



Finding outlines

"Understanding rural land issues to engage comprehensive policy dialogue in Myanmar" project

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This document is not a finalized one and has been developed while the quantitative phase 3 survey information still being analysed and final study report being written. As a consequence, these are only preliminary findings. Furthermore, this document does not address all the issues that will be mentioned in the final report. However, we present below some outlines with a particular emphasis on their relevance in the context of land reforms initiated through the new 2012 land law, the Vacant, Fallow and Virgin land law 2012 and the foreign investment law 2013 as well as the National Land Use policy (NLUP) currently being drafted and under consultation process.

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1. Introduction

a. Rationale for the study

Myanmar inherited its land tenure framework from the British colonization, putting emphasis on individual holdings (*u'paing* in Burmese), distributed in *kwin* (basic territorial division), but where agriculturists receive use rights rather than full private ownership, the State remaining the ultimate owner of all lands. With the 1953's Land Nationalization Act and a series of land reforms through the 1960s, the Myanmar's government main thrust remained to break up the landowner-tenant relationship in order to create a government-owner – cultivator relationship and, at the same time, to strengthen government control over farmers. However, situations observed in the first half of the twentieth century – with a growing class of absentee land owners and tenants being impoverished by high rents – could still be observed in present days.

Hence, the Farm Land Law which has come into force on 31st August 2012, followed by a "vacant, fallow and virgin lands law", with a view to developing business opportunities and development of the country's economy through the utilization of these lands. These two laws represent the most substantial change to the legal framework for land since the early 1960s. The key principles are the following: 1) The State remains the ultimate owner of all land. Lands can be nationalized by the government if necessary. Farmers have land tenure rights for cultivation through the delivery of Land Use Certificates (LUC), but only in accordance with the government's prescriptions; 2) The concept of private ownership is officially reintroduced: land rights can now be sold, traded, mortgaged, inherited, etc.; 3) A Central Farmland Management Body is in charge of ensuring compliance with the new regulations and can transfer or revoke the right to work farmland, and provide land evaluation for various purposes.

b. Objectives

Recent studies have addressed land issues in Myanmar. Several studies have documented the legal and institutional frameworks currently in place for land tenure (about land categories defined by law and existing land registration procedures¹ for instance). Other studies provide the first analysis of land tenure insecurity² and its drivers. It documents cases of loss of land tenure due to encroachment by large-scale agribusiness projects, economic failure of farming activity and inadequate tenure guarantees. Other studies focus on the forms of land access in various areas of Myanmar's uplands, with opinion polls to define the basis of land tenure security for rural populations (Chin, Kachin, Mon states)³.

Though these studies give first insights on the situation, there remains a strong need for studies which document social processes leading to land insecurity, and those leading to investment and sustainable use of lands by rural populations. Land markets and their impact on equity, the dynamic of landlessness, the interplay between state intervention and local authorities in current regulations regarding land tenure in the different social and socio-economic contexts, access to natural resources as a base for livelihoods, etc. are issues that have to be analyzed. Indeed, addressing

¹ Guidance note on land issues Myanmar, UNHCR, UN-Habitat, Norwegian ministry of foreign affairs

² Smallholder land tenure security in Myanmar: a stakeholder analysis and advocacy plan, FSWG.

³ Land tenure: a foundation for food security in Myanmar's upland, Briefing paper, FSWG

land insecurity in general does not enable a full understanding of the key issues and challenges to be looked at, nor the actions and policies to implement. This emphasizes again on the importance to provide in-depth studies that characterize the diversity of situations.

The final purpose of the project is to improve understanding on how land tenure links with livelihood security for enhanced and comprehensive policy dialogue. The specific objective of the study is to provide accurate and documented material on land dynamics, focusing on two issues: access to land and land tenure security. It documents forms of land access, land markets, land tenure insecurity and processes of securing land tenure. It also analyzes interrelations of such aspects with farming practices, natural resources harvesting, and food security.

Indeed, relations between land, livelihoods and food security are complex as they embrace simultaneously cultural, social, economical, legal, and political realities. There are clear cause and effect links between food security, livelihoods and land, which is an essential productive asset for rural households. Access to land can enable food production. The area of cultivated land per household is often a key factor determining its food security and the socio-economic status of livelihoods. Land tenure security encourages sustainable farming practices and long-term agricultural investments (such as trees, irrigation canals, drains...) which can enhance productivity. Securing land rights may also facilitate access to credit, for improved production means (inputs, tools, etc.) and increased productivity.

Beyond these general observations and "mechanical" links, situations are sometimes more complex than they may appear. They require in-depth knowledge, in order to design accurate projects, policy and legislation, providing effective and efficient support to vulnerable, land or/and food-insecure households. Our study will thus focus on documenting the links between food security and land in Myanmar's specific context, detailing how the limited access to land and/or land tenure insecurity are barriers to livelihoods and food security.

c. Methodology

The study has been implemented in the rural areas where GRET is already implementing development projects in the Ayeyarwaddy Delta (Bogale and Mawlamyinegyun townships), and in the Dry Zone (Monywa and Yinmabin townships).

This selection criteria is important: prior knowledge of the area and existing grassroots links with farmers, local organisations and authorities were important conditions to succeed in the implementation of the project as it addresses highly sensitive issues⁴. Furthermore, as the study has a focus on the linkages between food security and land tenure, the regions have been selected for their high potential in terms of food production. The delta of Irrawaddy and Dry zone are indeed Myanmar's main rice bowl areas.

9 villages have been selected in each area to cover a high range of agro-ecological characteristics and land tenure issues identified during a first kick-off mission. Part of the survey also focused on the Village Tracts (VT) to understand spatial dynamics and social construction.

⁴ Especially in Dry Zone due to the proximity of Wun Paung Copper mining project at Let Pa Daung Hill (Salin Gyi township).

In the delta area, 9 villages distributed in 4 VTs have been chosen to cover a wide range of situations along the north/south ecological and social gradient, and are more or less accessible/remote.

In the dry zone, 9 villages distributed in 7 VTs have been studied. They were chosen according to land issues (disputes, allocation, transactions dynamics) and agro-ecological variability (mainly soil and ground water access).

The survey used both qualitative and quantitative approaches in order to produce “meaningful data” (information) which means producing both the data and the main keys to analyze them. It was designed to progressively describe and understand the links/relations between local context, land (and resources) access and livelihoods.

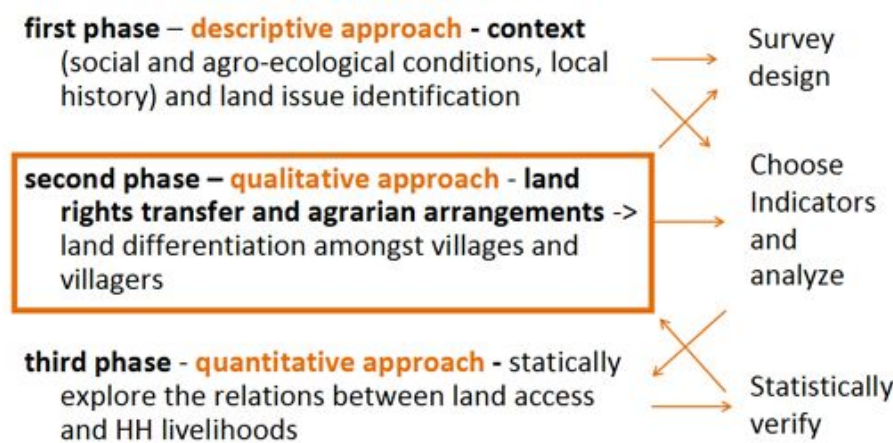


Figure 1: architecture of the survey

Quantitative and qualitative approaches are to be developed in two different phases because of their very different methodologies. Qualitative approach is the central and crucial phase of the survey as it allows us to built meaningful indicators and hypothesis that will be statistically described and confirmed (or not) by the quantitative survey. Quantitative data is being analyzed in the light of first (context) and second (individual accumulation processes) phases results.

The first phase documented the social and agro-ecological conditions and local history at different level. It was designed to produce a first set of information related to land issue necessary to the design of the two following phases.

Table 1: selected villages for the survey phase 1

Zone	Township	Village Tract	Village
Delta	Bogale	Magu	Magu
	Bogale	Magu	Poe Laung
	Bogale	Magu	Pay Chaung Lay
	Bogale	Mya Thein Tan	Aye
	Bogale	Tha Byu Gone VT	Tha Byu Kone
	Mawlamyinegyun	Kyet Shar	Pay Chaung

	Mawlamyinegyun	Pyar Mut Shaw Chaung	Alei Chaung
	Mawlamyinegyun	Kyar Hone	Thet Thet Kuu
	Mawlamyinegyun	Kyar Hone	Kyar Hone
Dry Zone	Monywa	In Taing	Hnaw Pin
	Monywa	Kha Tet Kan North	Nyaung Pin Thar
	Monywa	Kha Tet Kan South	Hle Dar
	Monywa	Koe Than	Koe Than
	Monywa	Myin Mee Laung	Gaw Gyi
	Yinmabin	Min Zu	Min Zu
	Yinmabin	Si Laung	Aung Chan Thar
	Yinmabin	Si Laung	Si Laung
	Yinmabin	Zee Phyu Pin	Zee Phyu Pin

The second phase is a qualitative one. It focused on land rights transfer and agrarian arrangements in a long-term perspective with the final objective to understand the process of land and resources access differentiation amongst villages and villagers. Due to the in-depth nature of the qualitative phase, only 3 villages in each zone were selected for household interviews. In Delta, 40 interviews were conducted, while in Dry Zone 44 household interviews has been performed, besides numerous key informant interviews (SLRD officers, village headmen, VLMC members, etc.) in each zone.

Table 2: selected villages for the survey phase 2

Township	Village Tract	Village
Bogale	Mya Thein Tan	Aye
Mawlamyinegyun	Kyet Shar	Pay Chaung
Mawlamyinegyun	Kyar Hone	Thet Thet Kuu
Monywa	Kha Tet Kan South	Hle Dar
Monywa	Koe Than	Koe Than
Monywa	Myin Mee Laung	Gaw Gyi
Yinmabin	Zee Phyu Pin	Zee Phyu Pin

Land transfers are complex and must be understood as land rights transfer which imply that these transfers (sales, delegation, allocation...) do not only deal with private land ownership (which means the full control of the plot of land in the occidental meaning and which includes the right to transfer the land) but also with various forms of delegation of "derived rights" such as right to access to the land or right to use the land for instance. Derived rights are mainly granted on a non-permanent basis and delegation can take the form of "agrarian contracts" (i.e institutional arrangements between actors involving various political-legal authorities) or "agrarian arrangements" which are informal contract between actors (for example landlords and landless) made in order to cultivate a plot of land or to value a resource (trees, cattle...). Such arrangements often overlay the agrarian domain (as they imply compensation in other domains) and are secured by socially recognized practices and institutions.

