

# ‘With only our voices, what can we do?’:

Land confiscation and local response  
in southeast Myanmar



**KHRG**

Karen Human Rights Group  
Documenting the voices of villagers in rural Burma

**‘With only our voices, what can we do?’:**  
Land confiscation and local response in southeast Myanmar

The Karen Human Rights Group  
June 2015

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**Front cover photo:** Villagers from Thandaunggyi Township in Toungoo District/Northern Kayin State gathered on April 27<sup>th</sup> 2014 to demonstrate against the construction of a second dam on the Day Loh River, and request that the Peh Leh Wah Bridge be reconstructed. The first dam that was constructed on the Day Loh River was the Toh Boh Dam, the construction of which resulted in the displacement of local communities as well as widespread damage to land due to flooding. The Peh Leh Wah Bridge, widely used by the villagers in the Baw Ga Lee area, was also destroyed due to flooding from the Toh Boh Dam, which caused transportation difficulties for local communities. *[Photo: KHRG]*

**Back cover photo:** This photo was taken on April 7<sup>th</sup> 2013 near H--- village, Dwe Lo Township, Hpapun District/Northeastern Kayin State. It shows the extensive impact that gold mining operations have and their subsequent environmental damage. *[Photo: KHRG]*

The Karen Human Rights Group (KHRG) was founded in 1992 and documents the situation of villagers and townspeople in rural southeast Myanmar through their direct testimonies, supported by photographic and other evidence. KHRG operates independently and is not affiliated with any political or other organisation. Examples of our work can be seen online at [www.khrg.org](http://www.khrg.org), or printed copies of our reports may be obtained subject to approval and availability by sending a request to [khrg@khrg.org](mailto:khrg@khrg.org).

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## Preface

Villagers in Karen areas of southeast Myanmar continue to face widespread land confiscation at the hands of a multiplicity of actors. Much of this can be attributed to the rapid expansion of domestic and international commercial interest and investment in southeast Myanmar since the January 2012 preliminary ceasefire between the Karen National Union (KNU) and the Myanmar government. KHRG first documented this in a 2013 report entitled *Losing Ground*, which documented cases of land confiscation between January 2011 and November 2012. This report, *'With only our voices, what can we do?'*, is a follow up to that analysis and highlights continued issue areas while identifying newly documented trends.

This report draws on a dataset of 126 documents from a total of 484 raw data reports received between December 2012 and January 2015 from KHRG researchers trained to monitor local human rights conditions. The present analysis assesses land confiscation according to a number of different factors, including: land use type; geographic distribution across KHRG's seven research areas; perpetrators involved; whether or not compensation and/or consultation occurred; and the effects that confiscation had on local villagers. This report also seeks to highlight local responses to land confiscation, emphasising the agency that individuals and communities in southeast Myanmar already possess and the obstacles that they face when attempting to protect their own human rights.

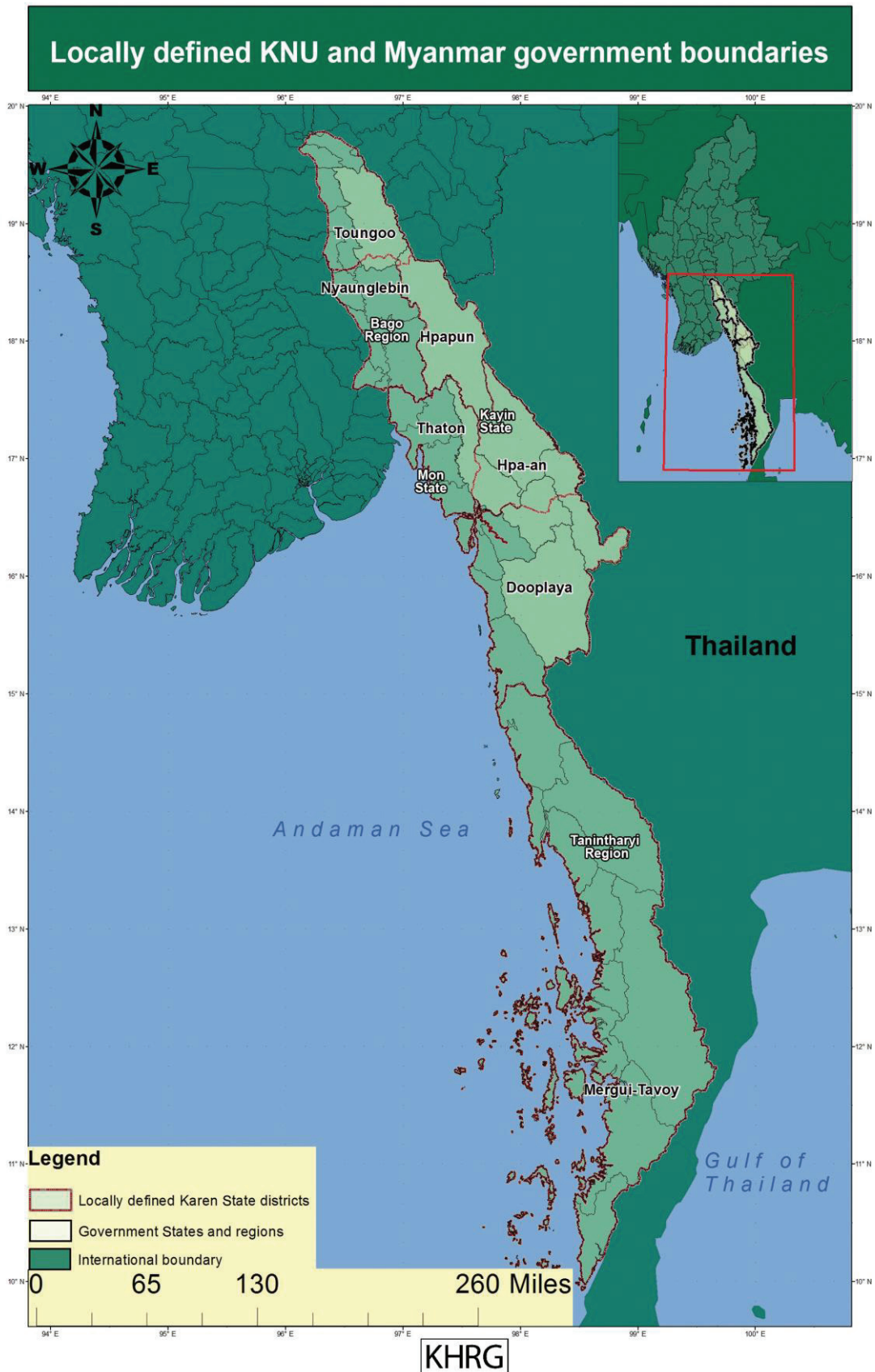
By focusing on local perspectives and giving priority to villagers' voices, this report aims to provide local, national, and international actors with a resource that will allow them to base policy and programmatic decisions that will impact communities in southeast Myanmar more closely on the experiences and concerns of the people living there.



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Map 1:



## Terms and Abbreviations

ADB	Asian Development Bank
AHN	Asian Highway Network
AHRD	ASEAN Human Rights Declaration
ASEAN	Association of Southeast Asian Nations
BEWG	Burma Environmental Working Group
BGF	Border Guard Force
CBO	Community-based organisation
CFC	Community Forest Certificate
DDA	Dawei Development Association
DKBA	Democratic Karen Benevolent Army
EAG	Ethnic armed group
EIA	Environmental Investigation Agency
FD	Forest Department
FPIC	Free, Prior and Informed Consent
FSWG	Food Security Working Group
HRW	Human Rights Watch
IDP	Internally-displaced person
ILO	International Labour Organisation
KHRG	Karen Human Rights Group
KNLA	Karen National Liberation Army
KNLA/KNU-PC	KNLA/KNU-Peace Council
KNU	Karen National Union
KPF	Karen Peace Force
LCG	Land Core Group
LIB	Light Infantry Battalion of the Tatmadaw
LID	Light Infantry Division of the Tatmadaw
LUC	Land Use Certificate
MNHRC	Myanmar Human Rights Commission
MoAI	Ministry of Agriculture and Irrigation
MoF	Myanmar Ministry of Forestry
MOU	Memorandum of Understanding
MTE	Myanmar Timber Enterprise
NCCT	Nationwide Ceasefire Coordination Team
NGO	Non-governmental organisation
NLUP	National Land Use Policy
NRE	Natural resource extraction
SLRD	Settlement and Land Records Department
SPDC	State Peace and Development Council
TNI	Transnational Institute
UDHR	Universal Declaration of Human Rights
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UPWC	Union Peace Working Committee
USDP	Union Solidarity and Development Party

**Armed actors** refers to all armed actors, including Myanmar state security forces (Tatmadaw and Border Guard), ethnic armed groups (EAGs) and militias.

**Ethnic armed group (EAG)** is preferred to non-state armed group (NSAG) locally, where it is considered more sensitive due to nationalist aspirations of these groups, and is used in this report to refer to the DKBA, KNU/KNLA, KNU/KNLA-Peace Council and KPF.

**Karen Border Guard Forces (BGF)** refers to Border Guard Force battalions #1011 through #1023, formed from members of the DKBA and KPF. The BGF program was initiated in 2009, and aimed to transform EAGs into Myanmar government-controlled forces. Ten battalions formed from EAG members in Karenni, Kachin and Shan states in 2009; the 13 battalions made up of former Karen EAG members were founded in August 2010.

### Currency and measurements

baht	Thai currency; US \$1 equals approximately 33 baht at market rate (May 2015)
basket	Unit of volume used to measure paddy, husked rice and seeds; one basket of paddy equals 20.9 kg. / 45.08 lb. in weight; one basket of husked rice equals 32 kg. / 70.4 lb. in weight.
big tin	Unit of volume used to measure paddy, husked rice and seeds; one big tin of paddy equals 10.45 kg. / 23.04 lb. in weight; one big tin of husked rice equals 16 kg./ 35.2 lb. in weight.
kyat	Myanmar currency; US \$1 equals approximately 1,093 kyat at market rate (May 2015)
viss	Standard unit of weight measure; one <i>viss</i> equals 1.6 kg / 3.5 lb.

### Burmese language terms

<i>Amyotha Hluttaw</i>	House of Nationalities of the Assembly of the Union of Myanmar
<i>Bo Hmu</i>	'Major', referring to the rank of a Tatmadaw officer
<i>Bo Gyi</i>	'Captain', referring to the rank of a Tatmadaw officer
<i>La Na 39</i>	Shorthand for Article 39 of the Land Nationalisation Act 1953
<i>Longyi</i>	Sheet of cloth widely-worn by men in Myanmar, wrapped around the waist or sewn into a cylindrical tube; worn by women, it is called a <i>htamein</i>
<i>Pyithu Hluttaw</i>	House of Representatives of the Assembly of the Union of Myanmar
<i>Pyidaungsu Hluttaw</i>	Assembly of the Union of Myanmar
<i>Tatmadaw</i>	Collective term used to refer to the Myanmar government armed forces
<i>Taungya</i>	Shifting swidden cultivation that requires leaving areas of land uncultivated for years at a time to restore soil fertility
<i>U Paing</i>	Permanent land use rights

### Karen language terms

<i>gher der</i>	'Home guard' groups organised by local villagers to undertake armed self-protection activities; may cooperate with KNLA forces but not under their direct command.
<i>T'la aw</i>	Teak-like trees with large leaves, which are traditionally collected by villagers and used to make thatched shingles for the roofs of houses.
<i>Thara/ Tharamu</i>	'Teacher', a term of respect use for a man or woman, respectively.
<i>K'chaw wah</i>	'White elephant', which refers to a former DKBA Battalion commanded by Major Htu Lu.



## Executive summary

The Karen Human Rights Group (KHRG) has conducted an analysis of 484 documents received from Karen areas of southeast Myanmar between December 2012 and January 2015. Of these documents, 126 detail cases of land confiscation and its associated impacts on villagers. Villagers identified these cases as occurring due to three primary project types: infrastructure, natural resource extraction and commercial agriculture. In addition, 18 of the 126 reports described cases of land confiscation by armed actors for military purposes.

### Infrastructure

- KHRG received **56** reports documenting **68** instances of land confiscation for the purpose of infrastructure projects within the reporting period. **31** cases described road construction, **18** described dam construction, **9** described bridge construction, and **10** described the construction of assorted public buildings. The Myanmar government was the most frequently cited perpetrator, often in collusion with domestic corporate actors as well as Karen Border Guard Forces (BGFs). The consequences were extensive, and included livelihood issues, forced displacement, and environmental destruction.
- Villagers reported extensive confiscation due to road construction, with cases reported across much of southeast Myanmar. Such cases were primarily reported in southern Kayin State, where a number of road construction projects, including construction of the Asian Highway, have resulted in the confiscation of land. Villagers reported that development actors rarely consulted with them in advance of confiscating land for road construction projects, and in nearly all cases villagers either received no compensation, or an amount below the fair value of their land.

### Natural resource extraction

- Natural resource extraction projects were described in **55** reports as resulting in land confiscation. **26** reports described gold mining, **17** reports described stone mining, **8** reports describe logging, while the remainder described lead and sand mining, as well as brick production. Villagers reported involvement in these projects by the Myanmar government and domestic corporate actors, as well as armed actors such as the Tatmadaw, Karen BGFs, Democratic Karen Benevolent Army (DKBA), Karen Peace Force (KPF), and KNU/KNLA-Peace Council (KNU/KNLA-PC).
- The majority of reports related to natural resource extraction involved gold mining, which occurred across multiple Karen areas of southeast Myanmar, but primarily in northern Kayin State. Villagers faced widespread environmental destruction, health and livelihood issues, as well as displacement and restrictions on movement as a result of these projects. Domestic corporate actors and individuals would often collude with the Myanmar government or Ethnic Armed Groups (EAGs) to confiscate land for the purpose of mining; out of 55 reports detailing natural resource extraction projects, in only six cases did villagers report prior consultation before their land was confiscated or destroyed. Villagers also described facing violent threats from armed actors when attempting to prevent the confiscation of their land for these projects; in some cases this resulted in death.

### Commercial agriculture

- Commercial agriculture projects were identified as resulting in land confiscation and its associated impacts in **18** reports, which documented **21** cases of such confiscation. **15** reports described rubber plantation projects, while the remainder described aloe, teak, bean, betel nut, coffee, and cardamom plantation projects. Nearly all reported cases

regarding commercial agriculture projects involved the Myanmar government, government backed armed actors, or domestic corporate actors; in many cases these groups colluded with each other when confiscating land.

- Villagers highlighted that not only was their own land confiscated due to commercial agriculture projects, but communal and forest land, which has historically been governed by traditional practices, was also confiscated. This resulted in a number of acute consequences for villagers, primarily livelihood issues, as they could no longer access their farms, pasture land for grazing livestock, or shared forest which was used to supplement livelihoods through firewood or housing material collection.

### **Militarisation**

- Between December 2012 and January 2015, KHRG received **22** reports detailing the confiscation of land by the Tatmadaw, Karen BGFs, and KPF for military purposes; including the strengthening or expansion of existing facilities, the construction of new facilities, and the appropriation of land in order to fund activities.
- In the majority of cases, villagers faced livelihood issues as a result of their land being confiscated, with a number describing being forced to transition from farmers to day labourers, as they no longer had access to their farmland. Villagers also consistently described feelings of apprehension and insecurity due to the actions of armed actors.

### **Village agency**

- Despite facing widespread and consistent pressure related to land confiscation and its associated impacts, villagers in Karen areas of southeast Myanmar described employing various strategies, both collective and individual, to prevent abuses from occurring, or obtain compensation for lost or damaged land. **90** reports received by KHRG in the reporting period described villagers employing agency strategies to protect themselves and their land. Negotiating directly with actors involved in land confiscation was described in **24** reports, while lobbying the Myanmar government was described in **23** reports. Outreach to community based and non-governmental organisations was described in **17** reports, lobbying the Karen National Union/Karen National Liberation Army was described in **12** reports, using formal land registration mechanisms was described in **8** reports, and various other strategies, such as demonstrations, outreach to media, and armed response were described in a further **12** reports.
- Despite great risk to villagers, they consistently reported directly negotiating with armed actors, and others who were attempting to confiscate their land. In a number of cases this resulted in violent threats toward villagers, while in others negotiation resulted in actors discontinuing or not starting projects which would have resulted in land confiscation or its associated impacts.

