

# OUR LAND



A person who's ownership is established by the first person to clear it for cultivation. Located west of Inlé lake.



Farmers working on a garlic farm in Pinlaung Township.



Children sitting on a bank of the Tigyit coal mine in Pinlaung Township.

## Pa-O Customary Land Situation in Pa-O Self-Administrative Zone

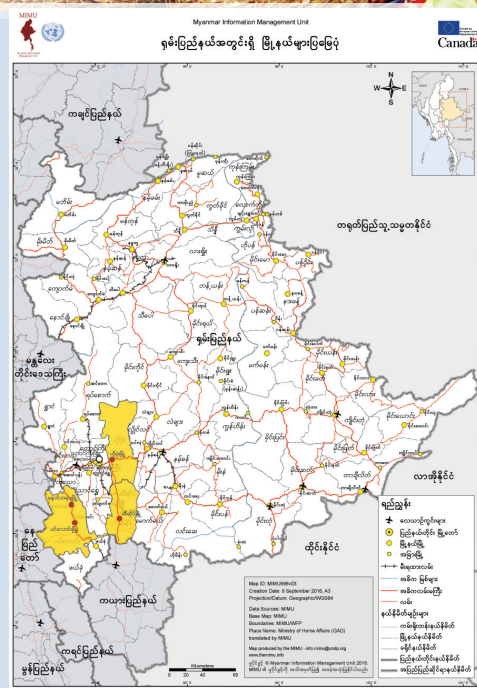
There are over one million Pa-O people in Myanmar living in Southern Shan State, Karenni (Kayah) State, Karen State, Mon State, Begu region, and Naypyitaw council territory. 'Our Land' is based on primary research on land confiscation, and the impacts of this, in Hsihseng, Pinlaung and Hopone Township, Pa-O self-administrative zone.

### Agriculture

Pa-O people's livelihoods are based on agriculture. Their livelihoods in the uplands mainly consist of cultivating avocado, tea, orange, pear and coffee. In the lowlands, Pa-O people grow paddy, corn, groundnut, bean, wheat, garlic, potatoes, chili, Virginia and vegetable. In lowlands, Pa-O mainly grow paddy, others are planting sugar cane, several varieties of beans, corn, sunflower, and garden crops.

### Land use system

Many Pa-O people's livelihoods depend forest resources such as food and traditional medicine. Because Pa-O people depend on the forest, it is within their interest to protect the forest. When they harvest from the forest and cut down trees, they only take what they need and leave small trees to maintain forest. In addition, big trees are often left untouched because people worship large trees as part of their traditional believe systems. Currently, communities are not involved in or aware of the current forest laws coming from the government. The government have designated forest areas





where people are already living and cultivating. This is causing problems and conflict over land use between local people, corporations and government. In these areas the population is increasing, and people are struggling for livelihoods.

In Pa-O areas, depending on the location, the land use systems vary slightly. Some use retired land cultivations, shifting cultivations, lending cultivations, and permanent cultivations.

For Pa-O people, land belongs to the Pa-O people and families. Land ownership is passed on generationally and as a result customary land practices are passed down from Pa-O ancestors. The forests, which are far from the villages, are useable for everyone safely. Some lands are shared back to villagers' children for their livelihood.

Agriculture and cultivation is noble work and has been carried out for many years over generations. Agriculture and cultivation can provide livelihoods as well as developing the country. For the sale of land, traditionally both sellers and buyers sign as well as their witnesses, in front of the village head men.

### **Judiciary system**

Pa-O people mostly deal with land disputes using Pa-O customary traditional judiciary systems based on social justice. Most people have trust in the system and it is effective, collective decision-making processes. When it comes to case, the village headman invites respected, reliable, experienced, and elderly people to make inclusive and transparent decisions. To make decision, they mostly meet at the village headman's house. When it comes to land purchase and sale, so as not to create any future conflict, Pa-O people bring all the village headmen, and invite respected, reliable, experienced, and elderly people to bear witness.