Finally, the third phase was a quantitative approach aiming at statically exploring the relations at household level between **land patrimony** and households livelihoods. A total of 1128 household have been interviewed following a questionnaire that had been first tested in other villages.

Township	Village Tract	Village
Bogale	Magu	Magu
Bogale	Mya Thein Tan	Aye
Bogale	Tha Byu Gone VT	Tha Byu Kone
Mawlamyinegyun	Kyet Shar	Pay Chaung
Mawlamyinegyun	Kyar Hone	Thet Thet Kuu
Monywa	In Taing	Hnaw Pin
Monywa	Kha Tet Kan South	Hle Dar
Monywa	Koe Than	Koe Than
Monywa	Myin Mee Laung	Gaw Gyi
Yinmabin	Zee Phyu Pin	Zee Phyu Pin

2. The areas under study

a. Delta

The gradual populating of the Ayeyarwaddy Delta took place in three stages from 1858 to 1941 and was mainly initiated by the British who saw great economic and agricultural potential in its vast and flat plains (Adas, 1974b). They also hoped it could serve as a security food reserve for British India where famines regularly occurred. The British regulation over forest products started a long standing policy of “*selective forest protection in the hills [going] hand-in-hand with the widespread clearance of low-lying forest especially in the Irrawaddy Delta of southern Burma*” (Bryant, 1996a: 352). During the early twentieth century, rising population densities combined with growing peasant landlessness to make the problem of theft in the Irrawaddy delta south of the town of Tharrawaddy particularly acute (Bryant, 1996b: 174). Villagers used boats to penetrate reserves taking advantage of the numerous streams to escape detection; in one instance, a ‘fair-sized’ village of fuelwood cutters was discovered inside a reserve (RFA, 1918-9: 22). Bogale charcoal (*mee thway* in Burmese), which is made with hardwood, was famous in Yangon city for household fuel. Forest was progressively depleted to cultivate paddy following increase in its population. Following the migration of thousands of Burmese from upper Myanmar, settlements found in the south are more recent than in the north. Cultivation is also progressively less productive toward the south, due to an increasing water salinity allowing only monsoon paddy to be cultivated.

After 1852 the British replaced non-contractual usufructuary rights with a tenure system modelled on the *ryotwari*, which was the dominant system in South India:

“The chief aim of this new system was to concentrate ownership in the hands of individual cultivator-landholders. However, the new tenure system made it possible for agriculturists to mortgage their holdings as security for loans ob-

tained from money-lenders and other sources. This practice, which would eventually permit the wide-spread alienation of land to non-agriculturists, was well-established in Lower Burma by the 1880s.” (Adas, 1974a, p. 387)

By the end of the colonial period, many farmers had lost their land to the hands of money-lenders (mostly Indian Chettiers and in a less extent Chinese). Turnell (2009) highlights that the accumulation of lands in the hands of Chettiers was due to a combination of the following facts: they were the chief providers of capital to Burmese cultivators, collapse of prices in the Great depression, the Chettiers' insistence on land as collateral and the imposition of British land-title laws which enabled farmers to pledge land as collateral. Short after independence, farmlands were redistributed following the Land Nationalization Act promulgated in 1953. Since this date and until the new Farmland Law of 2012, land use policy followed the rules and regulation as stated in the Land Nationalization Act 1953, Tenancy Act and Rules 1963, and Procedures Conferring the Rights to Cultivate Land 1963. Under this policy, all land belongs to the State but farmers are given land use or tillage rights on their holdings, which cannot be transferred, mortgaged, or taken in lieu of loan repayments. However, land rights are legally inheritable by family members who remain as farmers and till the land by themselves. Absentee ownership is illegal. The land allocation committee has the right to change the ownership of misused land holdings according to the act and transfer the right to entitled landless farmers.

In the conflictive period following independence, Bogale was considered as a “dark zone” during the civil war and local people suffered severely from the conflicts between the central government and anti-government organizations. Since 1962, U Ne Win military regime (Burmese Socialist Leading Party), aimed to clear the delta region and Bogale from rebels, notably by encouraging forest clearing and the production of firewood and charcoal. The high diversity of rebel organizations gave its name to the “colourful bandits” (*yaun sone tha bon*) era. Among the insurgents armed organizations were notably the Burma Communist Party (Red flag party), White Soldier rebels, KNDO (Karen rebel, now known as KNU) in Delta. In the same period, a considerable number of Karen ethnic people found refuge in the delta (Ardeth, 2011: 112), leading to the current landscape dominated by Burmese and Karen villages, the former mainly involved in paddy cultivation and the latter in both paddy and gardening activities.

Under the socialist government, farmers were considered as the State's tenants and were forced to grow the State's planned crops instead of farmers' choice. Moreover, farmers were compelled to sell the allotted quota from their produces to the government at the prescribed price. Upon failure to comply with any of these requirements, the land use right shall be withdrawn from the farmers and the Authorized Land Committee assign the land use right to prioritized candidate in meeting the set criteria.

Compulsory procurement of crops has been practiced since 1964 as a measure to foster mainly rice productivity. Though the policy was set at national level, it was particularly enforced in the delta, aiming at restoring the paddy production and transforming the region into the “rice bowl of Myanmar”. Despite this policy, production went decreasing. As paddy production was not profitable due to the low paddy prices set by government, farmers decreased farm investment and produced mainly for their own subsistence and for fulfilling the quotas. A widespread sense of crisis forced the government to take measures such as the exclusion of rice from market liberalization in 1988 and the introduction of the summer paddy program, initiated in 1992/93, for boosting rice production (Fujita and Okamoto, 2006: 8). The paddy procurement system was revived. However, surplus paddy could be sold in the market, while entry of the marketing agents (traders and rice

millers) was practically free. In this sense, it is more appropriate to say that rice was liberalized only partly (*ibid.*).

Lasting until 2003, the compulsory paddy procurement system severely affected farmers' livelihood, by forcing them to sell at low prices quota calculated on the cultivated surface (12 baskets per acre after 1988, and double prior to this date), independently from actual yields varying with weather conditions, rodents and other pests. For these reasons, many farmers unable to sell the prescribed quota to the local government were forced to "give back" their lands. In practice, farmers developed different strategies in order to resist this policy.

b. Dry Zone

In one of three legends about Monywa, "Mon Taing tree erected as goal post during Regatta festival (boat racing in the Chindwin River during the monarchical times) contributed to the name "Monywa" as Mon Pin (*Lophopetalum wallichii* Kurz) changed to Monywa as time passed on".

Monywa during Bagan and Ava periods of Myanmar Kingdom was a small village. But it became a large and prosperous village in early Konbaung Period. In January 1887 during the colonial period the Headquarter of the Deputy Commissioner was shifted from Ahlon to Monywa. According to the Upper Burma Municipal Act of 1887, Municipal Committee was organized at Monywa on 23 April 1888 (Tin Htun: Monywa magazine 100th Anniversary, 1989). Thus Monywa was developed as a district town.

Yinmabin was only a subsidiary village during the monarchical times. The name of the village was derived from the Yin Ma tree (Chittagong wood tree, *Chukrassia tabularis*). The west bank area of Chindwin River bounded by North and South Yama streams and was designated as the ninety-nine villages of the Ba Gyi Taik. All of them were under the charge of Has-Lin-Gyi Headman as appointed by King Badon in 1802. During the period from 1714 to 1752, the monarchical administration was weak, the country was in turmoil and villages encountered dacoit, looters, and cattle theft. Such a situation was recorded in Yinmabin village in 1746 (Dr. Yi Yi, 1973). Most of the GRET-assisted villages in Yinmabin Township were founded more than 100 years ago, established soon after the beginning of British rule. Some households moved from the older villages and settled in scattered hamlets in the periphery areas. These hamlets were then consolidated and established as villages under the village act of the colonial government. Some villages moved two or three times due to scarcity of water or land slide by Yama stream.

The whole Monywa district displays a strong agrarian structure built on dry land agriculture, with the exception of prosperous irrigated villages near Chindwin River and streamside. Dry land farming could be characterized by sparse and irregular rain, thin vegetative cover, risk-prone, diversified cropping systems with many pulses, important role of livestock despite depleted grazing lands, prevailing soil erosion on slopes and loose and friable soils etc. Major crops grown are pigeon pea, chickpea, green gram, early and late sesame, sorghum, *sultani*, *pegya*, sunflower, wheat. Tomato and chili are grown for early cash. Pigeon pea is usually grown on almost all soil types. In older days, pigeon pea was always intercropped with sesame, cotton, groundnut or green gram. But currently, farmers are reluctant to continue practicing intercrops within the wide rows of pigeon pea.. Indeed, pigeon pea prices have increased after the liberalization of agricultural commodity trade since 1987-1988, and farmers are now mindful of possible depressive effect of intercropping on the yield potential of pigeon pea. On high-quality and irrigated soils, onion is grown as a high return cash crop. However, it is a risky crop as onion price can strongly fluctuate from year to year according to the experience of farmers.

Finally, apart from farm activities, weaving is a primary livelihood for daily workers in Khoe Than, Hnaw Pin and Gaw Gyi villages. Once flourishing around Monywa under the socialist government, from 2004 onwards Monywa blanket industry declined to finally collapse after 2008, with flooding in the market of Chinese blankets of cheaper and better quality. Workers from the village-based hand loom business started to migrate to Manipura, India border sites. Recently, it resumed notably thanks to some Myanmar personalities wearing the *longyis* traditionally confectioned in the area.

c. Few figures about the two areas

i. On-farm activities

- Land ownership

Based on the household survey quantitative phase, **59,5% of Delta population is landless, against 41% in Dry Zone.**

The surveyed population of 568 land owners cultivates a total of 4998 acres:

- Delta: 1914 acres, among which 1871,82 under paddy cultivation
- Dry Zone : 3083 acres, among which 408,43 under paddy cultivation.

Despite an average 8,9 acres per households in Delta (among 215 landowners) and 8,7 acres per household in Dry Zone (among 353 landowners), the figure below shows that more than 60% of the landowners population owns less than 9 acres in total in both zone.

Though major differences in the agro-ecological context and farming systems, agrarian structures in terms of farm size are similar.