## Key Findings

During the reporting period, villagers in Karen communities across southeast Myanmar reported extensive land confiscation and its associated impacts as the result of various types of business and development projects, including infrastructure projects, natural resource extraction, commercial agriculture projects, and military activities.

Villagers described a multitude of consequences as a result of land confiscation, most prominently, livelihood issues, environmental destruction, displacement, and health issues. These consequences were often felt in tandem with one another, compounding the difficulties that local communities faced. Due to land confiscation and related issues, villagers reported loss of income and employment; being forced to sell assets, including livestock; losing access to communal land as source of firewood and building materials; flooding which destroyed farm and pasture land; the poisoning of water resources; skin and respiratory diseases; homelessness; and economic migration.

A wide variety of actors were reported by villagers as perpetrating abuses, either independently or in conjunction with each other. State or state sponsored groups, including Myanmar government officials, the Tatmadaw, and Karen BGFs; domestic and foreign corporate actors as well as wealthy individuals; and Ethnic Armed Groups (EAGs) were all described in villager testimony as committing abuses. Collusion between state groups and varied private business interests was commonly reported in villager testimony, with the involvement of a combination of domestic corporate actors, the Tatmadaw, and Myanmar government cited in the majority of reports received.

Villagers consistently reported that they were rarely consulted prior to project implementation, nor were they commonly compensated for losses. In cases where consultation did take place, villagers reported that their concerns were often ignored or the consultations were not inclusive; in the cases where compensation was offered, it was often reported to be insufficient or has yet to be paid. In a number of cases, rather than be provided with compensation, villagers were forced to pay high fees to re-lease their land from those who had confiscated it. In one case, villagers were deliberately misled during a consultation so that they would sign over their land.

Despite these varied abuses, villagers reported employing numerous agency and collective action strategies to prevent and mitigate the impact of projects. Villagers reached out to civil society organisations and the media, negotiated with actors involved in projects, and lobbied both Myanmar government and EAG officials, as well as attempted to register their land or file official complaints. Villagers faced extensive barriers in responding to abuses, including lacking access to, or knowledge of, formal registration, complaint and legal mechanisms, and were often ignored by actors involved in land confiscation. Notably, villagers often negotiated directly with armed actors involved in abuses, despite great risk to their safety. In these cases, villagers commonly reported facing violent threats against themselves and their communities, and in one case a monk was killed after speaking out against a logging project. Despite widespread barriers and the danger in employing protection strategies against development actors, in some cases villagers did describe being able to prevent or halt projects through their actions.

## Recommendations

*The following recommendations were developed based on discussions with KHRG researchers at a meeting in Northeastern Kayin State in November 2014, and also incorporate recommendations included in previous KHRG thematic reports.*

### Consultation and consent

- As villagers are best placed to assess their own interests and the impact of development on their livelihoods, development projects should be planned in consultation with local communities, with full disclosure of information relating to how the projects could affect their lands and livelihoods. Communities should be given the opportunity to participate in decisions regarding size, scope, compensation, and means of project implementation, and all development actors should prioritise the perspectives and consent of communities in all decision-making.
- All development actors must carry out environmental, health and human rights impact assessments prior to project implementation. These assessments should be carried out independently of the actor's interests in consultation with project-affected communities, and made publicly available in all local languages.

### Customary land rights, usage and national land policy

- The Myanmar government should ensure that the National Land Use Policy (NLUP) and other relevant land laws protect existing land use practices and tenure rights, and acknowledge that local communities may recognise land titles granted by multiple sources, including customary, colonial, and local administrations.
- All policy reforms should ascertain and respect the land rights of communities and individuals displaced by conflict, including refugees.
- In cases where villagers wish to secure land title from the Myanmar government, a transparent and inclusive process should be available for villagers to do so.

### Support for community solutions

- Development actors should seek out and engage with local, broad-based, independent associations of villagers formed to address land issues, as well as local community-based organisations.
- Domestic civil society should promote knowledge-sharing among, and give support to, independent associations across the country.
- Media should expand their coverage of land conflicts in southeast Myanmar, and sustained pressure should be maintained by the media and civil society on the Myanmar government to ensure that land confiscation issues remain a central component to the current reform process in Myanmar.
- The Myanmar government and civil society should provide communities with training and educational resources about domestic complaint and adjudication bodies.
- All armed actors, including the Tatmadaw, Karen BGFs, KNU/KNLA, DKBA, and others, should support local villagers' land rights and land tenure systems, and should commit themselves to following all of the measures included in these recommendations in areas under their direct control.
- The Myanmar government should ensure that access to domestic complaint and adjudication bodies is available to all villagers, and that land dispute mechanisms are community based and established according to customary practices.



**Ceasefire context**

- All development actors should ensure that they do not become complicit in human rights abuses by carrying out good faith due diligence to make certain that their partners do not compromise the rights and security of local communities.
- All armed actors should demilitarise former conflict areas and immediately cease the confiscation of land in southeast Myanmar for the purposes of: constructing military facilities, which include camps, barracks, and housing for the families of soldiers; or leasing land in order to generate income.
- The Myanmar government and Ethnic Armed Groups in southeast Myanmar should ensure that any future ceasefire agreements include components which ensure that the land rights of all populations, including internally displaced persons (IDPs) and refugees, are protected.

## I. Introduction

*"Yes, now look at our ancestors' land that has been given to us, it is all being destroyed. They do business and get money. For us we have to sacrifice, suffer, and we get nothing out of it. How much can they bully us? What is human? We are equally human, yet they do not know whether other people will be hurt or suffer. They just care about their profits and are satisfied if they get money, not caring about other people's suffering and destruction. It is not human, it is animal... they can do whatever they want with a package of their money, but for us, with only our voices, what can we do?"*

Naw T---, (female), D--- village, Kyonedoe Township, Dooplaya District/Southern Kayin State  
(Interviewed in November 2014)<sup>1</sup>

Since December 2012, villagers in Karen communities across southeast Myanmar have reported widespread land confiscation and its associated impacts. This report is an analysis of 484 pieces of data collected by KHRG researchers between December 2012 and January 2015, which resulted in the identification of 126 reports specifically related to land confiscation and its associated impacts, as well as community responses.

These land-related issues are linked to three broad categories of development and business activity: infrastructure projects, natural resource extraction, and commercial agriculture projects. In addition, villager testimony highlighted frequent land confiscation by armed actors occurring for military purposes. Villagers' perspectives on these projects were frequently excluded from either planning or implementation, and compensation was often nonexistent or insufficient.

Villagers reported that land-related abuses have caused livelihood difficulties, displacement, environmental destruction, and other issues. In response, villagers described employing various forms of individual and collective action strategies to prevent abuses, including negotiation, demonstrations, and outreach to both media sources as well as local organisations. Ensuring that such efforts are supported, that such a space for local responses is created and expanded, and that villagers ultimately retain their land use rights without facing displacement or abuse is critical to ensuring that a viable, equitable, and inclusive peace takes root in southeast Myanmar.

This report is a follow up to *Losing Ground*,<sup>2</sup> a KHRG report published in 2013, and is based on an analysis of written and oral testimony from villagers in southeast Myanmar, as well as documentation such as photographs, video, and audio recordings, collected by researchers who have been trained by KHRG to report on local human rights conditions. The documents analysed in this report detail cases of land confiscation and its associated impacts occurring between December 2012 and January 2015 in Karen communities across southeast Myanmar, including all of Kayin State and Tanintharyi Region, as well as parts of eastern Bago Region and northern Mon State.<sup>3</sup>

The objective of this report is to present villagers' perspectives on land confiscation and related community responses in southeast Myanmar. It aims to highlight the continuation of previously identified trends, as well as introduce new issue areas which have since emerged in prominence, based on villagers' testimony since December 2012. The testimony presented in this report is the direct, lived experience of villagers in southeast Myanmar. Its dissemination is therefore crucial for both domestic and international actors to better understand the impacts of land confiscation on the communities in which it occurs. The findings and recommendations are intended to assist all development actors, including the

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<sup>1</sup> See source #113.

<sup>2</sup> See *Losing Ground: Land conflicts and collective action in eastern Myanmar*, KHRG, March 2013.

<sup>3</sup> For further details on geographic designations, see the *Methodology* section.

Myanmar government, armed actors, domestic and foreign corporate actors, as well as civil society, to fully understand the concerns of local communities in the context of development and land confiscation, and take appropriate action to ensure land-related abuses are avoided and future development is community driven, inclusive, and sustainable.

*Section I: Introduction* provides an overview of the report in general, and details the methodology of the report. In addition, it includes a *Current context* subsection which reviews recent developments in Myanmar's laws and politics as they pertain to land issues.

*Section II: Land use types* assesses four primary project types related to land, identified in the analysis of villager testimony. These are infrastructure projects, which include the construction of roads, bridges, dams and other projects; natural resource extraction, which includes mining for gold, stone, and other minerals and metals, as well as logging; commercial agriculture projects, which primarily include rubber, teak, palm, and other plantations; and finally the confiscation of land by armed actors for military purposes. Villager testimony regarding each is presented, with a further focus on consequences and trends.

*Section III: Village agency* provides analysis of the primary agency strategies employed by villagers in response to the abuse types identified. These include outreach to CBOs & NGOs, negotiation, lobbying the Myanmar government and EAG officials, demonstrations, formal registration, and a number of other less cited strategies.

The full text of all 126 documents which formed the dataset for this report are available in the *Appendix 1: Raw Data*, and *Appendix 2: Land Grabbing Forms*.<sup>4</sup> *Appendix 3: Background Information* provides legal background and contextual information, which allows for an analysis of the testimony in this report within a broader framework.

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<sup>4</sup> The full appendices are available for download at [khrgh.org](http://khrgh.org).

## Methodology

### Field research

KHRG has gathered testimony and documented individual incidents of human rights violations in southeast Myanmar since 1992. Research for this report was conducted by a network of researchers, who are villagers trained and equipped to employ KHRG's documentation methodology, including to:<sup>5</sup>

- Gather oral testimony, by conducting audio-recorded interviews with villagers living in southeast Myanmar. When conducting interviews, local people working with KHRG are trained to use loose question guidelines, but also to encourage interviewees to speak freely about recent events, raise issues that they consider important, and share their opinions or perspectives on abuse and other local dynamics.
- Document individual incidents of abuse using a standardised reporting format. When writing or gathering incident reports, local people working with KHRG are encouraged to document incidents of abuse that they consider important by verifying information from multiple sources, assessing for potential biases, and comparing incidents to local trends of abuse.
- Write general updates on the situation in areas with which they are familiar. When writing situation updates, local people working with KHRG are encouraged to summarise recent events, raise issues that they consider important, and present their opinions or perspectives on abuse and other local dynamics in their area.
- Gather photographs and video footage. Local people are trained by KHRG to take photographs or video footage of incidents as they happen when it is safe to do so or, because this is rarely possible, of victims, witnesses, evidence or the aftermath of incidents. Local people are also encouraged to take photographs or video footage of other things they consider important, including everyday life in rural areas, cultural activities, and the long-term consequences of abuse.
- Collect other forms of evidence where available, such as letters written by military commanders ordering forced labour or forced relocation.

While some community members draw salary and others material support, and some work as volunteers, KHRG trains local people from all walks of life and a variety of backgrounds to document the issues that affect their community. KHRG's recruitment policy does not discriminate on the basis of ethnic, religious or personal background, political affiliation or occupation. We train anyone who has local knowledge, is motivated to improve the human rights situation in their own community, and is known to, and respected by, members of their local communities. Recognising that in all cases, no one is truly 'neutral' and everyone has competing viewpoints and interests, KHRG seeks always to filter every report through those interests and to present evidence from as many sources and perspectives as possible.

### Verification

KHRG trains these local researchers to follow a verification policy that includes gathering different types of information or reports from multiple sources, assessing the credibility of sources, and comparing the information with their own understanding of local trends. Additionally, KHRG's information-processing procedure involves the assessment of each individual piece of information prior to translation in order to determine quality and facilitate follow-up with researchers where necessary.

This report does not seek to quantify a total number of incidents related to business and development projects across research areas; where provided, figures indicate only those occurrences that were described in KHRG field documentation. KHRG reporting is designed

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<sup>5</sup> *KHRG Field Documentation Philosophy* is available on request.



primarily to share the perspectives of individuals and communities, rather than to focus on incident-based reporting or to quantify a number of confirmed incidents. Emphasis is placed on locating concerns raised by communities, rather than seeking to disqualify testimony, because community members may not always articulate things clearly or keep exact records of incidents. In many cases, villagers raised concerns about issues not tied to a specific time or place, or described events that were not discussed elsewhere in KHRG documentation. This report seeks to emphasise the cumulative weight of the large data set analysed, and the consistency with which concerns were raised by communities across a wide geographic area.

### **Analysis for this report**

This report is based on field information received during the reporting period from December 2012 to January 2015. During this period, KHRG researchers collected a total of 1,195 oral testimonies, sets of images and pieces of documentation, including: 560 audio-recorded interviews, 165 incident reports, 98 situation updates, 153 other documents written by villagers, 131 sets of photos and videos amounting to a total of 18,512 images and 1,179 videos, 66 Land Grabbing Forms,<sup>6</sup> and 22 written orders issued by civilian and military officials. As this information was received, KHRG staff assessed each piece of documentation and translated those conveying human rights concerns into English for analysis by a team of Karen information-processing officers and interns, who were supported by native English-speaking capacity builders. As of January 2015, 484 pieces of documentation had been translated into English based on these priorities and were available for analysis for this report.

In an internal workshop in September 2014, the staff who processed this data identified four primary project types which resulted in land confiscation and its associated impacts, based on our reporting since December 2012: infrastructure, natural resource extraction and commercial agriculture projects, and the confiscation of land by armed actors for military purposes. Staff then began coding and analysing the 484 pieces of documentation in order to identify which dealt with these four broad types, and included incidents that took place, or had ongoing impacts, after December 2012. This refined dataset included 126 pieces of documentation.

These 126 documents were then reclassified based on the four types identified, and further broken down into categories based on consequences, actors, and agency strategies. The primary consequences included livelihood issues, environmental destruction, displacement, and health issues. The primary agency strategies identified included outreach to CBOs/NGOs, negotiation, lobbying both the Myanmar government as well as KNU officials, formal registration, utilising official complaint mechanisms, and others. The primary actors identified in the reports as being involved in land confiscation included the Myanmar government; domestic and foreign corporate actors; armed actors, including the Tatmadaw, Karen BGFs, KNU/KNLA-PC, KPF and others; wealthy individuals; and religious officials.

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<sup>6</sup> A Land Grabbing Form (LGF) is a standardised form which was created by KHRG in 2012. The purpose of the form is to allow KHRG researchers to record instances of land confiscation in a systematic way, ensuring that all key information, such as victim, location, perpetrator, acreage of land lost, geographic location, etc., are recorded. In addition to reporting, this information can be used to facilitate submission of land-related cases to complaint mechanisms, as well as presentation of the information to the Myanmar government, the Karen National Union, or other actors, in order to address cases of confiscation.

### **Specialist feedback**

Drafts of the report were shared with groups of local and international subject-matter specialists for review, after which KHRG staff held internal workshops to review and incorporate feedback, while continuing to prioritise local concerns as expressed in KHRG documentation. Specialists were chosen based on their expertise on a particular issue related to the context of the report, or past experience writing KHRG reports. In addition, face to face meetings with subject-matter experts were held in both Myanmar and Thailand to discuss the structure and findings of the report.