For the land boundaries, maps are used or fences and other demarcations to understand and recognize land boundaries. Parents give their land to their descendants; sons or daughters. To sell and buy the land, there are no agreement papers, mostly agreements are made between buyers and sellers with the village headman (Phardong), or witnesses as evidence.

### **Division of inheritance**

After the sons or daughters get married, the parents give land and property to them as inheritance. The child who takes care of the parents the most, gets more land and property. If a person who has land and property will die soon and will not pass the land onto their relatives, before they die, they give the land and property to those who took care of them. Also, the land goes to the village committee and can be used communally.

### **Quotation from a villager:**

"We have our customary land practice, we only sell to Pa-O people who live here, we don't see to other ethnic groups, we don't have paper agreements, we mostly go along with village headman decision from generation to generation. We give equally to son and daughter. If there is a problem, we discuss with village headman with some kind of paper agreement. If we sell the land, we invite village headman and witness. But we don't have paper document. If there is a river, we agree to use together."

### **Threats and problems**

Land grabbing has caused many problems for communities including involuntary displacement, loss of tradition, loss to livelihoods and income which in turn has rendered people unable to afford healthcare and education for their families. Land grabbing disrupts the generational systems of passing down land and causes problems in the community. Confiscation of land has had detrimental social, economic and cultural impacts. Furthermore, some communities are experiencing water shortages due to corporations and armed groups confiscating land with the village's main water source. When the military and militias grab community land, the locals become tenants on their own land and are forced to pay taxes to the armed groups.

Most villagers do not know about land law and are unaware of how to attempt to get their land back. Moreover, most of the people affected are fearful of the repercussions of acting against the land grab and the people responsible.

### **Root Causes**

One of the main root causes of land issues is the fact that almost all land in Myanmar is owned and controlled by the state and laws have not been made inclusively or democratically. The 2008 constitution states in 37 (a) that the Union is the ultimate owner of all lands and all natural resources above and below ground, above and beneath the water and the

