring the voices of those who have been most directly affected all these years.

In the spirit of seeking a good solution to this major problem, we make the following recommendations:

Key principle

• Land, water and forests should be for those who live on it and work it; whose lives, livelihoods and identities depend on this.

Solving land conflicts

• In case of land confiscation by companies, the relevant government authorities should organize a meeting with the company who confiscated land, officials, local community based groups and the local

villagers to solve the land conflicts in a transparent way. Accurate and reliable information about the land confiscation and historical background should be documented and prepared by both the government and the villagers.

• In case of land confiscation by the military, the relevant government authorities should assist villagers to solve the land conflict in a transparent and fair manner.

• International and local Non-Government organizations, community based organizations and farmers groups should work together with the villagers who had their land confiscated to help claim it back. In order not to undermine the efforts of local villagers to claim their land tenure rights, good understanding of the villagers' strategies at the different places or geographical context are essential.

Restitution

• Villagers who lost their land and who were relocated unfairly and by force should get back their land to work on it.

• Confiscated land should be returned to the original occupants. This should be carried out with dignity and in a transparent way in front of the local communities, with strong and proper documents.

• Land restitution should be done in such a way that it does not cause more conflict; restitution of land to the original farmer-occupants should not proceed directly where that land is now occupied by other farmer-occupants who are working on it. Additional processes will be needed to determine how restitution could be done in such cases, so that the human rights of both the original and other farmer-occupants are respected and protected, and both are able to acquire land that is good quality near the village where they can live and work peacefully and with dignity.

Compensation

Villagers who had their land confiscated a long time ago should be provided with funds to enable them to restart their lives on the land. In this case, the compensation should be calculated since the time the villagers lost their land and were unable to work on it.
 In cases where the original land cannot be returned back to the original farmer occupants, for

• In cases where the original land cannot be returned back to the original farmer occupants, for example in the case of a dam, then affected farmers should be given land in another place. However, there

should be a good and clear process to ensure that the restituted land is not already occupied and used by the other farmer occupants, and that it is good quality land near the village where the relocated farmers could rebuild their lives and livelihoods in peace and with dignity.

• The compensation for the villagers to restart and work on the new land. The cost can be calculated the current value of the crop on the land that the villagers lost since the year which land was confiscated and they couldn't work on.

Legal issues

• Laws, policy, and regulations should protect the local villagers who work on their land equally. If villagers whose land has been confiscated would like to prosecute land grabbers, there should be a clear and unbiased channel/space in legal process for them.

• Farmers engaged in land conflicts should be protected and supported by the government to ensure a fair and transparent decision making process, instead of being criminalized as is now often the case.

• Farmers who are already in the prison for land related conflicts and in the process of prosecution need support from (voluntary) lawyers.

The new government is in a position to put an end to the terrible experiences of land conflicts that local communities have been facing and to put the country on a more democratic transition path. At the same time, it will be crucial for the new government to responds in a way that is accepted by the people who have been suffering these injustices all these years. It is also important to include the affected people and community voices in decision making processes. Otherwise, the new government risks being a continuation of the old government, with land grabbing continuing unabated and people's future will continue to be haunted.

ENDNOTES

¹ See "Forced Displacements and Destroyed Lives around Upper Paunglaung Dam in Shan State, Myanmar" Physicians for Human Rights, October 2015, Yangon. https://s3.amazonaws.com/PHR_Reports/burma-shanstate-english-report-oct2015.pdf

² Land in Our Hands Founding Statement, LIOH, February 28th 2014, Land Rights Advocacy workshop, Yangon.

³ LIOH submission on National Land Use Policy (draft), "National Land Use Policy of Myanmar: Our Response and Recommendations", LIOH network, January 29th 2015. And "LIOH Demands for Land, Peace and Democracy", LIOH, April 2015, Yangon.

⁴ Rakhine is not included in the research because LIOH members from this state eventually had to drop out due to schedule conflicts.



Photo: As seen in this photo taken on October 2014 by local community member, villagers' farmland that was confiscated by the military in 2010 was later marked as an industrial zone/area in 2011. *Sel Kone village track, Meiktila Township, Mandalay Region.*

Some documented photo section



Photo: This photo taken on 25th August 2015 and shows how the villagers map their areas, including who occupies the land, how they are using the land, and whose land have been confiscated. *Nam Tawng Village, Pan Sai (Kyu Koke) Sub-township Village Tract in Muse District, northern Shan State.*



Photo: This photo taken on 19th August 2015 shows a local government authority taking photos of the participants during the validation workshop with local villagers in Maungmakan, Dawei.



Photo: This photo taken on 25th August 2015 and shows Community members mapped the land that has been confiscated by the military in their areas. *Hkay Nin Village Tract in Lashio Township, northern Shan State.*

Land in Our Hands (LIOH) LIOH Demands for Land, Peace and Democracy

We, Land in Our Hands network, are an initiative of small-scale farmers, local farmer organizations, and supportive community based organizations and allied CSOs, compromised of more than 60 groups from all states and regions across Myanmar. LIOH believes that in striving for durable peace and genuinely equitable and sustainable development in the country, and within the spirit of current democratic reforms, it is very vital that the Government, the Parliament and the Judiciary of Myanmar work to promote, protect, respect, and fulfill the land tenure rights of small-scale farmers and fisherfolks, and particularly of rural women and ethnic communities.

The national land use laws and policy will have significant impacts on all land use types in the whole country including small-scale to large-scale land users. It is important to balance land use for country's economic development and promote social justice with equitable tenure rights and control of land, forests, fisheries, water and associated natural resources, for all, with special emphasis on women, youth, poor, vulnerable and marginalized peoples.

Land is for those who live on it and work it; whose lives, livelihoods and identities depend on this.

Therefore, any "development" or "investment" initiative that goes against this core principle should be stopped and rolled back; any and all land dispute processing mechanisms must adhere to this core principle.

Land size ceiling is important as it is both a remedial and preventive measure to stop and prevent future land polarization, to remedy landlessness, and to address past land injustices, both "inside" and "outside" customary tenure systems.

It is vital to recognize diverse customary tenure systems and farming practices, respect for the right to self-organization and self-determination in the use and management of land and related natural resources by those who live on and work the land, and adoption of a federal system.

We believe that land and forests, rivers and lakes, fisheries and seeds are for life with genuine environmental protection, not for profit.

Land for People, Not Profit! No Mapping Us Without Us! Not About Us Without Us!