### **Recommendations**

This report includes general recommendations featured in the *Introduction* section of the report. These recommendations are a combination of recommendations previously presented in the KHRG thematic reports *Losing Ground*, published in March 2013, and *Truce or Transition?*, published in May 2014, along with recommendations provided by KHRG researchers at a meeting in Kayin State in November 2014. These recommendations were revised during subsequent workshops with KHRG information processing and advocacy staff, as well as the directors of KHRG and KHRG's advisory board. They were also improved based on feedback from subject-matter specialists.

### **Sources and referencing**

Every piece of information in this report is based directly upon testimony articulated by villagers during the reporting period or by documentation and analysis written by KHRG researchers. In order to make this information transparent and verifiable, all examples have been footnoted to 126 'sources', which are available in *Appendix 1: Raw Data* and *Appendix 2: Land Grabbing Forms* on the KHRG website. Wherever possible, this report includes excerpts of testimony and documentation to illustrate examples highlighted by KHRG.

### **Research areas**

In order to classify information geographically, KHRG organised information according to seven research areas: Thaton, Toungoo, Nyaunglebin, Mergui-Tavoy, Hpapun, Dooplaya, and Hpa-an. These seven research areas are commonly referred to as 'districts' and are used by the KNU, as well as many local Karen organisations, both those affiliated and unaffiliated with the KNU.

KHRG's use of the district designations to reference our research areas represents no political affiliation; rather, it is rooted in KHRG's historical practice, due to the fact that villagers interviewed by KHRG, as well as local organisations with whom KHRG seeks to cooperate, commonly use these designations.

The seven districts do not correspond to any demarcations used by the Myanmar government, but cover all or parts of two government-delineated states and two regions. Toungoo District includes all of northwestern Kayin State and a small portion of eastern Bago Region, while Nyaunglebin District covers a significant portion of eastern Bago Region. Hpapun, Hpa-an, and Dooplaya districts correspond to all of northern, central and southern Kayin State, respectively. Thaton District corresponds to northern Mon State, and Mergui-Tavoy District corresponds to Tanintharyi Region.

In order to make information in this report intelligible to all stakeholders, including those who use the locally-defined Karen districts and those who are familiar with Myanmar government designations for these areas, *Map 1* includes both the government demarcation system of states and regions, and the seven research areas, or 'districts', used when referencing information in this report. In addition, where applicable, both geographic designations are used in the text of the report.

When transcribing Karen village names, KHRG utilises a Karen language transliteration system that was developed in January 2012 in cooperation with fourteen other local Karen CBOs and NGOs to ensure the consistent spelling of place names.<sup>7</sup>

### **Censoring of names, locations and other details**

Where quotes or references include identifying information that KHRG has reason to believe could put villagers in danger, particularly the names of individuals or villages, this information has been censored, and the original name has been replaced by a letter or pair of letters. The censored code names do not correspond to the actual names in the relevant language or to coding used by KHRG in previous reports. The censored names in the body of this report also do not correspond to the censored names in the *Appendix 1: Raw Data* or *Appendix 2: Land Grabbing Forms*. Village and personal names have been censored using single and double digit letters beginning from A--- and running to Z---. This system is applied randomly across all chapters. All names and locations censored according to this system correspond to actual names and locations on file with KHRG. Thus, censoring should not be interpreted as the absence of information. In many cases, further details have been withheld for the security of villagers and KHRG researchers. Note also that names given by villagers have been transliterated directly, and may include relational epithets, such as mother or father, as well as terms that imply familiarity but are not necessarily indicative of a familial relationship, such as uncle or aunt.

### **Independence, obstacles to research and selection bias**

Though KHRG often operates in or through areas controlled by armed forces and groups including the Tatmadaw, Karen BGF battalions and EAGs, KHRG is independent and unaffiliated. Access to certain contexts has sometimes been facilitated by the KNLA, particularly in cases where documentation activities required crossing vehicle roads near Tatmadaw army camps or in areas that were likely to be mined. Other groups were not willing to facilitate research by KHRG, while Tatmadaw, Karen BGF, and DKBA forces were the chief obstacles to safely conducting research in southeast Myanmar during the reporting period. Local people documenting human rights abuses did so with the understanding that they risked potential arrest or execution should perpetrators of abuse learn of their activities.

Because of the obstacles described above, it has only been possible for local people collecting testimony to interview civilians who are not likely to report documentation activities to authorities in a way that would place those people in danger. This does not represent a research constraint in areas where whole communities are in hiding, view authorities perpetrating abuse as a threat, and as such are likely to flee rather than risk encountering them. In other areas, however, security considerations mean that interviews cannot always be conducted openly. Civilians most likely to compromise the security of those working with KHRG may also be those who are most likely to present a positive view of the Tatmadaw and express critical opinions of EAGs that have been in conflict with Myanmar's central government.

It is important to acknowledge that these limitations have restricted KHRG's ability to make conclusions about all aspects of operations by opposition EAGs or about potentially positive activities conducted by government actors. For this reason, this report avoids making conclusions that are not supported by the data set, including practices of government actors related to land, in areas where research was not conducted. Instead, this report focuses on sharing concerns raised by villagers that relate to events they experienced during the

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<sup>7</sup> Note that this transliteration system differs from the previous system used by KHRG, and as such the spelling of location names may be different. Note also that organisations developing the system agreed to continue using the spellings in common-usage for districts and townships, even where they do not match the new transliteration system.

reporting period, and analysing those experiences in light of patterns previously identified by KHRG.

It is equally important to acknowledge that these research limitations do not call into question the veracity of documentation regarding practices by the Tatmadaw or other groups. While there is always a risk that individuals interviewed by KHRG might hold personal biases that cause them to provide exaggerated or inaccurate information, the verification practices described above are designed to prevent such inaccuracies from being reported by KHRG. Furthermore, the sheer volume and consistency of information gathered by KHRG during the reporting period, as well as over the last 22 years, minimises the potential for inaccurate or incorrectly identified patterns. Ultimately, the constraints faced by KHRG mean that there are unanswered questions about issues not present in the data set, on which further research needs to be conducted.

## Current context

### Democratic transition

In 2011, Myanmar transitioned to a quasi-civilian government, initiating a process of political and economic reform in the country. Since then, the new government under President Thein Sein has released political prisoners, loosened media restrictions (including the abolishment of pre-censorship), initiated dialogue with armed groups, formed the Myanmar National Human Rights Commission, and promised to allow for international monitoring of human rights.<sup>8</sup> This effort to initiate change has, in turn, led the international community to loosen sanctions against Myanmar.<sup>9</sup> International financial institutions like the World Bank have also shown special interest in the country, and remarked that, “*Myanmar is now embarking on a triple transition: from an authoritarian military system to democratic governance; from a centrally directed economy to a market-based economy; and from sixty years of conflict to peace in the border areas.*”<sup>10</sup> As Myanmar enters the global community, foreign business interests have been eager to seize the opportunity to capitalise on the country’s abundant natural resources and development potential.

### Stalling and backsliding of reform process

Despite early positive indications, the reform process in Myanmar has stalled and, in some cases, reversed its progress. Government efforts to address human rights abuses within the country have fallen short of what is needed to protect the rights of the citizens of Myanmar.<sup>11</sup> The government remains highly centralised, with major positions being held by military and ex-military officials, while the 2008 constitution guarantees the military 25 percent of parliamentary seats, making real reform through established parliamentary channels in Myanmar all but impossible.<sup>12</sup> Although large numbers of political prisoners were released, their numbers have been steadily increasing since the end of 2013 while journalists have faced continued harassment and imprisonment for criticising the government.<sup>13</sup> More recently, persecution of the Rohingya minority in Rakhine State, where sectarian violence has flared,<sup>14</sup> along with crackdowns on ongoing student protests,<sup>15</sup> call into question the

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<sup>8</sup> For releases of political prisoners, see: “Burma: Political Prisoners Released”, Human Rights Watch, January 13<sup>th</sup> 2012; for the establishment of a ‘free press’, see: “Freedom of the Press: Burma” Freedom House; for dialogue on a nationwide ceasefire, see: “Ethnic Rebels discuss nationwide ceasefire in Chiang Mai” *DVB*, November 27<sup>th</sup> 2013; for the homepage of the Myanmar National Human Rights Commission, see: Myanmar National Human Rights Commission, see <http://www.mnhrc.org.mm/en/>; for commitments made to the international community, see: “Burma’s Promise: President Thein Sein’s 11 Commitments to Obama” *Foreign Policy in Focus*, November 19<sup>th</sup>, 2013.

<sup>9</sup> The U.S. government lifted most sanctions in July 2012, as did Australia, while the European Union suspended nearly all of its sanctions for one year. United States State Dept., *Administration Eases Financial and Investment Sanctions on Burma*, July 11th 2012; Australia Department of Foreign Affairs and Trade *Autonomous Sanctions (Designated and Declared Persons – Burma) Revocation 2012 (No. 1) Council of the European Union Burma/Myanmar: EU Sanctions Suspended 9626/12 Presse 195*, May 14<sup>th</sup> 2012.

<sup>10</sup> World Bank Agriculture Support Project, Project Information Document, Concept Stage, Report No. PID2158, p.1

<sup>11</sup> “*Burma: All the President’s Men*” Burma Partnership and Equality Myanmar, September 25<sup>th</sup> 2014.

<sup>12</sup> See Banyan “What is wrong with Myanmar’s constitution?” *The Economist*, March 4<sup>th</sup> 2014.

<sup>13</sup> See “Even Though I am Free I am Not: The Need for the campaign in 2015” Assistance Association for Political Prisoners (AAPP - Burma), January 4<sup>th</sup> 2015.

<sup>14</sup> The Rohingya, a Muslim ethnic group primarily based in Rakhine State in western Myanmar, have faced discrimination and persecution by the Myanmar government and portions of the majority Buddhist population in Rakhine State. In June of 2012, sectarian violence claimed up to 280 Rohingya lives and displaced over 140,000 people in western Myanmar, many of whom remain internally displaced or in refugee camps along the border with Bangladesh. The Myanmar government has done little to address the issue, as officials have repeatedly denied the existence of the Rohingya as a distinct ethnic group, denying them citizenship in the process. Most recently, in February 2015 the current Myanmar government recanted on their promise to allow ‘white card holders’, which includes many Rohingya, to vote in the upcoming 2015 general elections. See: “Myanmar

government's commitment to improving its human rights record. As general elections approach in 2015, serious questions have been raised about the sincerity of the Myanmar government's commitment to the reform process in Myanmar.

### **Land and land confiscation in Myanmar**

Due to an abundance of natural resources and the presence of decades long conflicts throughout the country, land confiscation has occurred throughout Myanmar's recent history.<sup>16</sup> Set amidst the new and changing political landscape, addressing the issue of land confiscation has become of increasing importance in the country, with implications that will have significant effects on Myanmar's development trajectory. Myanmar remains one of the poorest countries in the world,<sup>17</sup> and land confiscation is a key contributor to this continued impoverishment.<sup>18</sup> As the Burma Environmental Working Group (BEWG) noted four years ago, "Overall two different political-economic trajectories are taking place in Burma: emerging opportunities for Burmese businessmen to invest in land and resources in Burma and secondly, bilateral resource extraction agreements with the Burmese leaders and foreign governments and corporations."<sup>19</sup> As this report shows, these previously emerging trends have persisted since 2012.

Such trends disproportionately harm rural and marginalised communities in Myanmar and are facilitated by a number of factors. First, Myanmar's legislation regarding land tenure rights remains far less protective than mandated by international law and best practice.<sup>20</sup> Second, endemic corruption in the government administration continues to hamper the system of land tenure recognition and distorts legitimate land rights claims throughout the country.<sup>21</sup> This corruption also takes the form of collusion between armed actors and private business interest to seize land for different business ventures, with little to no regard paid to those who originally occupied and used the land.<sup>22</sup> This is exacerbated by economic liberalisation, which has led to increased foreign investment and skyrocketing land value, which contributes to increased dispossession among the rural poor.<sup>23</sup> Finally, within the Karen context more specifically, the 2012 preliminary ceasefire has allowed for access to,

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Revokes Rohingya Voting Rights after Protests," *BBC*, February 11<sup>th</sup> 2015; "UN Chief to Myanmar: Settle Rohingya Status Question," *VOA*, April 24<sup>th</sup> 2015.

<sup>15</sup> Students protesting the newly formulated National Education Policy were violently attacked during demonstrations in March, 2015. As of April 23<sup>rd</sup> 2014, at least 70 students remained in prison awaiting trial. See Gemunu Amarasinghe "Myanmar Police Crack Down on Protesters for Third Day" March 6<sup>th</sup> 2015; Yen Snaig, "Court Transfers Students' Case, 4 Face Extra Charges in Rangoon," *The Irrawaddy*, April 23<sup>rd</sup> 2015.

<sup>16</sup> For cases of land confiscation in southeast Myanmar dating back to 1992, see: "Land Confiscation," KHRG, accessed on: April 26<sup>th</sup> 2015; for reports of widespread land confiscation in Myanmar by the Tatmadaw, see: *Yearning to Be Heard*, Human Rights Foundation of Monland (HURFOM), 2015, p.32; "Rampant Land Confiscation Requires Further Attention and Action from Parliamentary Committee," Burma Partnership, March 2013.

<sup>17</sup> "About Myanmar," United Nations Development Program, accessed on: April 26<sup>th</sup> 2015.

<sup>18</sup> Asian Legal Resource Centre, "Myanmar: Myanmar at Risk of Land-Grabbing Epidemic," *20<sup>th</sup> Session of the Human Rights Council, Agenda Item 4, General Debate*, June 6, 2012, p. 1-3.

<sup>19</sup> *Burma's Environment: People, Problems, Policies*, BEWG, 2011, p. 43.

<sup>20</sup> Domestic legislation, such as the Vacant, Fallow, and Virgin Land Management Law and the Farmland Law have been heavily criticized for not meeting international standards or adhering to international best practices, such as "The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security." The government is currently drafting a new Land Use Policy, which has also been criticized for falling short of such standards. For a more complete analysis of the current legal context, see *Appendix 3* for additional analysis, see, for example: "Access Denied," Transnational Institute (TNI), 2012; "The Challenge of Democratic and Inclusive Land Policy Making in Myanmar," TNI, February 2015.

<sup>21</sup> "Corruption Perceptions Index 2014: Results," Transparency International, accessed on: April 26<sup>th</sup> 2015.

<sup>22</sup> Thin Lei Win "Despite Ceasefire, Army Seizes Land and Tortures Citizens in Southeast Myanmar – Report" *Thomson Reuters Foundation*, May 14<sup>th</sup> 2014.

<sup>23</sup> *Yearning to Be Heard*, HURFOM, 2015, p. 20.



and confiscation of, land that was previously inaccessible, without addressing the issue of land tenure rights in southeast Myanmar.<sup>24</sup>

Due to these interconnected and mutually reinforcing factors, land expropriation for large-scale projects has increased, leading to outright conflict and, in a number of cases, gaining national and international attention.<sup>25</sup> Protests against specific land confiscation cases have been met with government suppression, with some individuals having been sentenced to prison terms for peaceful protests.<sup>26</sup> In the case of the Letpadaung Mine Project located in central Myanmar, state security personnel used white phosphorous munitions against peaceful, unarmed protestors.<sup>27</sup> Given that 70 percent of Myanmar's population remains in rural areas and subsists largely on agriculture, with 29 percent of that population remaining below the poverty line, ensuring that the new civilian government puts the interests of the rural working poor first is crucial to the success of Myanmar's ongoing transition.<sup>28</sup>

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<sup>24</sup> For a complete analysis of the 2012 preliminary ceasefire, as well as developments towards a nationwide ceasefire agreement, see: *Appendix 3*.

<sup>25</sup> "The Challenge of Democratic and Inclusive Land Policy Making in Myanmar," TNI, February 2015, p. 23-24; for an in depth case study of one such project, see: *Voices from the Ground: Concerns over the Dawei Special Economic Zone and Related Projects*, Dawei Development Association (DDA), September 2014.