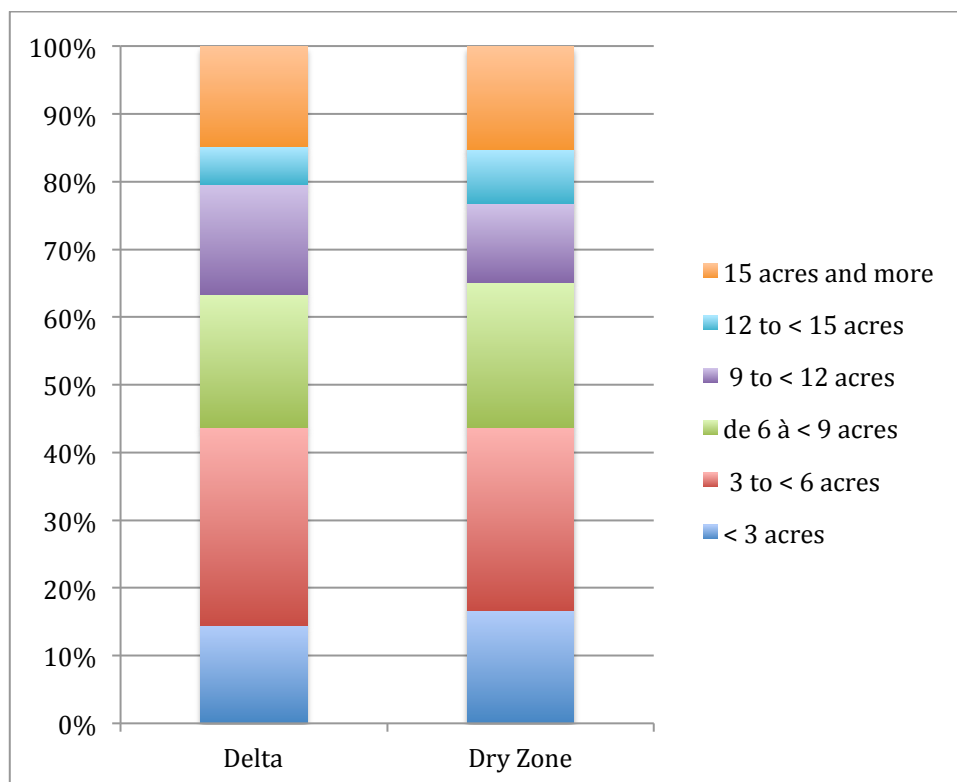


Figure 2: Percentage of land-owning households' as per size of owned farmland

- Land Use Certificate

While in Dry Zone almost 80% of landowners got a Land Use Certificate (LUC), 71% only received it in Delta. This illustrates the greater occurrence of land disputes in Delta, coming in great part from objections by farmers whose lands have been seized during the forced paddy procurement era (see 3.2). Besides, long established villages in Dry Zone compared to the more recent settlements in the Delta are also characterized by more social stability, with less mobility from one village to the other. This stability impacts also on intra-village and intra-familial land disputes occurring under the land registration process. Finally, there are more lands cultivated **under forestland status in Delta (464,79 acres for 34 households)** than in Dry Zone (46,17 acres for 10 households), which lands are not eligible for a LUC (see 3.3).

Another figure that may relate to the different types of socio-economic organization between the two zones (pioneer and mobile in Delta, old settled and more sedentary in Dry Zone), is the relationship between household head sex and the fact of being landless (tables 3 & 4).

Table 3: Statistical relationship between gender (HH head) and land ownership in Dry Zone

Acres	Male HH	Female HH	Total
Landless HH	186	59	245
Landowners	304	49	353
Total	490	108	598

Khi2=9,47 ddl=1 p=0,002 (Very significant) V de Cramer=0,126

Blue: statistically repulsive; Green: statistically attractive; White: no statistical relationship

Table 4: Statistical relationship between gender (HH head) and land ownership in Delta

Acres	Male HH	Female HH	Total
Landless HH	290	26	316
Landowners	188	27	215
Total	478	53	531

Khi2=2,20 ddl=1 p=0,134 (Little significant) V de Cramer=0,064

Blue: statistically repulsive; Green: statistically attractive; White: no statistical relationship

While in Dry Zone there is a statistically significant relationship between being a male household head and having land, this is not true in the delta. Beside, there is a significantly higher proportion of women heads in Dry Zone (18%) compared to Delta (10%). Actually, women headed households in Delta tend to remarry more often than in Dry Zone. This can again be explained by the more dynamic nature of Delta communities – with more mobile men between villages – while in Dry Zone opportunities to remarry are fewer.

As per evidence of the qualitative study, inheritance patterns in Myanmar lowlands don't favour men over women or reversely. Inheritance is generally more a matter of available lands, opportunities to get access to land through marriage (if the husband or spouse can bring some land in the newly established household) and the willingness and capacity of the children to pursue or undertake agricultural work.

- Salaried work

Salaried work in agriculture amounts for 45% of households in Delta and 41,8% of households in Dry Zone.

Table 5: Salaried work in agriculture among the total population

	Delta	Dry zone	Total
Salaried worker in agr. (1)	45%	39%	41,8%
Within which:			
% Daily wages workers (2)	25	97,4	60,4
% Seasonally workers	89	0,8	46
% Yearly workers	1,7	3	2,3

(1) % of HH having at least one member having a salaried activity in agriculture

(2) % of HH having at least one daily wages worker in agriculture amongst the number of HH having at least one salaried worker in agriculture

NB: each household can have members in each category.

ii. Off-farm activities

As a whole, households benefiting from non-agricultural revenues account for 42,9% of the total, with a higher proportion (almost 50%) in Dry Zone (see table below), explained by the resuming weaving activities in the region since few years.

Table 6: Households having non-agricultural revenues

	Delta	Dry zone	Total
Having non agr. revenue (1)	35,4%	49,5%	42,9%
Within which :			
% weaving activity (2)	0	34	20,9

% small shop activity	20,7	6,7	12,2
% small trade activity	17	2,7	8,3
% having weaving worker (3)	0	14,9	9
% having factory or mines workers	0,5 (1 case)	0,3 (1 case)	0,4 (2 cases)

(1) % of HH having activity and/or revenue in other sector than agriculture

(2) % of HH practicing weaving amongst HH having non agr. activity or revenue

(3) % of HH having at least one member involved in weaving as a worker amongst HH having activity or revenue outside agriculture

While absent in Dry Zone, households practicing fishing activities in Delta amount for 46,7%. Among them, only 3,2% practice fish collecting, while 12,5% get some revenues from tender licencing.

24,1% of total surveyed households have at least one member working outside the Township.

6,5% of the households have at least one member living in another township, 11,4% in another region and 4,6% living abroad.

3. Multiplicity of land tenure systems, legality and legitimacy

Despite being illegal under the previous legal framework (until 2012), land transactions have always taken place in Myanmar lowlands. The fluidity between practices done at the local level (often involving local authorities such as the village or village tract headman, with the use of generic papers and contract forms), and formal changes in land use rights over time according to these transfers proved to be efficient in most cases with the participation of local SLRD officers, even if access to actual changes of the names in cadastral maps had to be paid in most instances.

Hence, the post-2012 land titling process and the 2012 land law which explicitly authorizes land transfers (pawn, sell, rent, inheritance) has to be welcomed, at least in theory. In practice, there are little changes for farmers. In fact, the study shows that papers are often less important than the legitimacy acquired by the testifying local “authorities” (headman, elders and sometimes only relatives or neighbours of the same village). Arrangements made at the local level, according to a proto-customary land tenure system (where local arrangements and local representatives of the authority overlook greatly the legal system), generally run smoothly. Most conflicts happen due to individuals that take advantage of the existing discrepancies between the law and local, informal practices for their own benefit.

Before giving examples, let’s highlight that the “gap” left between customary arrangements and implementation of the law depends greatly on the distance (generally physical, but also in terms of the State’s political interests) put between the village and the State’s representatives. To illustrate this point, villages such as Hledar (Monywa Township) in the Dry Zone – a hilly location, difficulty accessible and cultivable – barely saw a SLRD agent under the previous government. Besides the physical distance between the closest legal authorities (Monywa) and the village, agricultural practices of little strategic interest for the government (mostly beans for instance) wouldn’t justify the travel of an SLRD agent (generally costing more than the taxes levied). On the contrary, even remote villages of the Ayeyarwaddy would receive much more “interest” from the government (notably through the compulsory paddy procurement policies, but also regarding land re-allocation), since it produced paddy – the crop on which most governmental efforts and interests were directed since colonial times.

a. Looking at the multiplicity of land tenure system through “papers”

The colonial period had a deep influence on land governance and had set up the territorial basis for land and population administration, in both the Delta and the Dry Zone. This colonial framework was used since then by the Burmese government. The independent government nationalized all land and resources in the 1948 Land Nationalization Act. This policy aimed at fighting landlordism i.e. to redistribute land held by foreigner and indigenous landlords to the tenants who cultivated it. The government then declared itself as the ultimate owner of all land and resources. This orientation changed state’s conceptions in terms of resource governance, at least in principle. From a **legal** point of view, **farmers became “state’s tenants”**. This shift became even more real with the military coup in 1962 and The Tenancy Act of 1963 enacted by the Revolutionary Council. **From 1962 onwards, land is transferable only for the sake of continuing cultivation on it.**

However, the local and practical dimension of land tenure couldn’t accommodate such a restrictive framework, at least for intra-familial, customary, land transfers (e.g. inheritance, dowry, division among siblings). Therefore, farmers had to develop different strategies to overlap the legal ban on land transfers. The multiplicity of “papers” related to land use in Myanmar illustrate quite well these

strategies and the blurry framework in-between customary norms and legal laws. “Papers” are defined here as all sorts of written paper documents used in land arrangements at local level. These include tax receipts, farmer booklets, and contracts.

i. Farmer booklets

The farmer booklet is, with the tax receipt (see after) another document produced by the government for farmland management. While it dates back also to the colonial period, its purpose and composition have been redefined under the socialist-military era, principally in order to provide a local record to assess 1) for each farmer what they must grow on each plot according to government policies, i.e. **how they can contribute to the procurement system**; and 2) what are the family livelihood needs, i.e. how the cooperatives can provide each household (e.g. for rice distribution). These farmer booklets used to define land use. These also defined land tax payments and forced procurement quotas. Finally these documents forbade any kind of transfer and thus defined farmers as tenants receiving only the “authority/right to cultivate the land” (*lei ya-myei lok-paing-hkwin*). This simple legal framework was ruling (in principle) land relations from 1962 to 2012.