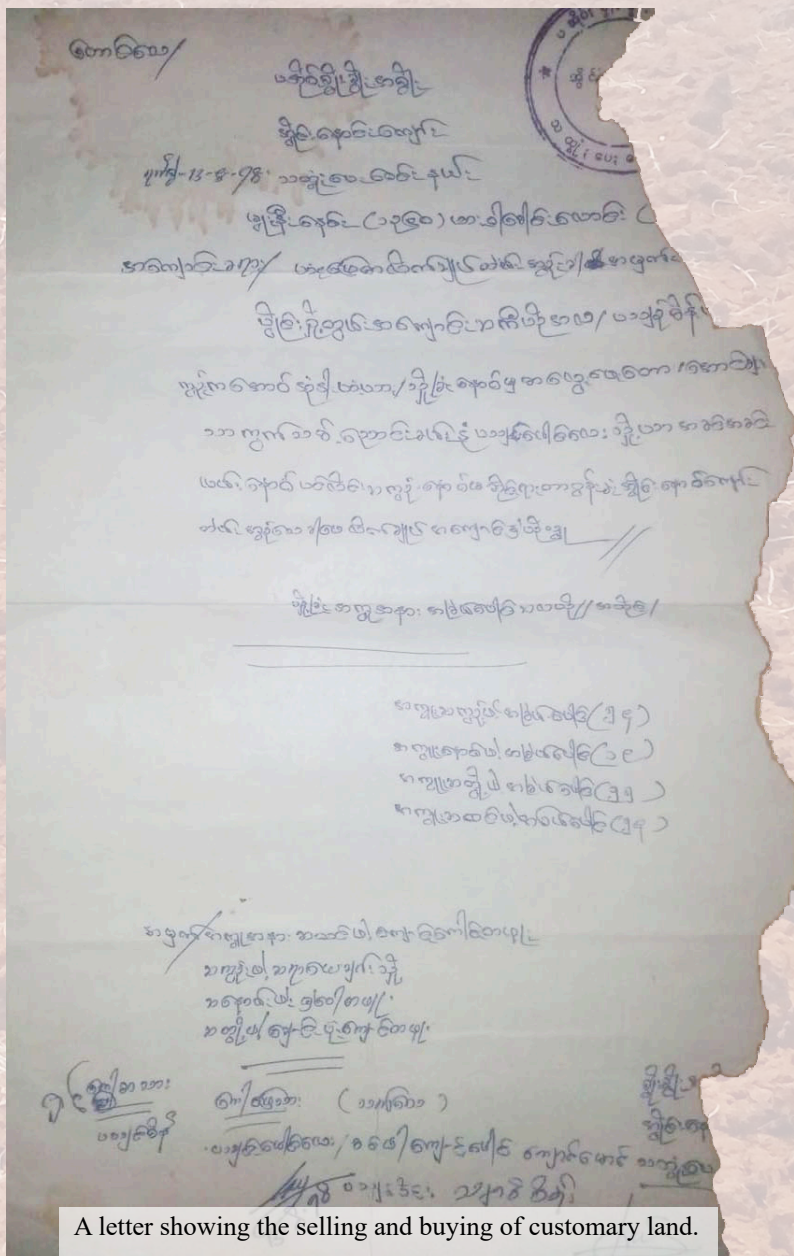


atmosphere in the Union. In addition, 37 (b) states that the union will enact necessary laws to supervise the extraction and utilization of all state-owned natural resources by economic forces. The State's monopoly control of natural resources threatens the agency of local communities and rights to their land. The Land Acquisition Act of 1894 provides that the Government can carry out land acquisitions for a company when the acquisition is 'likely to prove useful to the public' (Article 40(1)(b)). This act also notes that the president has wide discretionary powers to make the final decision.

There have been several other acts which involve provisions that make dispossession of local people's land easier. In recent years there has been a shift in politics to a 'modernizing' economic development agenda. Laws such as the Farmland Law; the Vacant, Fallow and Virgin Land Law; the Special Economic Zone Law, and the Investment Law, encourage foreign private investors to convert land that is considered by the government to be unused, fallow, or wasteland. This is a threat to Pa-O communities' land tenure security. Central state monopoly control, classification of land, corruption and greed, are making it easier for companies and armed groups to acquire land, many communities have had their land taken from under the guise of 'development.'

Customary systems are not recognized and there are very few laws to protect ethnic people. The Vacant, Fallow and Virgin Land Law simultaneously makes it easier for land grabs to happen, whilst also making provisions for ethnic people to make claims to get their customary land back (Paragraphs 13, 68, 69, 70). However, corruption and venality, lack of awareness of the land redress process, and fear of the military and militias are barriers to ethnic people getting their land returned to them.

It is best for communities and the land if it is managed using customary systems. Recognizing customary land tenure systems as valid and effective resource management systems is an important part of the solution to the problems faced by communities. From the research in 'Our Land,' here are our demands:



A letter showing the selling and buying of customary land.

A signpost marking military land in HsiHseng Township



A stone signpost placed by the military in Hopong Township





## Our Demands

- (1) Confiscated land should be returned to the original owners of the land. Allocation of new land, and/or financial compensation is not sufficient. Local people should have their land returned to them with a guarantee of tenure security.
- (2) If land cannot be returned to the people, justice should be pursued by granting adequate financial compensation to people impacted by the land confiscation. This compensation should be based on the current land price according to the law.
- (3) From the land rights and peace process discussions, implementation should be based on the federal system.
- (4) Stakeholders, lawmakers, government, politicians, EAOs and investors should respect customary systems.
- (5) People must have the right to ownership and management of land, the right to benefits, the right to free prior informed consent. This should be involved in the peace process discussions and negotiations.
- (6) Moratorium of large development projects until land policy and practice improves.



A fence of the military battalion camp in Hopong Township



Farmers working on their farm, Pinlaung Township.



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