<sup>26</sup> For example, on August 19<sup>th</sup> 2014 14 farmers in Mandalay Division received prison sentences ranging from four to eight months for a peacefully held ploughing protest in May of that year. For more detail, see: "Monthly Chronology for August," AAPP, August 2014; see also: Paing Soe, "Farmers Sentenced 8 Months for Plough Protest," *Democratic Voice of Burma (DVB)*, August 20<sup>th</sup> 2014.

<sup>27</sup> A joint investigation carried out by Justice Trust and the Burma Lawyers Network confirmed the use of white phosphorous munitions in the attack: "Report of Evidence Regarding Controversies at Letpadaung Hill Copper Mine Project," Lawyers Network and Justice Trust, February 2013.

<sup>28</sup> "The Challenge of Democratic and Inclusive Land Policy Making in Myanmar," TNI, February 2015, p. 17.

## II. Land use types

### A. Infrastructure

Between December 2012 and January 2015, KHRG received 56 reports detailing the confiscation of land as a result of infrastructure projects. These projects include road, bridge, and dam construction projects, as well as other local development projects. These reports detail over 68 cases of land confiscation as a result of these projects across six of KHRG's seven research areas in southeast Myanmar.<sup>29</sup>

Based on villager testimony, land confiscation due to road construction projects was the most commonly reported abuse. The majority of these projects were undertaken by the Myanmar government. These projects have resulted in damage to villagers' plantation fields and caused livelihood problems for them.

#### 1. Occurrences and actors

In the 56 reports related to infrastructure received by KHRG, the Myanmar government was identified as being directly involved in the project in question in 39 instances.<sup>30</sup> Other perpetrators included domestic corporate actors,<sup>31</sup> Karen BGFs,<sup>32</sup> and wealthy individuals.<sup>33</sup> Livelihood issues were documented as the leading consequence of these projects, as villagers lost access to plantation land due to construction or had their fields flooded as a result of dam construction.

In cases of land confiscation for infrastructure projects, KHRG researchers reported that confiscation usually occurred without compensation or consultation. Only six of the 56 reports involved compensating villagers for their land, and only 11 reports described any form of consultation prior to their land being confiscated. In terms of compensation, the majority of the reports showed that villagers were not compensated at all for their land; however, some villagers were given a small amount of money which was not equal to the value of the land confiscated.<sup>34</sup> Additionally, in some cases villagers were promised compensation which has yet to be provided.<sup>35</sup>

#### Key Findings

- **KHRG received 56 reports which documented 68 cases of land confiscation as a result of infrastructure projects.**
- **The construction of roads, hydropower dams, and bridges were the most commonly cited projects in villager testimony.**
- **Villagers described livelihood issues resulting from their land being confiscated for these projects, as land was damaged by flooding or destroyed by construction.**
- **In only six reports did villagers describe any form of compensation; in only 11 reports did they describe consultation prior to their land being confiscated.**
- **KHRG has received a notable increase in reports detailing land confiscation as a result of road construction projects compared to 2011-2012.**

<sup>29</sup> For an example from Thaton District see source #63; for Toungoo District see source #8; for Nyaunglebin District see source #105; for Hpapun District see source #76; for Dooplaya District see source #57; for Hpa-an District see source #11.

<sup>30</sup> For example see source #52.

<sup>31</sup> For example see source #103.

<sup>32</sup> For example see source #39.

<sup>33</sup> For example see source #42.

<sup>34</sup> See sources #52; #48; and #47.

<sup>35</sup> See source #11.

## 2. Project subtypes

### a. Road construction

Out of 56 reports regarding infrastructure projects since December 2012, 31 reports identified cases of land confiscation due to road construction projects. These cases occurred in Thaton,<sup>36</sup> Hpapun,<sup>37</sup> Dooplaya,<sup>38</sup> and Hpa-an districts.<sup>39</sup> Of the 31 reports detailing road construction, 15 were attributed to Myanmar government officials,<sup>40</sup> 11 to Myanmar private companies,<sup>41</sup> one to BGF Battalion #1013,<sup>42</sup> and four to unknown actors.<sup>43</sup> The most common consequences identified related to road construction projects included damage to villagers' plantation fields, environmental destruction, and the loss of shelters or homes.

In A--- village, Dooplaya District, villagers' lands and plantation crops, such as betel nut, mango, and durian trees, were destroyed due to the construction of a road by a Myanmar private company.<sup>44</sup> The villagers reported that they did not know the company's name and were not consulted about the process. When the company began to survey the land, they said it would not damage the villagers' fields. However, once the project began, their land was damaged:

*"My land was not included when they came to survey the lands, but when they started to plough it included my land. Yesterday we tried to negotiate with the ploughmen but they didn't pay attention to us and continued to plough. Some of the villagers lost four or five acres of lands which they inherited. They constructed the road on central farms and plantations."*

Saw A--, A--- village, Kawkareik Township, Dooplaya District/Southern Kayin State  
(Interviewed in July 2014)<sup>45</sup>

In another case, villagers from B--- village in Kawkareik Township reported that they cannot work on their lands adjacent to the road anymore due to the construction of the Asian Highway (Kawkareik - Myawaddy),<sup>46</sup> undertaken by Myanmar private companies and the Myanmar government.<sup>47</sup> Even though they have been promised 3,000 kyat (US \$2.91) for each rubber tree that they have lost, they have not received anything yet.

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<sup>36</sup> For example see source #63.

<sup>37</sup> For example see source #74.

<sup>38</sup> For example see source #82.

<sup>39</sup> For example see source #97.

<sup>40</sup> For example see source #85.

<sup>41</sup> For example see source #103.

<sup>42</sup> For example see source #39.

<sup>43</sup> For example see source #52.

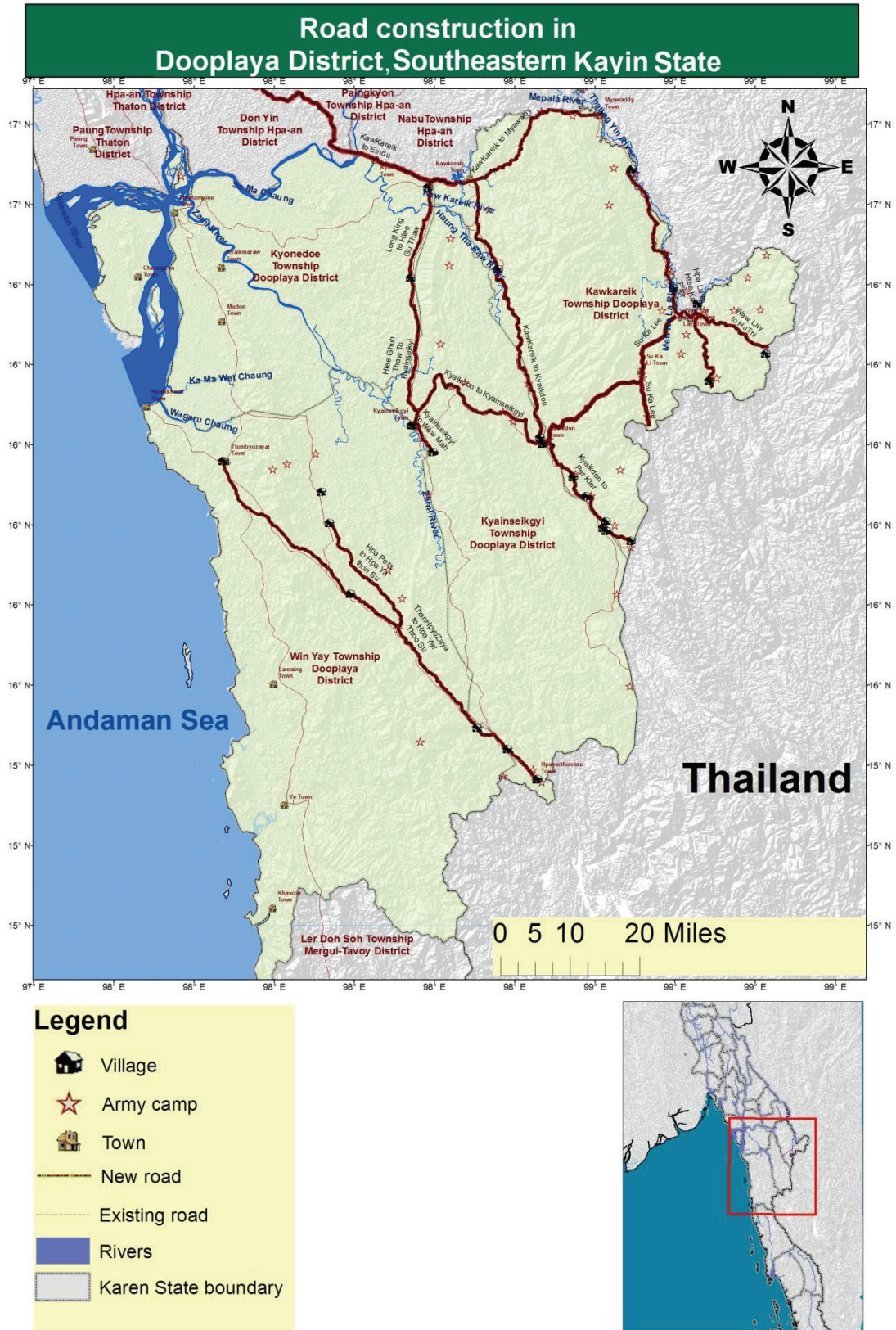
<sup>44</sup> See source #58.

<sup>45</sup> See source #58.

<sup>46</sup> The Asian Highway Network is a United Nations Economic and Social Council for Asia and the Pacific-supported project that aims to link 32 countries in Asia across 141,000 kilometres of roadway. Kawkareik to Myawaddy is a route on the Asian Highway. In Myanmar the project has involved land confiscation and forced labour. For more information about the Asian Highway Network, see: "Hpa-an Situation Update: Paingkyon Township, July 2014," KHRG, October 2014; "Tollgates upon tollgates: En route with extortion along the Asian Highway," KHRG, October 2009; "The Asia Highway: Planned Eindu to Kawkareik Town road construction threatens villagers' livelihoods," KHRG, March, 2015; and "Development by Decree: The politics of poverty and control in Karen State," KHRG, April 2007.

<sup>47</sup> See source #50.

Map 2:



## b. Hydropower dams

Out of 56 reports regarding development projects received in the reporting period, 18 reports highlighted cases of land confiscation for hydropower dam projects and their consequences.<sup>48</sup> Land confiscation for dam projects has occurred in Toungoo,<sup>49</sup> Nyaunglebin,<sup>50</sup> Hpapun,<sup>51</sup> and Hpa-an districts.<sup>52</sup> Of the 18 reports, 11 cases were attributed to Myanmar government officials<sup>53</sup> and seven to Myanmar private companies.<sup>54</sup> The most common consequences reported by villagers were livelihood issues<sup>55</sup> and destruction of the environment.<sup>56</sup> More specifically, flooding,<sup>57</sup> especially in Toungoo District, was a significant issue with regards to dam projects.<sup>58</sup> Villagers who were affected by projects raised strong concerns about increased flooding as this is a problem they have faced every year, in addition to the initial confiscation of land for dam construction. Flooding affects both livelihoods and the environment, as it has led to the loss of plantation fields and the loss of property, as well as the destruction of local ecosystems and environments.

In the case of the Hatgyi Dam, a planned hydropower dam in Bu Tho Township, Hpapun District, multiple reports described villagers being told by project leader Myo Myint Shwe that they would be displaced from their villages near the project site:<sup>59</sup>

*“If [the] Hatgyi Dam project is implemented sometime in the future, over 300 or 400 villagers in C--- village will be affected. Our village and other neighbouring villages of the construction site will suffer the most. Currently, we are living like we used to live in the past but if the dam project is implemented then we could become displaced and might have to relocate to the down part [down-stream] of the dam in Hpa-an District.”*

Situation Update written by a KHRG researcher, Bu Tho Township, Hpapun District/Northeastern Kayin State (Received in July 2013)<sup>60</sup>

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<sup>48</sup> ‘Hydropower’ refers to using water to power machinery or make electricity. The energy of the water cycle is tapped to produce electricity. Flowing water which is captured and turned into electricity is called hydroelectric power or hydro-power. There are three different types of hydroelectric facilities. They are all powered by the kinetic energy of flowing water as the water moves downstream. Turbines and generators convert the energy into electricity, which is subsequently fed into the electrical grid. The first type of hydropower is ‘impoundment’ which is the most common type. In this case, a dam will be used to store river water in a reservoir. The second, ‘diversion,’ is also sometimes referred to as ‘run-of-river.’ A facility will channel a portion of the river through a canal or penstock. This type of hydropower may or may not require the use of a dam. The third and final is ‘pumped storage.’ This is used when electricity demand is low. Energy is stored through pumping water from a lower reservoir to an upper reservoir. When electricity is in demand the water is released back to the lower reservoir to generate the electricity. For more information see: “Hydropower Technologies” *Hydrotu*.

<sup>49</sup> For example see source #44.

<sup>50</sup> For example see source #65.

<sup>51</sup> For example see source #69.

<sup>52</sup> For example see source #77.

<sup>53</sup> For example see source #38.

<sup>54</sup> For example see source #45.

<sup>55</sup> For example see source #39.

<sup>56</sup> For example see source #77.

<sup>57</sup> When a dam is built water builds up behind it which becomes the dam reservoir. Rivers naturally fluctuate in size depending on the season and the amount of rainfall. The construction of a dam will change where the river will naturally swell and where the flood zone will be. According to “Dam Safety”, by Burma Rivers Network, dams can exacerbate flooding. During rainy season, water will build up which leads to the decision to release the water which can cause serious flooding. If the dam was not present, the chances are that there would be natural flooding from heavy rainfall; however the dam can exacerbate this flooding.

<sup>58</sup> See source #44.

<sup>59</sup> For more information on the Hatgyi Dam, see: Lei Win, Thin “Thai, Burmese villagers fear secretive Salween Dam project,” *The Irrawaddy*, December 5<sup>th</sup> 2014. KHRG has reported on the Hatgyi Dam in *Losing Ground* and other reports. See: “Hatgyi Dam update and consultation concerns, December 2011 to May 2013,” KHRG, June 2014.

<sup>60</sup> See source #38.