ii. Tax receipts

The tax receipt dates back also to the colonial times. While it used to contain a great amount of information, nowadays, tax receipts are in their simplest form, containing: the *kwin*” number (basic territorial division); the *u’paing* number (holding); the kind of land; its size; the tax amount; the “name of the person cultivating the land”; its village and village-tract. Hence, along with settlement surveys, cadastral mapping and issuance of tax receipts mainly aimed at affirming the territorial control by the State and categorizing agricultural land in two dimensions – quality and size – for its benefit. To do so, the *Revenue and Survey Department* (later labeled Survey and Land Record Department – SLRD) has framed the territory in order to make it legible and assessable. In most cases, the tax receipt is nowadays perceived as somewhat useless by farmers as tax amount have been fixed decades ago, even during deflation times. The document – which links farmers and SLRD – became a simple follow-up register. On one side, tax receipts could not be used as an ownership proof by farmers as they were legally government’s tenants. On the other side, the production of this document was monopolized by the SLRD as a database to match holdings with individual names where *kwin*” and *u’paing* were settled. However, **tax receipts found some special significance during the 2012 land titling process**, and have been often used by farmers to prove their seniority as users over land holdings (*u’paing*) in case of a dispute between two (or more) potential land holders. However, in the absence of other types of papers (such as the farmer booklet, see after) in the aftermath of Nargis, the legitimacy of such papers is questionable, especially when all indicates the possibility to bribe an SLRD agent to issue “*new fake*” old tax receipts.

iii. Land transfer processes and role of local authorities

This issue leads to the role of local authorities, especially the village head, in the negotiation of land transfers with the highly restrictive legal framework on the one hand and the continuity of customary practices on the other. The basic procedure for villagers to secure land rights through papers is to ask the village headman to write down a transfer. Mostly, papers are written for land use rights’ sale or transmission (at marriage time or as inheritance). In practical terms, transferring land use rights equals to changing the name attached to a holding (*u’paing*). It means changing information in the local SLRD register and this is not free. First, people are supposed to pay the village headman to write a transfer contract as part of “social practice” (*lu-mu-yei*). The validity of the transfer, checked and ensured by the headman, is appreciated by combining governmental and local land tenure norms and practices (pluralism). When transfer legitimacy is acknowledged,

the two contracting parties have to wait for the SLRD agent to come and record the transfer. He too has to be paid and the rate is stabilized in some areas and largely variable in others.

The form of the contract illustrates well the strategy developed by villagers at the crossroads between administrative and local levels, to **accomplish land transfers according to customary rules and the legal ban on transfers**. Most contracts indeed gather all the data necessary to set up a legal act: an official form (with governmental stamp), dated, where people are named and located, the land situated, witnesses' presence often testified by their signature, and most importantly, where the headman affixed stamp and signature. Second, **the document directly invokes a sense of "ownership" (*paing sain-tho*) on the land and the transfer (*lwe-pyaung*)** of this rights to other people. **The document is thus in contradiction with the legal framework**. Third, the purpose of the transfer – to provide land as a mean for daily subsistence – is here to **justify the transfer and to stick to the only legal possibility** for transmitting land: the land must be cultivated. In other words, a justification is provided for the transfer to meet legal requirements, to propose a legible façade on paper. Papers, mediating transfer regulation between village and government, are thus adapted to solve the tensions between local vs. legal. Also, it questions the legality as an intermittent rule and the state's capacity to enforce it.

Interestingly, securing land transfers through contracts written at village level involve both representatives of legal (SLRD representative, headman) and customary (witnesses, often "elders" – *yap-mi'-yap-pha'* – and again the headman) land frameworks. In fact, the village headman, nominated until 2011 by the military government, acted as the State's "political broker" at the village level and the conveyor of customs within the legal framework. By the same way, **the headman** put himself into illegality by acknowledging transfers banned by the government. And for this reason, he **always** (through all governments, including the current one) **concentrated the power (legal and customary) to provide access to and distribute resources at the local level**, due in most part to his knowledge of the laws and ways to bypass them (and also his literacy among a predominantly illiterate population).

However, the blurriness of such arrangements represents a conducive ground for disputes on land access that took place mainly under the previous regimes. Some disputes were reactivated by the land titling process. Hence, from the points above, **the governmental effort to issue Land Use Certificates (LUC) through the 2012 land governance reform and a legal framework directly mirroring long existing transfers has to be welcomed**. Yet, what is done of the law – i.e. the way it is implemented – at the local level is still of concern. This has especially to do with the dramatically canalized State's representation at the village level, empowering mostly the village tract headman. While other bodies have been constituted locally regarding land issues (for example the Village tract Land Management Committee – hereafter VLMC), the headman's omnipresence in local affairs represents a continuity over the last centuries, at least since the colonization period.

b. Social vs. legal justice: lasting impacts of paddy procurement policies

This multiplicity of legal and customary systems that dominated land tenure in lowlands during more than 50 years took part in a wider distrust of the State and its predatory policies. Besides, **it created a conducive ground for defying legal justice and, taking the opportunity of the change in governance, for seeking social justice**.

As an example, for many farmers of the Ayeyarwaddy Delta, Myanmar's rice bowl, President Thein Sein's statement revived old grudges once provoked by the compelled procurement of paddy to

the State, a duty that was imposed upon them from 1962 up to 2003. Under the former governments, farmers in Myanmar were subjected to policies regarding paddy procurement to the State. These policies arose in the Ne Win's "socialist" government in 1962, under which farmers had to sell as much as up to 50 percent of their produce at below market prices to the Myanmar Agricultural Produce Trading and other state agencies and co-operatives. In 1988, the SLORC launched its "liberalization" policies, reducing State's rice procurement to twelve to thirteen baskets per acre, finally withdrawn in 2003.

These predatory policies – being applied regardless of natural or social constraints such as climate, pest incidents, family members' health... – have been a major cause of land exclusion in the Delta. Many farmers unable to fulfil their duty (*ta-wan kyei*), got their lands seized – or should we say confiscated? – by the government (Township's SLRD) who then redistributed them among "dutiful" farmers which were registered under a local "waiting list" (*tan-si sa-yin*).

For example, a person who own three acres of paddy fields had to procure about 36 baskets of paddy (12 baskets per acre). The first year, the person is able to procure 25 baskets, leaving a debt to the government of 11 baskets. Fortunately, the government used to give 3 years to the farmers to fulfil their procurement obligation to the government. The second year, the same farmer thus owes 47 (36 for 3 acres plus the debt) baskets to the local government's broker. However, the farmer is only able to procure 30 baskets of paddy, leaving 17 baskets as debt. On the third year, 54 baskets are due to the government. Despite a good season, the farmer is able to procure only 50 baskets. Despite fulfilling most of the required quantity, this person's land is transferred to another person for not being able to provide the 4 remaining baskets. The government's broker teams will then check out all the places in which paddy could be stored. If they find some paddy stored in granaries (whether in order to be sold to better price, kept for the household's consumption or for seeds), it would be confiscated. The farmer in this case was arrested and sent to jail for some months, besides losing his paddy fields.

However, land confiscation and redistribution tended to vary depending on the village land committee and the farmer's relationship with the committee. Good relations with the committee provided easier access to seized paddy lands – i.e. a better place on the waiting list. Similarly, while the farmer described above lost his lands for a debt of 4 baskets, other individuals closer to the committee escaped land confiscation – or had only part of their lands confiscated – for greater debts to the government.

The waiting lists, normally dedicated to landless farmers, were actually populated also by landlords. The village committee would then find some justification for transferring lands to farmers (rather than landless), generally based on the financial and technical capacity of already settled farmers to undertake land cultivation with success compared to landless households. Evidence from the qualitative part of the study shows that land transfers through the waiting lists under the forced procurement era served mainly land accumulation for the benefit of a handful class of big land holders.

Hence, during the land titling process undertaken in 2012, many farmers that had been affected by the forced paddy procurement policy considered that they could legitimately take action in order to recover their former plots. However, these lands have long been transferred to other farmers; those who, generally better connected with local authorities, were at the top of the waiting lists.

This issue represents a large proportion, if not the largest, of land contestations occurring with the current land registration process in the Delta.

Without any national policy on who should be considered as the legal user, the decision is left to the VLMC whose members' impartiality is quite questionable, especially for the village level members who are naturally part of the local play of power to access natural resources. Nominated rather elected (as it should be), the latter are often a party in the negotiation, and generally on the land takers' side rather than on the former undutiful farmers' one. Then, how to state on such cases?

During the compelled paddy procurement policy, lands were seized *legally* from the "undutiful" farmers. In July 2012, an inter-parliamentary Land Investigation Committee was mandated to investigate *illegal* land grab cases and accused the military of confiscating one quarter million acres since 1988. But this figure did not include the legally-seized lands of farmers that could not comply with the compelled procurement of paddy. Yet, in the farmers' understanding of "democracy", legality should rhyme with equity and legitimacy. The previous military government and its set of depredatory policies obviously left many scars, and even in lowland Burmese areas, further conciliation measures remain necessary to ensure a lasting social peace.

U Kyaw Lin⁵ was a member of his village administration (Ya Wa Ta) in 1995 for three and half year. In 2006, he served also as village tract leader for 4 years. Since then, he's not involved in village administration anymore. In 1992, after getting married, he worked as a boat manager and paddy broker for 8 years. Since 1996, U Kyaw Lin gradually acquired and bought lands. Owing currently 30 acres, 28 acres are now objected by 4 different persons under the land registration process.

The first 10 acres: U Kyaw Lin first acquired 10 acres from Daw Shwe, another villager. Daw Shwe and her daughters used to cultivate together these 10 acres. In 1995, Daw Shwe and her family couldn't sell forced procurement paddy baskets to government for 10 acres. So the next cultivation season, the village land committee put her lands on the waiting list. The two daughters of Daw Shwe requested to the land committee to transfer them back the 10 acres, at their name, instead of transferring the land to another villager. One of the two daughter, Daw Tin living with her mother then got the permission to work, under her name, 5 of the 10 seized acres. The other daughter, Daw Khin received the remaining 5 acres under the name of her husband, himself brother of U Kyaw Lin. In 1997, Daw Tin couldn't procure the due 60 baskets to the government, so the 5 acres were transferred to another villager. The latter sold his lands to U Kyaw Lin by the price of 20,000 Kyats/acre. At that time, government not allowing farmers to sell, buy, mortgage, etc., the two parties did not make any official contract. To overcome the legal ban on land transfers, the seller officially handed over the 5 acres to the village tract leader (part of the village land committee) on the pretext of not being able to cultivate them. Then the village tract leader transferred the lands to U Kyaw Lin. U Kyaw Lin brother and his wife cultivated their 5 acres for 2 years. After 2 years, in 1997 they couldn't procure the due paddy to the government. U Kyaw Lin then sold on their behalf the due 60 baskets of paddy to the government. In addition, the brother was already indebted to U Kyaw Lin for 10,000 Kyats, 40 seeds baskets and renting charges for one buffalo (30 baskets of

⁵ All individuals' names quoted in this report have been faked in order to preserve interviewees' confidentiality.

paddy) to U Kyaw Lin. However unable to repay back his debts whether in cash or in kind, he agreed to transfer his land to U Kyaw Lin. Under the 2012 land registration process, Daw Tin objects the 5 acres first transferred to another villager then sold to U Kyaw Lin. However, Daw Khin doesn't want to object the 5 acres transferred to U Kyaw Lin, being her sister in law. As a result, Daw Tin finally objects the 10 acres of her mother now hold by U Kyaw Lin.