In another report related to the Hatgyi Dam, Saw D---, the J--- village head, stated that in December 2012, J--- and E--- villagers were called for a pre-project meeting. In the meeting, Myo Myint Shwe stated that he received orders from a Myanmar government office to construct the dam:<sup>61</sup>

*“During the meeting, they said that if the dam is constructed, they will provide the electricity and moreover we will gain improvement [development] and the area that has been flooded by the water will be compensated for. Moreover, they said that the people who lost their houses will be relocated to Bago Region. So, it is a big problem for us to be relocated. The problems are not actually happening yet, so we just hold it in and let it be as it is.”*

Saw D---, (male, 53), J--- village, Bu Tho Township, Hpapun District/Northeastern Kayin State (Incident Report received in July 2013)<sup>62</sup>

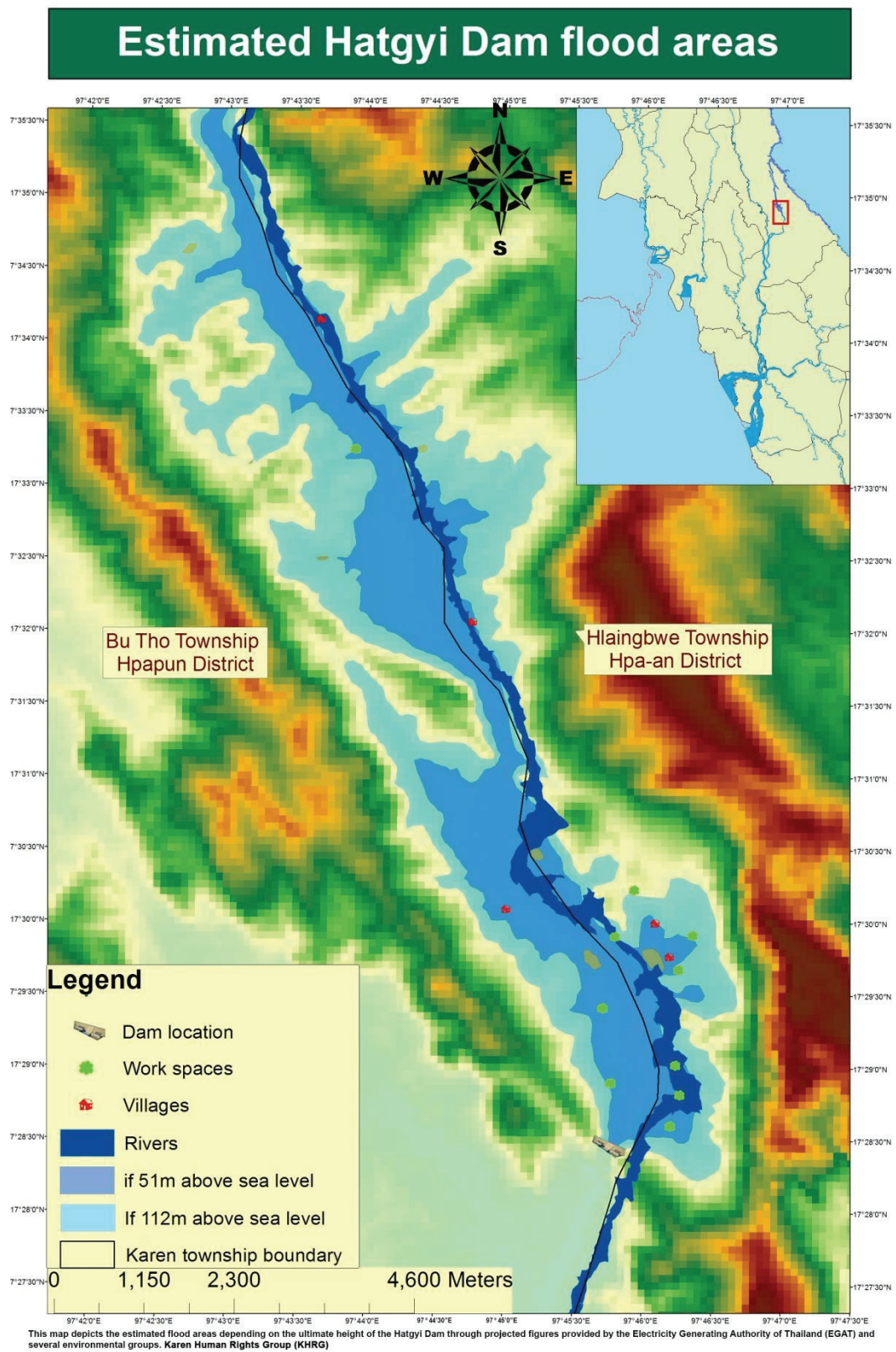
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<sup>61</sup> See source #37.

<sup>62</sup> Ibid.



Map 3:



### c. Bridge construction

Out of 56 reports regarding land confiscation due to infrastructure since December 2012, nine reports documented cases of land confiscation due to bridge construction projects. Bridge construction has occurred in Hpapun,<sup>63</sup> Dooplaya,<sup>64</sup> and Hpa-an districts.<sup>65</sup> Out of nine cases of land confiscation for bridge construction, eight were attributed to the Myanmar government<sup>66</sup> and one to BGF Battalion #1013.<sup>67</sup>

Villagers reported that due to the KNU signing the preliminary ceasefire with the Myanmar government in 2012, the KNU allowed the government to construct and repair bridges and three concrete vehicle roads. When the companies came and worked on the three roads, they widened the narrow parts of the roads and straightened the curves, cutting across particularly curved sections of the road in order to shorten them. As a result, the farms and plantations of some villagers were destroyed. Some of the owners of the land that was destroyed said that they would be very happy if they received proper compensation.<sup>68</sup>

### d. Local development projects

Out of 56 reports documenting land confiscation due to the development of infrastructure since December 2012, ten described cases of local development projects. These projects mainly consisted of the building of schools, libraries, wells, and a clinic. Land confiscation for these projects occurred in Thaton,<sup>69</sup> Toungoo,<sup>70</sup> Hpapun,<sup>71</sup> Dooplaya,<sup>72</sup> and Hpa-an districts.<sup>73</sup> Out of 10 reports regarding local development projects, five were attributed to Myanmar government officials,<sup>74</sup> two to Myanmar private companies,<sup>75</sup> and two reports to unknown actors.<sup>76</sup>

In one instance, a villager from F--- village in Kawkareik Township, Dooplaya District, reported that her land was confiscated by the Myanmar government in order to dig a well on her land.<sup>77</sup> When she complained to the district level authorities, they stated that they were building the well for the development of the village so she should not be complaining. She kept complaining however, and eventually they moved to another piece of land to dig the well. Her land was again confiscated by the government at a later date to build a school:

*"If they did not destroy my land, I could plant a lot of vegetables on it. However, they are taking all of our land and we cannot do [plant] anything. I feel sad because they said that they have given me money for taking my land, but I did not get anything. They [Burma/Myanmar government] give money to those [villagers] whose lands have been*

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<sup>63</sup> For example see source # 90.

<sup>64</sup> For example see source #52.

<sup>65</sup> For example see source #76.

<sup>66</sup> For example see source #62.

<sup>67</sup> See source #39.

<sup>68</sup> See source #53.

<sup>69</sup> For example see source #42.

<sup>70</sup> For example see source #47.

<sup>71</sup> For example see source #70.

<sup>72</sup> For example see source #27.

<sup>73</sup> For example see source #11.

<sup>74</sup> For example see source #28.

<sup>75</sup> For example see source #86.

<sup>76</sup> For example see source #92.

<sup>77</sup> See source #28.



*taken by them which are smaller than mine. They even gave 5,000 kyat (US \$4.84) to one of my nephews as they have taken his land which is very small land."*

Naw E---, (female, 44), F--- village, Kawkareik Township, Dooplaya District/Southern Kayin State (Interviewed in July 2013)<sup>78</sup>

### 3. Consequences

Out of the reports KHRG analysed, villagers and KHRG researchers identified livelihood issues,<sup>79</sup> environmental destruction,<sup>80</sup> and potential displacement<sup>81</sup> as the primary consequences of the projects. Villagers identified livelihood issues as the most common consequence faced. Of the 56 reports analysed, 27 cited livelihood issues as a major consequence,<sup>82</sup> compared to eight for environmental destruction<sup>83</sup> and one report where villagers faced potential displacement.<sup>84</sup> In addition, in one case villagers were tricked by authorities into assisting with the construction of a bridge without pay.<sup>85</sup>

#### a. Livelihood issues

Since December 2012, infrastructure projects have caused livelihood problems for villagers through the damage of plantation fields, loss of shelter, and flooding. Local infrastructure projects mainly resulted in the confiscation of land which is commonly used to plant crops which, by extension, leads to livelihood issues, as villagers can no longer sell their crops or provide for themselves or their families. The lack of consultation means villagers are unable to have any sort of voice regarding the implementation of the project, and are therefore unable to give their consent. Lack of consultation and information also curtails their chances of finding alternatives to, for example, growing crops. Lack of compensation for confiscated land meant that villagers did not have the funds to either buy new land or to start again by planting new crops.

In G--- village, Hti Lon Township, Hpa-an District, villagers suffered livelihood issues following the flooding caused by the Hti Lon Dam.<sup>86</sup> It was reported that the villagers lost more than 3,000 acres of their land due to flooding of the dam reservoir. They reported the case to the Myanmar government but the government did not do anything to help them:

*"The names which I have listed above are the individual villagers whose land, paddy fields and plantations have been flooded after the Tatmadaw constructed the dam. The names that I have listed here are only those from G--- village. As the water began flooding their land, they tried to speak with the local government but they did not do anything for them."*

Situation Update written by a KHRG researcher, Hti Lon Township, Hpa-an District/Central Kayin State (Received in April 2014)<sup>87</sup>

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<sup>78</sup> Ibid.

<sup>79</sup> For example see source #53.

<sup>80</sup> For example see source #77.

<sup>81</sup> For example see source #38.

<sup>82</sup> See sources #38; #62; #39; #36; #77; #78; #79; #45; #39; # 92; #21; #53; #62; #84; #59; #58; #97; #74; #81; #82; #50; #63; #103; #32; #39; #92; and #27.

<sup>83</sup> See sources #85; #77; #78; #79; #21; #85; #84; and #84.

<sup>84</sup> See source #38.

<sup>85</sup> See source #40.

<sup>86</sup> See source #79.

<sup>87</sup> Ibid; in this situation update, the KHRG researcher provided a list of 40 names of villagers who had lost their land.

## **b. Environmental destruction**

Infrastructure projects have also caused various types of environmental destruction in the current reporting period. The environmental destruction mainly occurred following the construction of roads and bridges. Dam projects also damaged the environment via reservoir flooding.<sup>88</sup> Flooding has a severe impact on villagers' crops and plantations, as well as the ecosystems in the immediate vicinity of the flooding.

## **c. Forced labour**

Since the preliminary ceasefire between the Myanmar government and the KNU in 2012, KHRG has documented cases of forced labour imposed on villagers during infrastructure projects.<sup>89</sup> One report states that the villagers from H--- village in Bu Tho Township, Hpapun District, were forced to construct a bridge that crosses the Pgheh Loh River from east to west.<sup>90</sup> According to the plan, it would be finished in three years. Although villagers reported that in some cases they were paid a small amount for their labour, the work they were doing still constitutes forced labour as the work was carried out against their will, often backed by an implicit or explicit threat of violence.<sup>91</sup>

## **4. Trends compared to 2011-2012**

In 2011-2012, KHRG identified a number of large-scale infrastructure projects occurring in southeast Myanmar.<sup>92</sup> These included eight hydropower dam projects and four infrastructure development projects. Since December 2012, KHRG has noted an increase in the number of projects and subsequent cases of land confiscation reported by villagers, both regarding continued issues with those projects identified in *Losing Ground*, as well as with newly identified projects.

Since December 2012, KHRG has identified two new hydropower dam projects. Although this is a decrease in project number since the eight new hydropower dam projects identified in 2011, the trend of large-scale infrastructure in the form of dams is continuing in southeast Myanmar.

One notable finding is the increase in cases regarding road construction. During the current reporting period, KHRG received an increase in reports specifically related to the construction of roads. While there were reports concerning the construction of roads from 2011 to 2012, since December 2012, this amount has increased.

Lack of local engagement prior to the implementation of development projects continues to be a major concern. The 56 reports compiled and the 68 documented cases within these reports gathered by KHRG on infrastructure highlight the continuation and acceleration of large-scale infrastructure and development projects occurring in southeast Myanmar. Villagers are still not always being consulted and are therefore unable to voice their opinions on whether the projects should be implemented and are unable to inquire about the consequences of projects and subsequent compensation. Villagers continue to be either provided with compensation which is far less than what they are entitled to; or promised compensation but are yet to receive any or are outright denied the compensation they are entitled to.

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<sup>88</sup> See source #77.

<sup>89</sup> For example see source #40.

<sup>90</sup> Ibid.

<sup>91</sup> The villagers were initially told by the Tatmadaw that the bridge construction was being enforced by a monk. As the majority of the villagers are Buddhist, they felt they could not say no. They were further told that the bridge would better their transportation.

<sup>92</sup> For a list of these projects, see Section VI. "Projects under Observation" in *Losing Ground*.



The photo on the left was taken on July 30<sup>th</sup> 2013 in L--- village, Kawkareik Township, Dooplaya District/Southern Kayin State. The photo shows the preliminary stage of the construction of a road which destroyed villagers' paddy fields. Villagers reported that they were not provided with any compensation for damaged land. The photo on the right shows a paddy field in N--- village, Kawkareik Township, Dooplaya District/Southern Kayin State in 2014. The Thoo Lei Company previously constructed a road through this paddy field. The road is now being reconstructed again and has blocked an irrigation ditch causing the surrounding paddy fields to flood. [Photos: KHRG]



These photos were taken on December 10<sup>th</sup> 2013 in H--- village, Kyonedoe Township, Dooplaya District/Southern Kayin State. The first photo shows road construction which damaged villagers' lands and destroyed villagers' home compounds. The second photo shows a villager's betel nut plantation that was destroyed as a result of the road construction. The villagers reported that they were told they would receive compensation, however, they are yet to receive any. [Photos: KHRG]





These photos were taken on August 25<sup>th</sup> 2013 in D--- village, Thandaunggyi Township, Toungoo District/Northern Kayin State. They show a landslide and the subsequent damage to a garden as a result of the flooding caused by the Toh Boh Dam built by the Shwe Swun In Company. The villagers reported that the district leaders promised them they would help get compensation for what they lost, yet very few villagers received compensation. *[Photos: KHRG]*



The photo above was taken on December 30<sup>th</sup> 2012 in C--- village, Kawkareik Township, Dooplaya District/Southern Kayin State. It depicts the construction of a bridge by the Myanmar government in an attempt to try and improve the lives of the villagers. The construction destroyed the villagers' plantation fields and they reported that they were given insufficient compensation. *[Photo: KHRG]*



This photo was taken in July 2013 nearby Kyaukkyi and Shwegyin townships in Nyaunglebin District/Eastern Bago Region. It shows an area submerged by flood waters from the Shwegyin Dam. Local vegetation, such as trees and bamboo, have been destroyed due to flooding. *[Photo: KHRG]*

## B. Natural resource extraction

*“They destroy our paddy field that we are working on by mining and scattering stones on the paddy field. Is that their ancestor’s paddy field? When we complain, none of them admit [their involvement]. What are they, dogs? If they were human they would not act like this... What kind of people are they? Even I complained and no one responded...They just laugh at me when I complain to them. They do not care about what I am saying.”*

Naw T---, (female), D--- village, Kyonedoe Township, Doolaya District/Southern Kayin State (Interviewed in November 2014)<sup>93</sup>

Between December 2012 and January 2015, KHRG received 55 reports concerning land confiscation for the purposes of natural resource extraction (NRE). These projects occurred across all seven of KHRG’s research areas in southeast Myanmar. Gold mining was identified in 26 reports, stone mining in 17 reports, logging in eight reports, while sand, lead, coal, and antimony mining were also mentioned. Land confiscation usually occurred with little or no prior consultation and in the majority of cases, villagers did not receive any compensation for their appropriated land. Of the 55 reports detailing land confiscation, only three involved compensating villagers for their land, nine reports involved partial compensation for villagers, and only six reports mentioned consultation with villagers before their land was taken. Villagers identified livelihood issues, environmental destruction, and health issues as the most common consequences of land confiscation for NRE projects.

*“There is no compensation for the land that was confiscated...And they told me ‘If you are talkative [complaining], you will not receive any money.’ So I dare not talk [complain].”*

Naw D---, (female), B--- village, Ma Lay Ler village tract, Dwe Lo Township, Hpapun District/Northeastern Kayin State (Land Grabbing Form received in July 2014)<sup>94</sup>

This chapter focuses on land confiscation and the damage done to land as a result of natural resource extraction projects. For the purposes of analysis, KHRG defines NRE as the removal of natural resources from the ground or forest areas, including minerals and metals, as well as organic material, such as trees. Villagers reported the appropriation of their land and communal forest areas by development actors, as well as damage to their land and the environment as a consequence of NRE projects.

### Key Findings

- The majority of reports related to natural resource extraction that KHRG received concerned land confiscation for gold mining projects, followed by stone mining and logging.
- The majority of cases involved little or no compensation for land that was confiscated, while only a small number of cases involved consultation with villagers prior to land confiscation.
- Villagers identified Myanmar private companies and wealthy individuals as the most common perpetrators of land confiscation, often in collusion with armed actors and Myanmar government officials.
- Villagers reported that gold mining resulted in extensive environmental damage, including the release of chemicals into rivers and soil erosion, in addition to health and livelihood issues.
- Villagers reported damage to their fields due to the construction of mine access roads and being forbidden by development actors to conduct small-scale gold panning. In some areas villagers reported increases in food prices due to the scarcity of meat and fish.
- Villagers highlighted that domestic corporate actors would sometimes confiscate land for dual purposes, both to log trees on the land, and then plant rubber plantations once all the trees had been felled.