+ 5 acres: In 1992, U Ngwe bought 5 acres from U Htun. After 2 year, U Ngwe obtained a bad yield (40 baskets for 5 acres!) because of pests. So U Ngwe sold those 5 acres to U Kyaw Lin for 10,000 Kyat/acre. U Htun, the former owner, informed U Ngwe that he wanted to buy those 5 acres in case he would sell them. He was however in the financial incapacity to do so. Under the 2012 land registration process, U Htun objects his former 5 acres to U Kyaw Lin.

+ 7 acres: In 1991, U Maung got 7 acres from Daw Hla by waiting list. In 1994, unable to procure due paddy to the government, U Maung had to sell his lands to U Kyaw Lin. After selling his lands, U Maung decided to leave for another village, and got to cultivate 50 acres under the status of forest lands. Under the 2012 land registration process, Daw Hla, primary owner, objects to U the 7 acres to U Kyaw Lin.

+ another 7 acres: In 1998, U Kyaw Lin bought 6 acres from U Than at 20,000 Kyats/acre. The primary owners of those 6 acres were the parents in law of U Than. U Sinn, brother in law of U Than, disagreed at that time to sell his parent's lands to U Kyaw Lin.

Therefore, under the 2012 land registration process, U Sinn objects these 6 acres to U Kyaw Lin, considering that those lands should have been part of his inheritance.

+ the last 2 acres: U Kyaw Lin finally bought 2 acres from Daw Moe, after 2003 (the end of the forced paddy procurement). Those 2 acres are free from objection. Currently U Kyaw Lin still cultivates his 30 acres, although, according to the 2012 land law, he is not allowed to do so for the 28 objected acres.

c. Outlaws? Cultivating forest lands.

The villages under study were chosen for their representativeness of the diversity of agricultural practices and environments, including the cultivation of forest lands, especially in the delta where clearing new lands happened until the past 15 years. Interestingly, hilly parts of the Dry Zone, as in the case of Hledar village (Monywa Township), also encompass agricultural lands officially recorded as forest lands, thus under the administration of the Department of Forest. Contrarily to the Delta where forest lands were put under cultivation in the progressive "artificialization" of the territory (north-south dynamic of settlement) and their status never updated, some lands in Dry Zone were turned into forest lands long after being put into cultivation. Among the 10 villages studied during the 3rd phase of the study, no less than 528 cultivated acres in 3 villages (2 in Delta, 1 in Dry Zone) are still under the status of forest lands.

For instance, Hle Dar village was established in 1940 during the colonial period on the Shwe Myin Tin mountain range. Pioneer settlers first depended on the dry land forest trees (Shar and Than trees) for making wooden slippers and harrow teeth. Later, they settled as farmers by establishing Hle Dar village. As of now, there are about 100 households engaged with farming and 40 households are non-farming casual workers. About 170 acres of farmland area occurred in the forestland while 330 acre of farmland outside the forest boundaries. protected forest in 1960-61, later after the village establishment.

Once again, the multiplicity of land tenure systems created a set of unsolved issues up to now. Indeed, even in land demarcated as forestland, farmers always enjoyed the “right” given orally by Forest Department officers (against bribes) to cultivate them. Furthermore, farmers even received a paper (which implicitly equaled to a land use rights) by participating to the forced procurement of paddy (Delta) and through tax receipts (both zones) delivered by the SRLD for lands officially under the jurisdiction of the Forest Department!

Yet, with the new titling process, farmers fear for their lands officially recorded as forestlands. For these, they were not authorized to submit application for a LUC. The only strategy – the same used during the last 50 years – is to keep the lands under cultivation to testify of their presence. Farmers on forestlands are obviously in illegality with regards to the government land use framework. However they have been given kind of legitimacy: first through time (they have been cultivating those lands for more than 50 years in some regions), second through the tacit acknowledgment by diverse authorities, including the Forest Department and the SLRD. Hence the question is whether the land law 2012 will represent an end to a flexible land tenure system accommodating local practices despite a restrictive legal system, then definitely categorizing these farmers as outlaws? Or will it change nothing (which is the case up to now), hence confirming what many observers expect: another change in laws and regulations at central level with little enforcement at the local one...

d. Legality vs. legitimacy: toward the new land law’s implementation

i. Farmers’ knowledge and perceptions about the land registration process

At the question “did the land registration process start in your village”, 4,6% of landowners answered they didn’t know. However, when asked if they did actually apply by themselves to land registration, only 26% answered “yes”. This shows the little interest and appropriation of the new land law at the local level. Interestingly, landless households did not know at 47% if the land registration process already began in their village. Finally, among the 184 landowners (only, over a total of 568) who knew that land holdings and users lists were posted in their respective villages, only half went to consult the billboards.

When enquiring about farmers’ opinion on the registration process’ impact for securing land use rights, an average 15,6% believe it won’t change nothing and 47% believe it will decrease risks to lose land and finally 35% have no opinion on this (only 2,5% believe it will increase risk to lose land). However, disaggregating by areas, Delta’s farmers are much more sceptical: almost 5% believe it will increase the risk to lose land, 23% think it will change nothing, 44,6% believe it will decrease risk and 30% don’t know. This may reflect the heavier presence of the State in the Delta than in Dry Zone, notably explained by the Delta’s vocation of being Myanmar’s rice bowl, where the paddy procurement policies led many farmers to lose land over the past 50 years.

These figures well translate the main issues of land reforms since 2012:

- first **farmers have very limited civic and legal knowledge** which is quite logical after more than 50 years of military rule with no democratic processes;
- second, until now **no or few efforts only have been made by the government to explain the rationale for the land reform**, kept in a vague fashion (cf. the very limited resources to solve conflicts at the local level by governmental bodies, see after);
- third, part of the land reform’s rationale has been a vote buying initiative, interestingly trying to improve government’s legitimacy in the population’s view. However, the short period imparted to the SLRD in order to title lands with cadastral maps barely updated since 1960, led to many shortcomings. Many farmers, especially in Dry Zone, didn’t even see a

SLRD agent during the land registration process. Those who got their land measured and titled first were those able to bribe local SLRD agents. As a consequence, despite the reform, the “old good” plays of power happening at the local level greatly undermine the government’s quest for legitimacy. One important question remains unsolved: will legality rhyme with legitimacy one day?

ii. Returning confiscated lands

Even confiscated lands redistributed following President Thein Sein’s announcement may not fulfill their primary goal of gaining trust from the population. Indeed, one case of previously confiscated lands redistribution in Mawlamyine Gyun Township) shows that lands have been returned to the “wrong” farmers. These lands grabbed by the local police station were partly used for police buildings and part were still put under cultivation by individuals close to the local authorities (and not their former owners). Quite unsurprisingly, these lands under the Township Land Management Committee (TLMC) have been redistributed to the latter tenants, while the actual owners didn’t receive any compensation. Without putting at doubt the TLMC’s good will, it is clear that these bodies have not the capacity to conduct proper investigation around all the cases they have to manage with the reforms.

4. Impacts/issues of the new land framework

a. Land titling process

The study team had the opportunity to observe SLRD officers undertaking the huge task of registering lands each within a whole village tract, with a tight timeframe to achieve their target. As a matter of fact, most landowners received a Land Use Certificate (80% in Dry Zone and 70% in Delta). Yet, the quality of the titles received – in terms of adequacy between actual landholders and those receiving the titles, in terms of area also – remains an issue. Indeed, giving the very tight timeframe imparted, SLRD officers could not have time to re-measure *all* field plots or to check *all kwin* boundaries, or to take note of *all* changing conditions. In many cases they applied the old maps which were surveyed and drawn in the colonial times (around 1889, 1890, etc.), and were updated in the 1960s. They copied the individual *u’paing* plots from that old map and put it in the Form 105 (defining the *u’paing* on the cadastral map). At the same time, there was little or no farmers’ participation in most cases. In some Dry Zone villages, newly issued LUC had already arrived since 1 week in the village head’s house but no farmer would claim its title.

SLRD staffs in most places actually worked hard to reach their targets and the shortcuts described in the process were the only way out to attain the target. Many errors in designating the holder’s name and field plots’ area and shape have to be expected. And if in a political drive the mission is finished, technically there should be series of follow up adjustments and corrections.

One issue remains that, besides land disputes (see *infra*), as always in Myanmar, the two-tier administrative process, where those who are able to pay would have their plot actually measured and would receive their LUC before the others. It is too early, and the question remains sensitive, to be able to say how much discrepancies between LUCs and actual holdings are affecting the regions under study. However, cases exist where farmers complain for having lost lands through the LUC process (sometimes more than 3 acres). Discussions with organizations working in other townships and regions also confirm this trend.

Land registration process

In one of the villages under study (Delta), the land registration process was first described by the headman as follow:

After organizing the VLMC, the Village Tract Leader with the help of village headmen (100 households leaders) called to all the farmers in the village to come to register their farmland holdings with their annual tax paid receives. In the papers, there are described the name of the owner, holding no., and plot no. and the area of the used land in acres. After collecting the data, the SLRD officer came to the village to measure the applied land plot area. He documented the land profile by drawing land map and asking the farmers working on adjacent plots as witness or as a approval. After finishing the measuring process, the VLMC disclosed a list of land holdings and their respective holders in the village. The list was boarded in the village public space so that any one could object the land use right or the holding's area. Any objection of the displayed land titles could be objected within 30 days.

Then, the villagers' version of the process progressively surfaced:

First, farmers complained about the money they had to pay to SLRD staff. If failing to pay, their turn was postponed and measuring was not done carefully. The larger the *u'paing* area, the more money one had to pay. Nevertheless, SLRD officer did measure land holdings for those who didn't pay as well...but later, and less carefully. On the SLRD officer's behalf, let us say that the daily 1500 MMK travel allowance they received is barely enough to cover the travel expenses from one village to another, pay the extra food charges and compensate the hard work they undertook. Hence, these expenses had to be shouldered by the villages. And depending on who would pay for these expenses (the village head alone or all the villagers contributing a little), the result may differ as Burmese culture invites guests to honour their hosts and *vice versa*...