<sup>93</sup> See source #113.

<sup>94</sup> See source #12b.

## 1. Occurrences and actors

Since December 2012, villagers and KHRG researchers working with KHRG reported cases of direct or indirect land confiscation related to NRE projects 55 times across all seven KHRG research areas in southeast Myanmar.<sup>95</sup> The majority of reports received by KHRG involved NRE projects in Hpapun District, followed by Dooplaya and Thaton districts.

Land confiscation for the purpose of implementing NRE projects was perpetrated by, or with the cooperation of, the Tatmadaw,<sup>96</sup> Karen BGFs,<sup>97</sup> KNU,<sup>98</sup> KNU/KNLA-PC,<sup>99</sup> DKBA,<sup>100</sup> KPF,<sup>101</sup> Myanmar government officials,<sup>102</sup> Myanmar private companies,<sup>103</sup> foreign private companies,<sup>104</sup> and wealthy individuals.<sup>105</sup> Villagers identified Myanmar private companies and wealthy individuals as the perpetrators most often involved in abuses related to NRE projects, often in collusion with armed actors and Myanmar government officials.

According to villager testimony, land confiscation usually occurred with little or no prior consultation. In the majority of cases, villagers did not receive any compensation for their appropriated land. Of the 55 cases of land confiscation related to NRE that KHRG documented, only three reports involved compensating villagers for their land,<sup>106</sup> nine reports involved partial compensation for villagers (either below the market value of their land<sup>107</sup> or below the value promised by the perpetrator),<sup>108</sup> and only six reports mentioned consultation with villagers before their lands were taken.<sup>109</sup> In one instance, villagers reported being forced to sign an agreement to sell resources on their land.<sup>110</sup>

*"In terms of the compensation, at first I was promised that I would be given 2,000,000 kyat (US \$1,929.58) per acre. However, since I am [now] being given only 2,000,000 kyat for seven acres of my land, I do not feel satisfied. I cannot do anything. I just have to forget about it. I also cannot use the land in the future [after they have conducted gold mining]."*

Saw A---, (male), D--- village, Ma Lay Ler village tract, Dwe Lo Township, Hpapun District/Northeastern Kayin State (Land Grabbing Form received in July 2014)<sup>111</sup>

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<sup>95</sup> For an example of land confiscation in Thaton District see source #9; in Toungoo District see source #71; in Nyaunglebin District see source #19; in Mergui-Tavoy see source #80; in Hpapun District see source #22; in Dooplaya District see source #14-10-LGF1; in Hpa-an District see source #98.

<sup>96</sup> For example see source #102.

<sup>97</sup> For example see source #25.

<sup>98</sup> For example see source #22.

<sup>99</sup> For example see source #43.

<sup>100</sup> For example see source #62.

<sup>101</sup> For example see source #49.

<sup>102</sup> For example see source #20.

<sup>103</sup> For example see source #42.

<sup>104</sup> For example see source #95.

<sup>105</sup> For example see source #19.

<sup>106</sup> For example see source #16.

<sup>107</sup> For example see source #12b.

<sup>108</sup> For example see source #13b.

<sup>109</sup> For example see source #49.

<sup>110</sup> See source #17.

<sup>111</sup> See source #13b.

## 2. Project subtypes

### a. Gold mining

KHRG has received 26 reports during the reporting period regarding land confiscation involving gold mining projects. These projects occurred in Thaton,<sup>112</sup> Toungoo,<sup>113</sup> Nyaunglebin,<sup>114</sup> and Hpapun districts.<sup>115</sup> The majority of cases were from Hpapun District, with 14 reports in total. The abuses were perpetrated by, or with the cooperation of, wealthy individuals,<sup>116</sup> Tatmadaw,<sup>117</sup> Myanmar government officials,<sup>118</sup> KNU/KNLA,<sup>119</sup> Myanmar private companies,<sup>120</sup> and foreign private companies.<sup>121</sup>

On February 4<sup>th</sup> 2013, a Myanmar private company began a gold mining operation in Ee Hkoo Hkee and P'Da Daw village tracts in Bilin Township, Thaton District. They were given permission by the KNU and the local business committee to mine for six months on the condition that they paid tax to the KNU. In order to access the gold in Boo Loh River, they drilled the sand from the river and dumped the sand on the top of a steep bank, covering villagers' work places and damaging the local environment.<sup>122</sup>

In another instance, on March 4<sup>th</sup> 2014 in T--- village, Ma Lay Ler village tract, Dwe Lo Township, Hpapun District, seven acres of land belonging to Saw D--- were confiscated by wealthy individuals in order to implement a gold mining project. There was no consultation prior to the beginning of the project. Although Saw D--- was promised 2,000,000 kyat (US \$1,929.58) for his seven acres of land, he was only given 1,000,000 kyat (US \$964.79). He was asked to hand over his land title on the condition that it would be returned to him afterward, however, he has not received his land title back and has not received the full compensation promised to him.<sup>123</sup>

*"I even do not know any of the ways how to protect my land. Since people come to conduct [gold mining] and people said that it is the land of the [Myanmar] government, we do not do anything. Although we have our land with the land title, people take our land title and work on our land...I cannot do anything to protect my land."*

Saw D---, (male), Ma Lay Ler village tract, Dwe Lo Township, Hpapun District/ Northeastern Kayin State (Land Grabbing Form received in July 2014)<sup>124</sup>

*"The civilians have faced many difficulties because of gold mining projects and their land has been confiscated without any payment...Some villagers said that in the future it will not be easy [to sustain] their livelihoods."*

Situation Update written by a KHRG researcher, Dwe Lo Township, Hpapun District/ Northeastern Kayin State (Received in July 2014)<sup>125</sup>

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<sup>112</sup> For example see source #89.

<sup>113</sup> For example see source #72.

<sup>114</sup> For example see source #55.

<sup>115</sup> For example see source #89.

<sup>116</sup> For example see source #72.

<sup>117</sup> For example see source #13.

<sup>118</sup> For example see source #20.

<sup>119</sup> For example see source #22.

<sup>120</sup> For example see source #89.

<sup>121</sup> For example see source #95.

<sup>122</sup> See source #42.

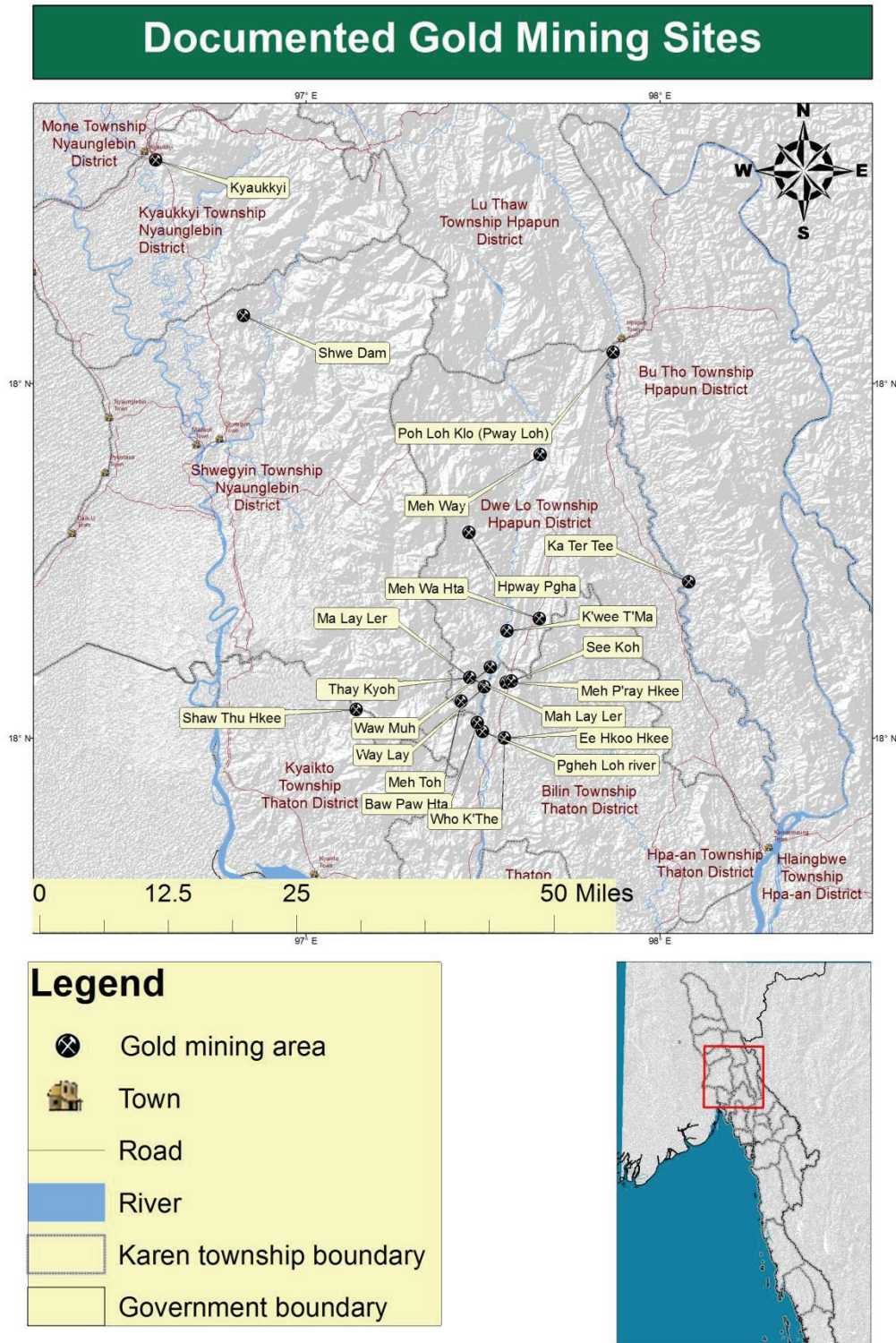
<sup>123</sup> See source #13b.

<sup>124</sup> Ibid.

<sup>125</sup> See source #95.



Map 4:





## b. Stone mining

KHRG has received 17 reports regarding stone mining projects related to direct and indirect land confiscation, which have occurred in Toungoo,<sup>126</sup> Mergui-Tavoy,<sup>127</sup> Hpapun,<sup>128</sup> Dooplaya,<sup>129</sup> and Hpa-an districts.<sup>130</sup> The main perpetrators who were involved in the projects were wealthy individuals,<sup>131</sup> Karen BGFs,<sup>132</sup> Myanmar private companies,<sup>133</sup> foreign private companies,<sup>134</sup> and Myanmar government officials.<sup>135</sup>

On March 1<sup>st</sup> 2013, in M--- village, Paw village tract, Paingkyon Township, Hpa-an District, BGF Battalion #1017 Battalion Commander Lah Thay damaged part of Naw T---'s paddy field while mining stone nearby at a cliff. There are also several other farms located next to Naw T---'s fields. Battalion Commander Lah Thay sold these stones to construction companies. Naw T--- was neither consulted prior to the mining project, nor was she provided with compensation for her damaged land.<sup>136</sup>

In C--- village, Lay T'Ler base, Kyonedoe Township, Dooplaya District, several villagers' lands were damaged due to a stone mining project led by businessman U Tin Moe Aung. Villagers reported that the project blocked and damaged drains so that the paddy fields could not drain properly, leaving villagers facing problems when working on them.

*"In the past in our parents' generation, we worked on flat fields and relied on it. We also paid the taxes for the flat fields. But now our flat fields are damaged [from stone mining projects] and the paddy grains also died so much. We don't know what to do."*

Photo Notes written by a KHRG researcher, Kyonedoe Township, Dooplaya District/  
Southern Kayin State (Received in February 2014)<sup>137</sup>

## c. Logging

KHRG has received eight reports related to land confiscation in order for logging projects to be implemented. *T'la aw* trees<sup>138</sup> and bamboo are the most commonly cited as being logged. These trees are logged in order to be sold for money,<sup>139</sup> as well as to clear the land for rubber plantations.<sup>140</sup> These projects occurred in six Karen districts,<sup>141</sup> perpetrated by Myanmar government officials,<sup>142</sup> wealthy individuals,<sup>143</sup> Tatmadaw,<sup>144</sup> DKBA,<sup>145</sup> Karen BGFs,<sup>146</sup> and KNU/KNLA-PC.<sup>147</sup>

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<sup>126</sup> For example see source #10.

<sup>127</sup> For example see source #80.

<sup>128</sup> For example see source #32.

<sup>129</sup> For example see source #60.

<sup>130</sup> For example see source #11.

<sup>131</sup> For example see source #60.

<sup>132</sup> For example see source #25.

<sup>133</sup> For example see source #83.

<sup>134</sup> For example see source #64.

<sup>135</sup> For example see source #32.

<sup>136</sup> See source #25.

<sup>137</sup> See source #60.

<sup>138</sup> *T'la aw* trees are teak-like trees with large leaves, which are traditionally collected by villagers and used to make thatched shingles for the roofs of houses.

<sup>139</sup> For example see source #96.

<sup>140</sup> For example see source #43.

<sup>141</sup> For an example of land confiscation related to logging in Thaton District see source #107; in Toungoo District see source #45; in Nyaunglebin District see source #54; in Hpapun District see source #96; in Dooplaya District see source #62; in Hpa-an District see source #43.

<sup>142</sup> For example see source #54.

<sup>143</sup> For example see source #56.

<sup>144</sup> For example see source #107.

For example, in Nabu Township, Hpa-an District, villagers report that wealthy individuals and local authorities confiscated the communal *t'la aw* forest and logged the trees, turning it into the rubber plantations afterwards. The villagers are now faced with difficulties in roofing their houses and finding firewood:

*"Fewer people are allowed to participate in logging ta la aw trees and planting rubber trees. Most [people who are logging] are rich people from the city and some resident business men cooperate together to confiscated the ta la aw forest. They said that it was uncultivated land, so they operated a logging [project on the land], then switched to rubber plantations [when the trees were all removed]. If we are not going to assess or protect [the forest...there will also be] no more ta la aw trees to collect either."*

Situation Update written by a KHRG researcher, Nabu Township, Hpa-an District/  
Central Kayin State (Received in October 2013)<sup>148</sup>

#### **d. Other**

KHRG has received two reports regarding a lead mining project in Mergui-Tavoy District, where land confiscation was perpetrated by Myanmar government officials in conjunction with a Myanmar private company.<sup>149</sup> KHRG researchers also submitted two reports regarding a brick making project in Hpapun District perpetrated by the Tatmadaw.<sup>150</sup> Furthermore, KHRG has received one report related to land confiscation for a coal mining project,<sup>151</sup> one report related to iron mining perpetrated by the KPF and a foreign private company,<sup>152</sup> and one report related to antimony mining perpetrated by a Myanmar private company<sup>153</sup>, all in Dooplaya District.

### **3. Consequences**

Out of the 55 reports KHRG analysed, villagers and KHRG researchers identified environmental destruction,<sup>154</sup> livelihood issues,<sup>155</sup> health issues,<sup>156</sup> violence or violent threats,<sup>157</sup> restrictions on freedom of movement,<sup>158</sup> and displacement<sup>159</sup> as consequences of land confiscation for NRE projects. By far, environmental destruction and livelihood issues were the most documented consequence. For example, of the 55 reports analysed, 40 cited environmental destruction and 30 cited livelihood issues as the major consequences, as compared to 15 for health issues, three for violence (including killing), two for displacement, and two for restrictions on the freedom of movement.

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<sup>145</sup> For example see source #62.

<sup>146</sup> For example see source #96.

<sup>147</sup> For example see source #62.

<sup>148</sup> See source #56.

<sup>149</sup> See source #80.

<sup>150</sup> See source #102.

<sup>151</sup> See source #68.

<sup>152</sup> See source #49.

<sup>153</sup> See source #62.

<sup>154</sup> For example see source #112.

<sup>155</sup> For example see source #10.

<sup>156</sup> For example see source #68.

<sup>157</sup> For example see source #17.

<sup>158</sup> For example see source #95.

<sup>159</sup> For example see source #12b.

## a. Environmental destruction

During the reporting period, villagers and KHRG researchers reported that NRE projects contributed to environmental destruction by polluting rivers with engine oil and other chemicals;<sup>160</sup> stirring up mud;<sup>161</sup> releasing toxic chemicals such as mercury into the surrounding environment;<sup>162</sup> eroding river banks;<sup>163</sup> shifting soil, sand and stones in rivers which diverted water causing flooding;<sup>164</sup> deforestation;<sup>165</sup> soil erosion,<sup>166</sup> and leaving the site disrupted after a project finished.<sup>167</sup>

*“The gold miners [businessmen] are from Yangon. There are only a few residents [local villagers]. The gold mining destroys the land a lot and harms the environment. Moreover, because they use the chemicals, it causes problems for the residents. The water is not pure and there is only poisonous water left.”*

Situation Update written by a KHRG researcher, Kyaukkyi Township, Nyaunglebin District/Eastern Bago Region (Received in May 2013)<sup>168</sup>

*“[Last year] on October 11<sup>th</sup> 2012, LID [Light Infantry Division] #44 Operations Commander Tin Min Hla conducted a gold mining operation on the eastern side of the Boo Law River in Brigade One [Thaton District], Bilin Township, Meh Hpray Hkee village tract. [He ordered] soil and stones to be moved to the western side of Boo Law River [in order to facilitate mining]. Sand, soil and stones accumulated blocking the river and diverted the water into Waw Muh village tract, Dwe Lo Township, Mu Traw [Hpapun] District. [Consequently], many of the Wa Lay and Waw Muh villagers’ farms and plantations were destroyed [by the flooding].”*

Situation Update written by a KHRG researcher, Dwe Lo Township, Hpapun District/Northeastern Kayin State (Received in November 2013)<sup>169</sup>

## b. Livelihood issues

In addition to environmental destruction, villagers faced livelihood issues due to the implementation of natural resource extraction projects. In Mel Way village tract, Dwe Lo Township, Hpapun District, a Myanmar private company, Myin Ta Ro, began working together with local Karen leaders to mine for gold in the Mel Way River. Because of this, villagers’ lands next to the river were partially destroyed:<sup>170</sup>

*“We cannot have our food that we have planted this year. In the coming year, we cannot plant our crops in the plantation anymore because the plantation land of ours has been destroyed. The crops were destroyed as well.”*

Situation Update written by a KHRG researcher, Dwe Lo Township, Hpapun District/Northeastern Kayin State (Received in July 2014)<sup>171</sup>

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<sup>160</sup> See sources #68; #134; #80; #109; #22; and #95.

<sup>161</sup> See sources #16; #23; #33; #35; and #9.

<sup>162</sup> See sources #16 and #19.

<sup>163</sup> See sources #13; #6; and #95.

<sup>164</sup> See sources #13 and #35.

<sup>165</sup> See source #68.

<sup>166</sup> See sources #12; and #94.

<sup>167</sup> See source #104.

<sup>168</sup> See source #19.

<sup>169</sup> See source #13.

<sup>170</sup> See source #89.

<sup>171</sup> Ibid.

In addition, livelihood issues are often tied to issues of environmental destruction, as villagers in southeast Myanmar rely heavily on the surrounding natural environment for their livelihoods. The destruction, or potential destruction, of farmland and paddy fields villagers use to earn their livelihoods was cited as a primary consequence of NRE projects.<sup>172</sup> This involved the destruction or damage to paddy and farming fields, including the building of roads through paddy fields to access gold mining sites;<sup>173</sup> destruction of crops;<sup>174</sup> destruction of farmers' sluices<sup>175</sup> and water access systems;<sup>176</sup> deforestation of communal forest areas villagers used for housing and firewood;<sup>177</sup> and obstructing or damaging drains in paddy fields which causes flooding.<sup>178</sup> Furthermore, river pollution has made fish and meat scarce in some townships,<sup>179</sup> driving up food prices,<sup>180</sup> while also killing villagers' livestock.<sup>181</sup>

*"Most of the domestic food prices have increased, especially the price of meat. People cannot easily find meat around the area...On the one hand, they [the villagers] are tolerant of the situation [gold mining] because they have more than enough vegetables...One villager from Kwee T'Mah said, 'In the past, when we wanted to eat fish, we could find [them] in the Bilin River, but now we can't find them anymore because the river is very muddy.' Moreover, one of villagers said, 'Now, the wild animals have become scarce.'"*

Situation Update written by a KHRG researcher, Dwe Lo Township, Hpapun District/  
Northeastern Kayin State (Received in February 2013)<sup>182</sup>

*"Because the flowing of polluted water contains chemicals, when cattle, buffalos and fish drink the water, it causes disease and, as a result, some have died."*

Situation Update written by a KHRG researcher, Dwe Lo Township, Hpapun District/  
Northeastern Kayin State (Received in May 2013)<sup>183</sup>

KHRG has also received several reports concerning the prohibition of panning for gold in areas where commercial gold mining operations occur.<sup>184</sup> For example, in A--- village, Waw Muh village tract, Dwe Lo Township, Hpapun District, villagers reported that in February 2014 a Chinese gold mining company began digging a gold mine. They destroyed the land near the Buh Loh River and the company workers did not allow the villagers who live near the river to pan for gold. This affected livelihoods as some villagers pan for gold in order to supplement their incomes.<sup>185</sup>

*"This year the [Chinese] gold mining company started to dig a mine in the second month of 2014 in A--- village, Ma Lay Ler village tract, Dwe Lo Township, Mu Traw [Hpapun] District at the Mee Th'Roo Poh River. They destroyed the land near to that river and the company workers did not allow the villagers who live near the river to pan for gold...Therefore they cannot sustain any of their livelihoods from panning gold and this has caused problems."*

Situation Update written by a KHRG researcher, Dwe Lo Township, Hpapun District/  
Northeastern Kayin State (Received in May 2014)<sup>186</sup>

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<sup>172</sup> See sources #10 and #94.

<sup>173</sup> See sources #20 and #25.

<sup>174</sup> See source #20.

<sup>175</sup> Ibid.

<sup>176</sup> See sources #61.

<sup>177</sup> See sources #68; #62; and #45.

<sup>178</sup> See sources #60 and #21.

<sup>179</sup> See sources #16 and #35.

<sup>180</sup> See source #16.

<sup>181</sup> See source #68; and #80.

<sup>182</sup> See sources #16.

<sup>183</sup> See source #22.

<sup>184</sup> See sources #95; and #66.

<sup>185</sup> See source #95.

<sup>186</sup> Ibid.

### c. Health issues

Villagers reported skin and other diseases from drinking and bathing in polluted waters,<sup>187</sup> respiratory issues from breathing dust from NRE projects,<sup>188</sup> headaches and dizziness from polluted air,<sup>189</sup> shortages of safe drinking and bathing water,<sup>190</sup> as well as the destruction of wells, which contributed to such shortages.<sup>191</sup>

As these reports make clear, villagers have been worried for their health due to NRE projects in their areas:

*“Because the people who are working on the gold mining used so many chemicals, we do not dare to use the water from the river for drinking and bathing because we are afraid that it would cause diseases. The polluted water not only causes problems for us but also causes problems for fish, shrimp, buffalo and cattle. It causes diseases and makes the animals die when they drink it.”*

Situation Update written by a KHRG researcher, Dwe Lo Township, Hpapun District/Northeastern Kayin State (Received in March 2014)<sup>192</sup>

*“A company came to a place in Ta Moh Theh and did coal mining, and in a place in Meh Kwaw Hkee, there is a stone mining project. Because of those projects the villagers face deforestation and their food has also been contaminated. The villagers get many skin diseases because of drinking and bathing in polluted water. Because the villagers breathe so much dust from the stone, they also get lung disease [respiratory problems], headache and dizziness. The villagers reported this to the leaders [Myanmar government township level officials] to help them solve the problems that they are facing. However, the villagers said that they have not received any response from them yet.”*

Situation Update written by a KHRG researcher, Kyainseikgyi, Kawkareik and Kyonedoe townships, Dooplaya District/Southern Kayin State (Received in March 2014)<sup>193</sup>

*“This water is very dirty so we could not use [this] water. Furthermore, our animals also can’t drink this water either. A group came and tested the water condition and they found that the water has poison.”*

Situation Update written by a KHRG researcher, Ler Doh Soh Township, Mergui-Tavoy District/Tanintharyi Region (Received in June 2014)<sup>194</sup>

### d. Displacement

KHRG received two reports of displacement due to natural resource extraction projects, occurring in Thaton and Dooplaya districts.

In one instance, farmers had their land confiscated by wealthy individuals and they were asked to move from their lands.<sup>195</sup> The villagers were not paid any compensation for their confiscated land. There was also no consultation with the villagers prior to confiscation. A villager in H---village, Ma Lay Ler village tract, Dwe Lo Township, Hpapun District reported:

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<sup>187</sup> See sources #68; #35; and #66.

<sup>188</sup> See source #68.

<sup>189</sup> See source #62.

<sup>190</sup> See sources #80; #33; #134; #35; #89; #80; #109; and #95.

<sup>191</sup> See source #95.

<sup>192</sup> See source #66.

<sup>193</sup> See source #68.

<sup>194</sup> See source #80.

<sup>195</sup> See source #12b.

*"On February 1<sup>st</sup> 2014, they entered and conducted [the gold mining project], [and] they asked us to relocate. When they came, they also came with their machines. They came and measured [the place on my land] and said to me that it will be about 2 acres of the land [that they are going to take]. Then they asked me to move and build my hut at the upper part of the land a little bit. I do not know [why they asked me to move my hut]. I did what they asked me. I do not know [was not consulted] when the gold mining was to be conducted."*

Saw L---, (male), Ma Lay Ler village tract, Dwe Lo Township, Hpapun District/Northeastern Kayin State (Land Grabbing Form received in July 2014)<sup>196</sup>

In a second incident, a KHRG researcher reported that in Law Pah Kee village, Kyainseikgyi Township, Dooplaya District, villagers had moved due to river pollution caused by a stone mining project conducted by Chinese wealthy individuals:

*"There are around thirty to forty houses in this village. In the past there were more houses than nowadays. Because of the increase in stone mining the water has become unsafe and polluted; some people cannot put up with this and have moved to another place."*

Photo Notes written by a KHRG researcher, Kyainseikgyi Township, Dooplaya District/Southern Kayin State (Received in December 2014)<sup>197</sup>

#### **e. Killings, violence and threats**

KHRG received three reports of violence or threats related to NRE projects in Kayin State.

In October 2014, in B--- village, Paingkyon Township, Hpa-an District, a senior monk was arrested and killed by five KNU/KNLA-PC soldiers, including Company Commander Ta Wah, after the monk denied them permission to log *t'la aw* trees located in the monastery's gardens. The leaves of the *t'la aw* trees are commonly used by villagers to create thatch shingles for roofing their houses. When the villagers recovered the monk's body, there was physical evidence that the monk had suffered violent abuse and his body set on fire before he was buried by the soldiers.

*"The purpose of this monk [in protecting the trees] was to build the monastery [to live in the garden] and to protect the t'la aw trees so villagers who do not have enough leaves for their roofs can use them...[He] is our monk. They should not keep him in the forest. We knew they already killed him so we asked him to show us [where they buried him] and we dug him up. We brought back his corpse to the monastery. We gave him a bath and had a memory worship program."*

U A---, (male, 49), B--- village, Paingkyon Township, Hpa-an District/Central Kayin State (Interviewed in November 2014)<sup>198</sup>

Another example of violence related to a NRE project involves a sand mining operation in Dwe Lo Township, Hpapun District.<sup>199</sup> A corporation known locally as 'the Green Hill Company,' with reported ties to BGF Battalions #1013 & #1014,<sup>200</sup> began mining sand for a construction project. One villager reported being forced by these BGF battalions to sign an agreement allowing the company to remove sand from his plot of land. The land of two villagers' plots was damaged during the extraction process, after which they requested from the village tract leader and a KNLA officer that the project be stopped. On February 11<sup>th</sup> 2013, the company's truck was struck by a landmine, killing the civilian driver and four other

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<sup>196</sup> Ibid.

<sup>197</sup> See source #64.

<sup>198</sup> See source #110.

<sup>199</sup> See source #17. This incident was also included in KHRG's previous thematic report, see: *Truce or Transition?* KHRG, May 2014.

<sup>200</sup> Ibid.

civilian workers. Reports indicate that the landmine may have been planted by KNLA Battalion #102 to stop the project.<sup>201</sup> This may have been an instance of conflict between armed actors. The KNLA, Karen BGFs, DKBA, and Tatmadaw are all active in the area.

A third incident occurred in January 2014 in M--- village, Bu Tho Township, Hpapun District. BGF Battalion #1014 2<sup>nd</sup> Lieutenant Tha Beh confiscated U A---'s land after the village elder had complained to 2<sup>nd</sup> Lieutenant Tha Beh regarding his abusive behaviour<sup>202</sup> toward the villagers. The villager was then threatened by him:

*“Officer Tha Beh told me not to log trees from that forest [area] and that he would shoot me with gun if I log trees from that forest [area]. [If I did log trees], he would tell people to come after me and he said that he would cut off my head in front of the villagers and then take it [my head] around the village.”*

Saw A--- (male, 51), M--- village, Bu Tho Township, Hpapun District/ Northeastern Kayin State (Interviewed in January 2014)<sup>203</sup>

#### **f. Other**

KHRG received two reports concerning restrictions on the freedom of movement, both of them as a consequence of gold mining in Hpapun District.<sup>204</sup>

For example, in November 2013, gold mining projects began in the Meh Way Hta River, Bu Lo River, Meh Toh River, and Meh Kleh River in Dwe Lo Township, Hpapun District. The KNLA Operations Commander of Brigade #5, Kyaw They, took charge of the mining operations in conjunction with Myanmar private companies:

*“Commander Kyaw They has been given duty to be in charge of it [gold mining in Hpapun District]. He banned the villagers from traveling and only allowed the people that he likes to travel. It is difficult for the villagers to travel because of the movement of restriction.”*

Situation Update written by a KHRG researcher, Dwe Lo Township, Hpapun District/ Northeastern Kayin State (Received in March 2014)<sup>205</sup>

#### **Case Study: The environmental consequences of gold mining in Dwe Lo Township, Hpapun District**

*“I think the Karen leaders might have thought that this gold mining would benefit the civilians and opened [gave permission for] gold mining, but because there is no benefit for the civilians, I think they should stop it. Finally, I will just say this: if the Karen leaders forbid gold mining, I will be very happy and also the civilians will be very happy.”*

Saw A---, Meh Kyoh village tract, Dwe Lo Township, Hpapun District/Northeastern Kayin State (Incident report received in May 2013)<sup>206</sup>

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<sup>201</sup> *Truce or Transition?*, Appendix 1: Raw Data Testimony (January 2012 to November 2013). Sources #95; #230; #279; and #307.

<sup>202</sup> KHRG has received numerous reports involving human rights abuses committed by BGF Battalion #1014 2<sup>nd</sup> Lieutenant Officer Tha Beh, including violent abuse, forced labour, explicit threats and arbitrary arrest and detention. See “Violent abuse and forced labour in Hpapun District, November 2013 – January 2014,” KHRG, September 2014; “Hpapun Incident Report: Forced labour and violent abuse in Bu Tho Township, January 2014,” KHRG, August 2014; “Hpapun Situation Update: Bu Tho Township, November 2013 to February 2014,” KHRG, August 2014; and “Hpapun Situation Update: Bu Tho Township, August to November 2013,” KHRG, December 2013.

<sup>203</sup> See source #96.

<sup>204</sup> See sources #66; and #95.

<sup>205</sup> See source #66.

<sup>206</sup> See source #20.