One may argue that luckily Myanmar farmers are not quite serious about quantitative measures and are easily satisfied with customary measures done with bamboo poles or twines or the arm length. Yet, inequities emerging with the land titling process already received more attention with farmers in other areas of the Delta complaining of losing lands through the process at up to 70% in some cases. Hence, overlooking the titling process – which is easily done given the pace given to the land reform by the current government and notably the great attention paid to the draft National Land Use Policy – may prove to undermine the whole reform process and represent a social time bomb if nothing is done to redress the inequalities.

b. Limits of the farmland law 2012

i. Land disposal rights

It is quite surprising that in the new Farmland law, section 12 (h), an application for changing the originally cultivated crops with other kinds of crop is to be submitted up to Naypyitaw, through the Township, District, Region and State levels for scrutinizing by the different land management committees in order to get the permission. The former restrictions on land disposal rights actually remained, underlining the progressive opening of the land tenure framework, with an enhanced capacity to transfer use rights on the one hand, and the remaining old perspective on highly symbolic association done between land and rice production, the staple crop of crystalizing much of Myanmar's national identity.

Assuming that a farmer wants to grow *thanakha* (*Limonia acidissima*) trees in his farm which initially is grown with sorghum or sesame, he has to apply to get permission following the protocol as

stated above. Nobody is seen to apply for such authorisation. In the event of climate change and prolonged drought, farming households are seen along the way switching some land into *thanakha tree yards*. Besides the lack of farmers' autonomy to perform cultivation according to their economical needs, weather conditions, etc., the impossibility to change to perennial crops is a particularly undermining factor in the Dry Zone, which has to be linked as well with the rising land market. While land prices increase, most seasonal crops (except from high value cash crops such as onions, though highly variable) prices are falling year after year. Combined with unpredictable weather and a poor access to water in many places, changing seasonal crops (sesame, peas) into perennial crops such as *thanakha* is a viable and often necessary option for farmers to get a more secure livelihood from their land on the longer term. In the current context of massive Chinese investments particularly in watermelons regarding Dry Zone, the impossibility for farmers to change for perennial crops pushes them to contract their lands against attractive rents, but under highly restrictive conditions dictated by the Chinese investors (see point 4.6), in order to face decreasing crop prices and productivities.

In principle, the present farmland law clearly restricts the farming household for disposal right in its farm. For failure to follow any of the conditions as prescribed in Section 12 and repeated failure to follow the Section 19 of Farmland Law as directed by the farm land management committee, the convicted could be punished with fines and imprisonment from six months minimum to two years maximum (Section 35).

ii. *Land use and land use rights modification process*

At each farmland management level, major functions involve the scrutinizing process or change of name of the *u'paing's* holder resulting from inheritance, transfer, sale, mortgage or gift, etc. Time taken and the costs incurred from the viewpoint of farmers could only be justified if the farm business is commercially large. The larger the farm business size and scale, the more economical is the farmer to pursue the legal process. The study team found out that most farmers interviewed are small holders, working daily from hands to mouths. It would be very much helpful if some farmland administration processes would be simplified and pro-poor to strengthen the land tenure security of those farmers. What will be the proper ways of community level decision making process to secure the land tenure of the farmer and what are the strength and weakness of that community in dealing with such land administration in partial support to the state level mandates? Addressing these questions could help identifying the ways and means for community capacity building.

As a whole, the lack of institutional representation and the very limited capacity of the farmland management body at the village tract level (all requests have to go through the Township, District and Region/State level) represent a serious limitation to the new law's implementation. Though farmers now have the virtual possibility to legally register any land transfer, nothing will change on the ground if the administrative process remains as it is.

At the moment, the main function, and a positive point from the farmers' perspective, of LUCs is to be actually mortgaged against money instead of the more traditional pawning system (*le pyan ngwe pyan*), where the full land use right is given to the moneylender for a determined period, leaving the farmer with a debt and less (or no) land to work. With LUCs as a collateral, the farmers can borrow money and keep working their land.

1.1. Land use disputes under the 2012 land reform

Conflicts regarding extra-familial agreements often emerge from the plurality of norms. For instance, if one rents a land following a customary form of lease (mortgage) for more than 5 years,

he/she is legally entitled to claim that land according to government rules. In other words, the rigidity of state regulation can facilitate appropriation claims against fluid and practical local norms. Mortgage (*le pyan ngwe pyan* in the Delta, *yar-mann-ngwe* in the Dry Zone) used to be the main cause of land disputes at village level (i.e. outside of confiscation by the State or cronies). A land dispute informed during this study, which happens in a village of Monywa Township (Dry Zone), illustrates well the situation found in many part of Myanmar lowlands.

Land dispute case study

The case originated a decade ago but the dates vary according to how people are involved. Eleven farmers from the village-tract transferred at different times⁶ one plot of their land to *Mister WT* living in D. K. B. village. The agreement was similar each times: *yar-mann-ngwe* (which means “the price for your land”), a form of mortgage for a fix period – the farmer gives its land against money with full usufruct to his creditor, typically for less than five years or more if a new agreement is made. Even though this practice is quite similar to standard rent in villages, the amount is usually about half of the land price, a portion of the price or a negotiated sum. In this case, the agreements were formalized in this unusual shape in contracts signed by each parties and the village tract headman. Prices were rated according to the current land prices at transfer time. After 4 or 5 years, land prices raised and the farmers wanted to get back their holding by repaying their debt to *Mister WT*. But *he* refused and claimed the lands as his own because he had been cultivating it for more than five years. One of the agrarian reforms implemented during the military-socialist era was to “give back” the land to the tiller. To do so, one rule enacted by the government was that the person who cultivates a land for 5 years becomes the one who has the “authority to cultivate the land” (*lei ya-myei lok-paing-hkwin*)⁷. Besides, *Mister WT* asked the SLRD agent to change the name of the holdings in question but the latter did not accept and *Mister WT* only received a new farmer booklet. The farmers then went to D. K. B. village headman to complain about the situation but he did not accept to solve the case and referred it to the village tract headman who signed the agreement.

At the same time, rumours spread about that contracts might have been falsified by *Mister WT* and signed by the village tract headman. Informally accused of forgery, the farmers could not rely on the village tract headman who refused to solve the case anyway. Furthermore, the contracts have not been displayed since the first agreements. Since that moment, everyone argues for his/her version: selling contract for some, agreement for temporary rights transfer for others. After these first complaints, *Mister WT* gave back plots to six out of eleven farmers – holdings of the poorest quality (upland) – and kept the five lowland plots (more productive). The five remaining farmers expected the successive headmen to handle the case but no one did until the new Farmland law of 2012 was enacted. Indeed, the headman N-3 is directly involved in the case; the N-2 has an uncle in the case; the N-1 did not last long; and the current headman has just been nominated in a context of land tenure reform. Two years ago, the five farmers called upon the Township chairman but he, again, referred the case to the village tract headman arguing that he was the one who knew well the case. In 2013, the implementation of the Farmland law has opened an opportunity for the farmers to claim their land by applying for a LUC. Because five holdings are double claimed, the case entered a new process for its resolution. The SLRD who deliver the LUC asked

⁶ The agreements took place along two cropping seasons.

⁷ However no mention is made in legal texts about the 5 years to our knowledge.

the current headman and the “land committee” to solve the case or the SLRD will have to decide and it can end up with jail sentences. Created for this kind of case in the village by government order, VLMC is composed by the headman, the SLRD agent, the *yap-mi'-yap-pha'* (the elder of the village community), the leader of farmers (created at the same time), and the government clerk assigned to this village. But on the ground, it is the village tract headman who has to solve the conflict first.

The problem remains that grassroots level institutions (SLRD, VLMC) from Delta and Dry Zone are not, or don't feel in the position to state on land disputes. In other words, they don't want to take the responsibility in a new legal framework that doesn't provide conflict resolution mechanisms for such cases. Hence, VLMC generally refer to the village tract headman or to the Township VLMC. Yet, the latter functions more like a mailbox putting up the case to the district level committee with its appraisal note. The district committee has more scope in the decision making process though, to our knowledge of the surveyed villages, no dispute cases have yet been resolved up to now. And when the dispute settlement is done by the village tract headman (even through the VLMC), decisions are often at the benefit of wealthier individuals, for instance creditors in the mortgage arrangement. According to our observations, no objecting farmer got back his land. Despite law is not clear about objections cases such as those linked to forced procurement it seems more or less defined in the collective psyche that “latter owner is righteous in having the land”.

To summarize, locally newly created bodies are not yet able to resolve the contradictions brought by a decades old land tenure system combining customary and legal frameworks, and the new land governance framework. Besides, the new land law through the land titling process also created space to contest some land transfers (especially mortgages, but also inheritance transfers creating disputes within families and among siblings). And as a matter of fact, mortgages generally stopped in 2013 (1,6% only of the total land owners' population surveyed mortgaged some lands, while 2,2% of the total population cultivates mortgaged lands), most farmers fearing their land will be claimed by their creditor taking the opportunity of titling to obtain a LUC for the holdings they received in gage.

c. Land reforms and the creation of a new arena: the case of Tet Tet Ku land ploughing protests

The political and land reform frameworks offered a space for new stakeholders in the land tenure arena. Practically, the farmers' difficulties to write proper letter of objections and to understand the proper process to get these objections validated is a starting point. Besides, as reported by some farmers, “*the VLMC did not want to accept objection letters, they just wanted to finish the registration process quickly and successfully*”. This is where the new stakeholders intervene.

At the time many media widely reported on the 2012 new land law, farmers' demonstrations were shown. Some farmers perceived the new farmland law as a disadvantage for them but an advantage for wealthier individuals, and activists gave speeches to farmers about the 2012 new farmland law. Several associations, such as the Myanmar Farmers Development Party (*Taung Thu Lei Ta Mar Toe Tet Yay Party* in Myanmar), Farmer Network Association (*Taing Thu Lei Ta Mar Kun Yet* in Myanmar), but also political parties such as local NLD branches in Delta for example, acted in order to stand with the “oppressed farmers” and “speak for the farmers' rights”.

Thanks to these stakeholders, many former landholders (now generally landless) got more awareness of the new land law and, above all, received support for claiming their “right”. Yet, as underlined in 3.2, the “rights” of objecting land under the 2012 land law remain ill defined. Among them were farmers who lost their land during the forced procurement period, whose lands were confiscated under the military government; or grabbed for government projects without any compensation, but also some who lost their lands through mortgage or by pawning their lands.

In May 2013, there was a movement of landless farmers in Tet Tet Kuu village (Mawlamyinegyun Township). Those landless farmers with the lead of the new stakeholders described above forcedly ploughed in the paddy fields which they had owned in the past. These paddy fields are now owned by an absentee landlord living in the main town of the Township. For that, seven farmers, two women and five men, who participated in these ploughing encroachment were sentenced to jail for two months. Among them were farmers who lost their lands because of the forced paddy procurement policy and through mortgage or pawn. This shows how the land law and the land registration process became an opportunity to re-negotiate rights based on local history and past injustices.

i. Land loss process

During the forced procurement paddy time, some households’ farmlands were grabbed by the village land committee and transferred to other persons since the farmers could not procure the local government paddy brokers with the due quota. Among other strategies to avoid prison and totally losing their lands, farmers would ask a local landlord living in Mawlamyinegyun town (Mister GC) to pay for the needed quota paddy baskets on their behalf. In return, the landlord would receive the land use rights and keep the farmers as tenants on the farm (but not on the same lands).

In Tet Tet Ku village, a family formerly owning 15 acres of paddy lands lost their lands in this way. When they couldn’t procure the quota paddy, the landlord Mister GC paid the needed quota paddy which they had to pay. For this, the landlord received the land use rights with the help of the village land committee. Many lands in the village were transferred to him on similar basis during the forced procurement paddy period. As he also needed labour to cultivate the paddy fields, and had to procure the paddy quotas to the Government, he employed the farmers, according to his strategy. He didn’t allocate them their former lands – Mr. A would work Mr. C’s plot, Mr. C on Mr. E’s, Mr. E on Mr. A’s, etc. – with a precise idea in mind: if he let farmers continue cultivating their former paddy field, those may take the opportunity one day to claim back these lands by arguing on their continuous and long presence on the lands.

Around 15 year ago, a woman in Tet Tet Ku cultivated nearly 14 acres of paddy fields. Her paddy fields were adjacent to landlord’s ones. The latter used to hire estate managers to take care of his huge property (more than 1,000 acres as a whole – out of which nearly 150 acres In Tet Tet Ku village only). The woman was familiar with the landlord’s managers. One time, she urgently needed cash to buy food, so she borrowed K 75,000 from the landlord with the 10 % monthly interest rate and agreed to repay all the debts within the next ten months. After 10 months, she had to repay K 150,000 (capital plus interest), but couldn’t afford it. According to their oral agreement, her lands became the landlord’s property. The landlord sent his men with local police officers to take these lands. The landlord had much power in the region and good relationships with township authorities, so no one could complain with his deeds.

ii. *The land ploughing protest*

In early 2013, farmers heard about land ploughing protests happening in other places. With this idea, they went to seek the help of local farmers associations and local parties who indeed encouraged them to hold such protests and guaranteed “they would help them” in case of unexpected events and problems met in this process. With the help of these organisations, seven villagers, both males and females, young and old, organised the ploughing protests. They sent notice letters to the village tract headman and the Township police station. In the letter they described the date and the paddy fields they would plough.

By hearing this, a descendant of the landlord came to the village to negotiate with the villagers. He proposed to them to get back half of the paddy lands that they had owned in the past by making a legal transfer in their names. All the villagers were urged to go to Mawlamyinegyun town to sign the agreement in front of a lawyer.

The villagers did go to Mawlamyinegyun town after a few days, but went back to Tet Tet Ku as soon as they arrived in Mawlamyinegyun. Out of their usual environment, and with little help from any organization, they feared the landlord was trying to trick them.

Hence farmers went on with their plan and informed local political parties and activists about their intention to hold a ploughing protest. On the seventh of June 2014, a group of villagers under the lead of the Myanmar Social Development Network started to plough in the landlord’s fields within the village compound area. A crowd of villagers marched to the targeted paddy fields. They held the flag of Myanmar Social Development Network and the needed ploughing tools. The ploughing protest was video recorded and documented.

Sequence

First, women cut and cleared weeds in the area. Then, at 10 am, men resumed ploughing the paddy field with two power tillers. Many other villagers helped them while others stood on the side and applauded. During the protest, the village tract headman arrived to the protest site and ordered the people to stop ploughing and go back to their homes. He also warned the persons in the paddy fields that if they continue, they would all be sued by law and sentenced to jail. Nevertheless, the farmers continued to plough quite happily. They continue to plough nearly 8 acres, up to 4 pm they stop and went back home. On the next day, they ploughed again. Farmers hoped the authorities would come and state on their case. But no one came. Despite growing doubts, they sowed the paddy fields, investing about 22 baskets of seeds. One week later, as the fields slowly turned green, the villagers felt satisfied.

On the fifteenth day after the sowing of paddy, a group of persons commanded by the land lord Mister GC came to the paddy fields and destroyed the crops. Police came right after and all the persons involved in the case were brought to the Mawlamyinegyun Police station, following a court order. After hearing the case in the court, the seven persons, two women and five men, were sentenced to jail for two months. They were accused of destroying private property (Act No.427) and invading private area (Act No. 447). These seven villagers were sent to the Myaung Mya Jail. At the prison, they met with many people who were sentenced to jail like them. In the prison, they had to work in the paddy fields as punishment. There were about thirty other farmers in Myaung Mya Prison who had been involved in ploughing protests in other villages.

After 2 months in jail, farmers were freed but no one in Tet Tet Ku resumed the ploughing protest in 2014. The lack of clear directives to state on such land disputes, the weak bargaining power of

local associations and the general uncertainty in which villagers live the reform once again threatens to undermine the potential positive outcomes of the reform.

d. A land market slipping out of farmers' hands?

The current study already unravelled some evidence regarding the consequences of the titling process on land markets. Indeed, since the political shift in the country's governance, increasing development projects and more resources allocated to road construction, land prices sky-rocketed, as in the case of Gaw Gyi village (Monywa Township) in the Dry Zone. Lands situated in the proximity of main roads (such as the Monywa-Kyaukka Road and the Monywa-Tharzi Road) saw their prices rise sometimes 5 times their value 2 years ago (reaching up to ks.5.3 million per acre).

The effects of such raises in land prices are double-fold. On the one hand, small and middle-scale farmers living in these developing areas and wishing to expand their land properties are unable to do so as they cannot afford such prices. On the other, the market may provide more incentives for small holders to sell out their lands, especially in times of crisis (health expenses for example, see point 5.1). While selling their lands may provide access to high amounts of cash at the first hand, on the long term it may deprive them from a secure livelihood. However, the study was not able to confirm this latter fact as it has been conducted too early (i.e. while the titling process is not yet finished). For this reason, a project extension would prove useful to explore more in-depth the potential high impact of the titling cum development process in this region on the farmers' livelihoods.

e. New laws and new opportunities... for whom?

Evidence from the study suggest that majority of farmers have an extremely low level of understanding of legal or any contractual practices. They are not in the habit of keeping the documents properly. They do not carefully pay attention to the terms and conditions in the deeds. As far as individual perceptions about deeds and contractual terms are concerned, farmers of the colonial period and today farmers appear to be at the same level. Thus, enforcing the new legal framework at local level to the community without any capacity building and awareness raising already leads to a dangerous impact on the rural community.

Case study: Farmers ignorantly breaching the law

For example, the new land law states that "A person who has the permission of right for farming should not sold, pawn, lease, exchange or donate his/her land to any foreigner or organization involving foreigner(s) without the permission of the State/Region Government".

However, the current study revealed that Chinese are extensively contracting private farmers to rent their lands in order to grow watermelon in the Dry Zone including Sagaing, Tada Oo, Myithar, Mandalay and Chaung Oo, and in the east side of Monywa township. Chinese investors however never make direct contact with the farmers but go through village headmen and VLMC (Village tract Land Management Committee) working with local land brokers to locate appropriate lands. The rental prices offered vary from 2,5 to 2 lakh per acre for 5 to 6 months period, which is attractive enough to convince farmers to engage in such transactions. However, farmers must respect contractual terms (must not grow watermelon, must not visit the farm, must not use the well, etc.). Farmers are not allowed to know what type of fertilizer they use and they even burn the label after use. Besides, Chinese adopt intensive farming with heavy and excessive application of fertilizers and agro-chemicals. In the next season when farmers use their own plots, nutrient imbalance

sometimes occur offsetting the crop yields. Acquired resistance to chemical pesticides may happen in insects that may lead to pest outbreak. Environmental pollution may be expected.

Last but not least, the regulations as prescribed in Farmland Law of 2012, Farmland Rule and Foreign Direct Investment Law of 2013 directly threaten these farmers for engaging with foreigners in land transactions without the Region Government's consent since, as a matter of fact, they never even met with the real investors. Hence, even establishing pro-poor laws and regulations reveals to be insufficient in order to protect the farmers without proper knowledge sharing about the legal framework.

Another example on the discrepancies between the opportunities offered to farmers in theory and practice along the land reform can be drawn from the land registration process. While farmers had the opportunity to object landowners' lists displayed during one month in their respective villages, results of the dispute settlements mainly depend on the farmers' capacity to understand and comply with the legislative framework and legal terms. Most of land disputes between individuals opposed dispossessed farmers (because of the forced procurement policy, or because of informal mortgage arrangements) to current wealthier land cultivators. As current cultivators have generally closer ties with local authorities, they are in the position of seeking advice to the local SLRD and GAD officers (part of the VLMC stating on such disputes). As a result, with no or little knowledge of the law, dispossessed farmers are most often losing the case.

5. Land tenure and livelihood security

a. Some points on land tenure and livelihoods security

Land tenure through the last government reveals that livelihood security for farmers can be barely achieved through cultivation only for a great majority. Alternative activities, whether farm (cattle, goat breeding) or non-farm ones (weaving, seasonal migration) are necessary to keep minimum standards of livelihoods and most often critical regarding land tenure security. Indeed, **7,9% of landowners sold land since 2003, and among them, 47% because of debts and another 29% for urgent needs of money (health in particular).**

In the Delta, farmers having more than 3 acres are likely to have sufficient paddy for their self consumption throughout the year. However, in Dry Zone, below 12 acres there is no strong correlation with the fact of being paddy sufficient or not. This of course relates to the great agricultural diversity of the Dry Zone, plus the fact that soils and productivity vary greatly from one land to another.

As a whole, 27% of paddy producers don't produce enough for their own consumption and 19% of total households find difficulties to buy paddy at least once in the year. 22% of the total surveyed population said lacking rice at least once during the year.

- Relation between cultivated areas and incomes

Regarding paddy lands in the Delta, table 1 tends to show that incomes don't necessarily increase proportionally with the cultivated areas. There is indeed the same statistical attraction between earning more than 20 lakh over one year for households cultivating 6 acres to more than 15 acres. **This tends to demonstrate that land productivity decreases as farm size increases (starting from 6 acres).**

Table 7: Paddy land areas / Total paddy income (Delta)

	< 2 lakh	2 to < 5 lakh	5 to < 10 lakh	10 to < 15 lakh	15 to < 20 lakh	20 lakh and more	Total
Landless	267	11	12	9	5	12	316
< 3 acres	2	4	18	5	1	1	31
3 to < 6 acres	3	1	17	13	10	19	63
6 to < 9 acres	4		1	8	7	22	42
9 to < 12 acres	1		1		2	31	35
12 to < 15 acres	2			1		9	12
15 acres and more					1	31	32
Total	279	16	49	36	26	125	531

Khi²=539,7 ddl=42 p=0,001 (Val. théoriques < 5 = 38) V de Cramer=0,412

Green = statistical attraction; Blue = statistical repulsion.

While there is of course a quite linear relationship between cultivated surfaces and incomes in Delta and Dry Zone, table 2 shows that in Dry Zone, households struggle to earn more than 15 lakhs per year, even for larger farm holdings. This shows the great variability of incomes depend-

ing on land quality (there are huge income differences between cash crops such as onions and other crops such as sesame)

Table 8: Agricultural Ya land areas/ total income (Dry Zone)

	< 2 lakh	de 2 à < 5 lakh	de 5 à < 10 lakh	de 10 à < 15 lakh	de 15 à < 20 lakh	20 lakh et plus	Total
Landless	237	2	1	2	1	2	245
< 3 acres	33	12	4	3	2	5	59
de 3 à < 6 acres	28	28	19	7	2	11	95
de 6 à < 9 acres	17	18	20	7	4	10	76
de 9 à < 12 acres	3	7	13	3	1	14	41
de 12 à < 15 acres	1	7	9	6		5	28
15 acres et plus	3	4	7	8	2	30	54
Total	322	78	73	36	12	77	598

Khi²=435,6 ddl=30 p=0,001 (Val. théoriques < 5 = 15) V de Cramer=0,382

Green = statistical attraction; Blue = statistical repulsion.

- Indebtedness

However, indebtedness represents probably the main undermining factor for most farmers. **70% of the total surveyed population is indebted** for an average amount of 5 lakhs. The amounts borrowed are logically correlated with the areas cultivated, reminding of course of the costly inputs and labour necessary to undertake cultivation but also the borrowing capacity which remains strongly linked with land property (see table below).

Table 9: Borrowed amount / Total agricultural land area

	Landless	< 3 acres	3 to < 6 acres	6 to < 9 acres	9 to < 12 acres	12 acres and more	Total
< 1 lakh	64	4	2		1		71
1 to < 2 lakh	65	20	30	17	7	5	144
2 to < 3 lakh	55	12	33	23	4	18	145
3 to < 6 lakh	49	14	46	27	21	28	185
6 to < 10 lakh	15	5	20	23	12	18	93
10 lakh and more	9	1	6	17	27	44	104
Total	257	56	137	107	72	113	742

Khi²=280,4 ddl=25 p=0,001 (Very significant) V de Cramer=0,275

Green = statistical attraction; Blue = statistical repulsion.

Predatory interest rates practiced by private investors (10-15%) are of course an undermining factor. However, the introduction of small interest rates credit schemes such as the MADB loans (see following point) is not necessarily improving the farmers' situation. In fact, the relation to indebtedness is far more complex than the sole economic relationship and relies on other factors, including structural patron-client relationships characteristic of the Burmese lowland population and encompassing other fields of society, including religion. However, the growing influence of

capitalism on lowland societies tends to “erode” the patron-client relationships (more economic relationships and less protection for the clients), tending to undermine both landless and landowners’ situations. Indeed, many landowners find more and more difficulties to hire qualified labour for agricultural work (also due to high migration rates) and in turn are not able neither to provide well-paid labour nor any protection as their clients are mobile and thus rarely the same from one year to the other.

For these reasons, the farmers’ relationship to indebtedness, and the question “More credit, more insecurity?” remains issues that the project would study in depth in the future

b. Uses and impacts of the Myanmar Agricultural Development Bank (MADB) credit

Over all households surveyed for the quantitative phase (mainly in September-October 2014), 37.3 % stated taking loans with MADB, 27.5% with money lenders, 13.8% from NGOs, 7% with cooperative bank, 7.2 % with village “cooperatives”.⁸

In Delta, even for very small holders (0.3 to 3 acres), there is a systematic link between being a farm land owner and taking MADB loans, whereas in Dry zone, most farmers only take loans from MADB when their farm size is over 3 acres. This is mainly due to the loans for paddy lands (100,000 MMK/acre) are of much higher amount than the ones for other crops (pulses, etc...).

Access to investment is crucial for farmers because of the annual high inputs necessary to undertake agricultural work. In the Ayeyarwaddy delta, paddy farmers usually take private loans from village moneylenders with high interest rates, ranging from 5% to 15 % depending on the relationship between money takers and lenders. For these reasons, we must acknowledge the government’s initiative to practice loans at significantly small rates (0,42% this year) through the MADB, representing a real effort to reduce indebtedness among the delta’s farmers. However, loan management process between the Township MADB branches and farmers suffers many shortcomings. The first- already acknowledged- weakness of the governmental credit scheme is the timeframe in which MADB loans are disbursed to the farmers. For monsoon paddy, farmers in the Delta need to invest before or in the nearly monsoon period (last week of May, early June) to prepare the land cultivation for paddy. However, MADB cannot arrange for all the farmers to get loans in time notably because of lack of human resources (the other reason is the late payment of loan by farmers, see *infra*). Hence, farmers usually take loans from village-based private moneylenders with high interest rates as they cannot wait for receiving MADB loans. As soon as they receive the MADB loan, usually between late June and August, they repay their debts to the private moneylenders. At that time, a very small amount of money is left in the farmers’ hands. MADB loans have to be repaid in March of the next year. When due date is passed, farmers are fined. MADB loans can be obtained two times a year in the delta (i.e. for monsoon and summer paddy seasons). For summer loan, money can be taken in November-December and should be repaid in May of next year. Some farmers settle partially their monsoon loan (at least one third to two third) with the money from summer loan in November-December.

⁸ This data is to be taken with caution: as a photograph, it only captures a situation as a particular moment, while farmers face very different cash flow situation at different times of the year, according the seasonal farm expenditures and income.

The second issue for the farmers regarding access to the MADB loans relates to the disbursement's conditions. Farmers have to form Self Help Groups (SHG - *Wynn Gyee Choke Sa Nint* in Burmese) composed of ten individuals. If one farmer among the SHG fails to repay his/her loan in time, the rest remaining nine farmers cannot get their next year loan from the bank. This generally results in a late payment of the loan on the next year.

Finally, as in many cases regarding the law (and not only for land policies' framework), farmers have a very limited (if not inexistent) knowledge of the process. For this very reason, they remain dependent on local powerful individuals (village head, village clerk for example), and for instance the MADB's village tract representative. While the principle is that MADB representative is elected by the local authorities (including the village tract headman, the 100 households leader and the elders) to represent the interests of the farmers and the bank, he is often appointed directly by the village tract headman. Indeed, the position is potentially lucrative and therefore envied. One of the MADB representative's tasks is to help the farmers in filling the forms for obtaining the loan. This first process already operates a differentiation among farmers who pay to obtain the representative's help and those who cannot, determining who will receive the loan first. Besides, being the only one individual to link the township MADB with farmers at the village level, he is a pivot among the network of Township MADB, farmers and other moneylenders or brokers.

For example, while the MADB provide loans of 1 lakh per acre up to a maximum of 10 acres per farmer, the MADB representative helps farmers owning more than 10 acres to divide artificially the land into different individuals' properties (generally among the farmers' family).

Another key role of the MADB representative is to ensure the loan's repayment is in time. However, as explained above, most of small and middle-scale farmers (generally under 10 acres in the delta) cannot avoid taking high interest rate loans from local money lenders to compensate the late disbursement of the MADB. Hence, at least part of the MADB loan is used in order to repay high interest, private loans. Coupled with unexpected low production rates (due to bad weather, rodents, pests), farmers are often unable to repay the MADB loan. In order not to be fined by the bank for the late payment, farmers either have the solution to borrow money from private moneylenders (around 10% interest rate) or to seek the MADB representative's help. The latter find arrangements with private money lenders on big amounts of money with smaller interest rates (7%) to repay the bank in time. In 2013, in one village in Mawgyun Township borrowed to the MADB representative up to 40 million kyats. "Logically", part of the interests goes back to the MADB representative. Therefore, the money made available by the MADB at small interests finally lasts only little in the farmers' hands to get quickly injected in a high-rate-interests loan system hardly improving the farmers' financial situation (if not worsening it) but profiting mostly the same wealthier individuals locally.

6. Conclusion

While it's still too early to present here the whole findings (especially more in-depth analysis on the link between land tenure and livelihoods security studied particularly during the last research phase), we can already say that this research on land tenure in lowland Myanmar sheds light on wider issues linked to the current political change in Myanmar.

First, the agency of land tenure and access to land at the local level shows that whatever the reforms may be (even in a democratization effort), few changes happen in practice without greater care to bring the reforms effectively implemented on the ground. The central figure of the headman (and secondarily the VLMC) in acting as an interface between customary and legal systems – but also using its privileges to provide access to lands through its networks rather than in a fair manner – well illustrates the long way the reform still has to go on the ground.

The table below attempts to link cultivated surfaces per household with their position in the village: Village administration (comprising the headmen, 100 households and 10 households leaders, VLMC members), NGO informants and other kind of households. Table 4 shows a strong correlation between having greater surfaces (more than 15 acres) and being part of the village's administration. Of course, being part of this group generally lies on the fact of an individuals' ability to accumulate land, showing it's power. Reversely, the qualitative parts of the study explain well how this power enable them to profit from their position and redistribute parts of their benefit to a close circle of individuals.

Table 10: Agricultural land areas and position in the village

	Village administration (including VLMC)	NGO informant	Other groups	Total
Landless	25,6	18,8	53,1	49,7
< 3 acres	6,1	14,6	7,8	8,0
3 to < 5 acres	9,8	4,2	8,6	8,5
5 to < 7 acres	7,3	12,5	9,7	9,7
7 to < 9 acres	9,8	20,8	5,3	6,3
9 to < 11 acres	11,0	8,3	4,6	5,2
11 to < 13 acres	3,7	10,4	3,3	3,6
13 to < 15 acres	2,4	2,1	1,3	1,4
15 to < 17 acres	11,0	4,2	1,4	2,2
17 acres and more	13,4	4,2	4,8	5,4
Total	100,0	100,0	100,0	100,0

Tableau : % Colonnes. Khi2=78,9 ddl=40 p=0,001 (Val. théoriques < 5 = 39) V de Cramer=0,132

Green = statistical attraction; Blue = statistical repulsion

Secondly, reforms, without legal enforcement *and* capacity building at the local level already show being a risk for farmers whose knowledge of the law remains very limited. Therefore the law is still benefiting former elites having more exposure and consequently who better understand it.

Thirdly, legal enforcement should take into account long term agricultural practices, by giving more time to reassess lands' classification (such as cultivated forest lands), find conflict resolution mechanisms able to take into account lands' histories and trajectories. Without respecting these conditions, many farmers are threatened of losing their livelihoods in the name of a fairer law.

Finally, without answering these issues, the government won't be able to bridge the gap between legality and legitimacy that it is seeking to achieve since 2011.