Out of the 26 reports regarding land confiscation in relation to gold mining, 13 of those have come from Dwe Lo Township in Hpapun District. The majority of incidents were carried out by Myanmar private companies and wealthy individuals, often with the permission to operate from the KNU.<sup>207</sup> Traditionally, in Dwe Lo Township, villagers primarily earn their livelihoods working on farming, cultivation, and on agricultural plantations growing sesame, peanuts, and beans.<sup>208</sup> However, one KHRG researcher in Dwe Lo Township reports that in Waw Muh, Kwee T'Mah and Mah Lay Ler village tracts, the most popular work has shifted toward working at gold mining sites.<sup>209</sup> Unfortunately, the benefit for local villagers is not distributed evenly, and only a small minority can afford to run a gold mining operation.<sup>210</sup> This minority works as agents for wealthy individuals with money and companies who want to implement gold mining projects in Dwe Lo Township.<sup>211</sup>

### **Gold mining techniques**

Common gold mining techniques are often very disruptive to the surrounding environment.<sup>212</sup> Large amounts of sand and soil must be moved in order to access a small amount of gold. Hydraulic equipment is often used to extract gold from rivers, pumping water at high pressure toward river banks in order to wash out alluvium, leaving large open pits in the process. The sand and soil is then processed through a combination of sluices with water and mercury in order to extract the gold. Mercury is often used in this process, and combines with gold to create an amalgam, which is then burned to obtain pure gold. During the process, chemicals such as mercury and engine oil are released in to the water and surrounding environment, polluting streams and nearby soil.<sup>213</sup> This, as well as the increase in sediment in river flows, has led to a shortage of safe drinking and bathing water in some village tracts in Dwe Lo Township. In response, some villagers must travel to farther streams or dig wells further away.<sup>214</sup> Furthermore, although the Myanmar mining laws do address the duty of small-scale mining companies to reclaim land, there are no effective mechanisms, or political will, to ensure that this has occurred.

### **Environmental consequences in Dwe Lo Township**

*"Most of the villagers seem to dislike the goldmines, because it affects their livelihoods and brings other difficulties...The main problem is the pollution that affects the water in the river. The water is all muddy and polluted, so there are no fish. As a result, one villager said, "We had more food before these goldmine projects. But now the fish are gone." This could be true because how can fish survive in muddy water? The villager also said, "We haven't had stream fish curry for a long time." Most of the streams are damaged and the streams have also become smaller as people mine on both sides of the stream."*

Situation Update written by a KHRG researcher in Dwe Lo Township, Hpapun District/  
Northeastern Kayin State (Received in February 2013)<sup>215</sup>

Villagers reported that gold mining operations in Meh Kleh River, Meh Toh River and Baw Paw Rivers by Myanmar private companies, damaged villagers property:

<sup>207</sup> See sources #20; #22; and #66.

<sup>208</sup> See source #16; and #66.

<sup>209</sup> See source #16.

<sup>210</sup> Ibid.

<sup>211</sup> See sources #89; and #16.

<sup>212</sup> For more information on gold mining methods in Myanmar and in general, see "Gold mining in Shwegyin Township, Pegu Division," BEWG, September 2009; "At What Price? Gold mining in Kachin State, Burma," Images Asia & Pan Kachin Development Society, November 2004; and "Manual for training artisanal and small-scale gold miners," United Nations Industrial Development Organization (UNIDO), 2006.

<sup>213</sup> See source #16.

<sup>214</sup> See sources #35; and #89.

<sup>215</sup> See source #16.



*“The civilians’ properties, vegetation, lands, trees and bamboos were damaged a lot. If the civilians, whose properties were damaged, asked for compensation, [the company] did not provide [it as] completely as the civilians had asked.”*

Situation Update written by a KHRG researcher in Dwe Lo Township, Hpapun District /Northeastern Kayin State (Received in May 2013)<sup>216</sup>

#### **4. Trends compared to 2011-2012**

In comparison to 2011-2012 overall KHRG has identified an increase in the number of reports received regarding land confiscation in relation to NRE projects, from 29 reports between 2011-2012 to 55 reports in the current reporting period. In particular, KHRG has seen an increase in the number of reports in Thaton, Nyaunglebin, Hpapun, Toungoo, and Dooplaya districts.

Overall, land confiscation in relation to mining projects stood out, increasing from 24 reports received between 2011-2012, to 49 in the current report’s data set. In particular, KHRG identified an increasing trend in gold mining projects in Hpapun District, specifically Dwe Lo Township, more than doubling the reports received between 2011-2012. Environmental destruction, particularly water pollution and the resulting shortages of clean water sources, continued to be a major consequence of mining projects, while livelihood issues, although commonly cited during the this reporting period, was less often described as a consequence during the current report’s reporting period compared to 2011-2012.

A lack of compensation or consultation also continued to be a major trend in incidents of land confiscation in relation to NRE projects.

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<sup>216</sup> See source #22.

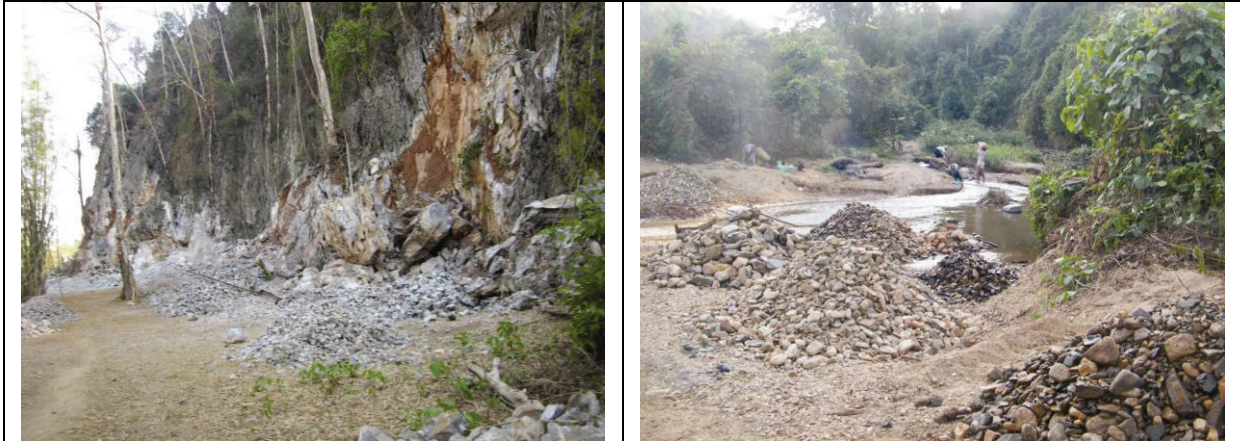


The photo on the left was taken on March 16<sup>th</sup> 2014 in A--- village, Ma Lay Ler village tract, Dwe Lo Township, Hpapun District/Northeastern Kayin State. It shows village land that was destroyed without the provision of compensation to local residents. At first the company responsible promised that they would leave at least 45 cubits [~20 m or 67.6 ft] of space between the village and the mining operation. However, the digging encroached on land inside the village itself, destroying the wells in the village. The photo on the right was taken on April 5<sup>th</sup> 2014 in D--- village, Waw Muh village tract, Dwe Lo Township, Hpapun District/Northeastern Kayin State. It shows a gold mining operation run by a Chinese company that has been extracting gold from land on the Buh Loh River. The operation has polluted the water and destroyed land belonging to local villagers. [Photos: KHRG]



The above photo was taken on January 31<sup>st</sup> 2013 in G--- village's mining area in Bilin Township, Thaton District/Northern Mon State. The mining area is owned by U Mya Poo, owner of the Mya Poo Company, and mining began in 2009. As of 2012, seven gold mining boats of Chinese origin had arrived in the same mining area, purportedly in co-operation with the KNLA. [Photo: KHRG]

The above photo taken in May 2014 near P--- village, Hkay Ter village tract, K'Ser Doh Township, Mergui-Tavoy District/Tanintharyi Region. It depicts the local Hkay Ter River nearby a lead mining project and the subsequent damage to the stream, which has become muddy and polluted. Local villagers can no longer use the water from this stream for their daily needs. [Photo: KHRG]



This photo on the left was taken on March 3<sup>rd</sup> 2013 in Ka T<sup>ter</sup> Htee village tract, Dwe Lo Township, Hpapun District/Northeastern Kayin State. It is of a stone mine where the mined material is eventually used to repair and construct roads. This particular mine requires explosives in order to access and remove the desired rock. The photo on the right was taken on January 7<sup>th</sup> 2013 in Meh Klaw village tract on the Meh Tee Loh River, Bu Tho Township, Hpapun District/Northeastern Kayin State. It shows piles of stones and people who collect stones for their livelihood. The village head observed the process and said that stone mining can destroy villagers' flat field farms, as the water level of Meh Tee Loh River will rise during monsoon season and nearby farms will be flooded without large stones to reinforce the sides of the river. [Photos: KHRG]



The above photo was taken in B--- village, Thay Maw Koo village tract, Paingkyon Township, Hpa-an District/Central Kayin State by a Karen Office of Relief and Development (KORD) researcher. This photo is of a senior monk whose body was exhumed by villagers after he was tortured, bound, disrobed, burnt, and then killed by KNU/KNLA-PC soldiers. The monk was murdered for trying to defend community forests against logging. [Photo: KORD]

This photo was taken on April 22<sup>nd</sup> 2013 in Nyaunglebin District/Eastern Bago Region. A company owned by U Ye Htun purchased raw lumber from both Kyaukkyi and Mone townships. Villagers had previously tried to protect these logging areas. [Photo: KHRG]





The photo on the left was taken on May 9<sup>th</sup> 2014 in K--- village, Ka Neh Khaw village tract, K'Ser Doh Township, Mergui-Tavoy District/Tanintharyi Region. Villagers report that coal has been mined from this mountain by the May Flower Company since 2007. Villagers' land was destroyed and local water sources have been polluted because of this coal mining operation. This has negatively affected the livelihood of the villagers in this area. The photo on the right was taken on May 13<sup>th</sup> 2014 near P---, Hkay Ter village tract, K'Ser Doh Township, Mergui-Tavoy District/Tanintharyi Region. These photos depict a lead mining operation conducted by an unknown company and the subsequent destruction of the surrounding environment. *[Photos: KHRG]*

## C. Commercial agriculture

From December 2012 to January 2015, KHRG documented the confiscation of land in relation to commercial agriculture projects in a total of 18 reports, documenting 21 separate cases across all seven KHRG research areas.<sup>217</sup> Testimony received in this period reveals that rubber plantation projects account for the large majority of these cases.

Such projects often involved joint-economic ventures between powerful corporate actors and the Myanmar government or other political or armed actors.<sup>218</sup> Domestic firms and wealthy individuals who have been implicated in human rights abuses in the past, including at least one individual who remains sanctioned by the United States Treasury Department, have also been named as the perpetrators of land confiscation for the purpose of large-scale agro-business.<sup>219</sup> This trend of alignment between military, business, and government interests has been identified elsewhere in Myanmar, particularly in other ethnic regions within the state.<sup>220</sup>

Land confiscated for agricultural purposes fell into two broad categories: privately held land that was occupied and worked by individual farmers or households; and communal lands, including forest land, which is governed according to traditional systems of shared ownership.<sup>221</sup> The lack of legal protections for both these land types violates international

### Key Findings

- **18 reports described land confiscation for commercial agricultural projects.**
- **Rubber plantations constituted the primary use that land confiscated for agricultural purposes during the reporting period was put to.**
- **Villagers identified Myanmar government officials, Karen BGFs, and private corporate interests as the primary perpetrators of land confiscation for commercial agriculture.**
- **Collusion between the Myanmar government/state-backed actors and domestic corporate actors occurred in eight cases.**
- **Villagers reported seven cases in which community held land, including protected forest land, was confiscated for agricultural purposes; land in these cases was often demarcated as ‘uncultivated’ prior to, or during, the confiscation process.**
- **Livelihood issues were the predominant consequence of land confiscation for commercial agriculture. Within this broad category, villagers identified a lack of access to firewood and building materials as a new consequence not previously documented by KHRG researchers.**

<sup>217</sup> See the following subsection, *Occurrences and actors*, for details of these cases.

<sup>218</sup> For a detailed assessment of KHRG reports pertaining to such collusion, see the inset box in this section titled, *Identifying Trends: A pattern of collusion between state actors and private business interests*.

<sup>219</sup> One example, the Max Myanmar Company, is owned by U Zaw Zaw, a well-known Burmese businessman who is involved in numerous industries, including rubber plantations, banking, gem stones, transportation, timber, luxury resorts, construction and mechanical engineering. His close relationship with the government affords him import concessions with regards to cars, motorcycles and fuel. He is also blacklisted by the US Treasury Department for his continued dealings with military and ex-military individuals in Myanmar. In 2013, the Max Myanmar Company was blocked by the Singaporean Stock Exchange Ltd. from merging with a Singaporean corporation due to these sanctions and accusations of human rights abuses in Myanmar. For his profile on the Specially Designated Sanctions List of the United States Office of Foreign Asset Control, see: Office of Foreign Asset Control, *Sanctions List Search*, accessed on April 25<sup>th</sup> 2015 (last updated on April 23<sup>rd</sup> 2015). For more information regarding his sanctioning, and his failed merger in Singapore, see: Edward Chung Ho, “Zaw Zaw’s Singapore Takeover Bid Hits a Snag,” *DVB*, April 29<sup>th</sup> 2013; for a case in this reporting period where the company continued to expand their rubber plantation at the expense of local villagers, see source #87.

<sup>220</sup> *Guns, Cronies and Crops: How Military Political and Business Cronies have Conspired to Grab Land in Myanmar*, Global Witness, March 2015; “Myanmar: Myanmar at Risk of Land-Grabbing Epidemic,” Asian Legal Resource Centre, *20<sup>th</sup> Session of the Human Rights Council, Agenda Item 4, General Debate*, June 6, 2012, p. 1.

<sup>221</sup> Within this section, see the subsection titled, *Land Subtypes*.

best practices while working against the interests of local communities in southeast Myanmar.<sup>222</sup> In addition, powerful local actors have been able to capitalise on existing and newly passed land laws to legitimise the land confiscation process.<sup>223</sup>

For the purpose of this report, land confiscation for commercial agriculture projects is defined as any land, both privately held and communal, that has been confiscated for the purpose of producing agricultural products, including annual crops, such as coffee and betel nut, and long term investment plantations such as rubber and teak. In the past, commercial agriculture projects in practice have been characterised by transfers of smallholder farms and communal land to large-scale agro-business operations.<sup>224</sup> This is despite the fact that crop yields per acre on small-scale farms can actually be higher than those of large plantation projects.<sup>225</sup> In addition, even the Myanmar government has admitted that large scale land holders are not utilising their entire land areas.<sup>226</sup> Such land concentration therefore simultaneously infringes upon villagers land rights while contributing to the inefficient use of land.

## 1. Occurrences and actors

Within the current research period, 18 KHRG reports included cases of land confiscation for commercial agricultural projects. Two reports featured multiple cases of land confiscation for agricultural purposes,<sup>227</sup> meaning that KHRG researchers documented the confiscation of land for agriculture projects a total of 21 times across all seven KHRG research areas.<sup>228</sup>

Land confiscation for the purpose of commercial agriculture was predominantly perpetrated by private corporations<sup>229</sup> or wealthy individuals,<sup>230</sup> as well as Karen BGFs<sup>231</sup> and Myanmar government officials.<sup>232</sup> The KNU/KNLA-PC, Tatmadaw, KNLA, and DKBA were also implicated to a lesser extent, with four cases attributed to the KNU/KNLA-PC,<sup>233</sup> two cases

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<sup>222</sup> For example, the recently released draft of the National Land Use Policy (NLUP) has been criticized for not meeting international standards such as the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security. For a thorough analysis of the draft NLUP, see: *The Challenge of Democratic and Inclusive Land Policymaking in Myanmar*, TNI, February 2015. For a complete comparison of international and domestic land tenure norms and laws, see *Appendix 3*.

<sup>223</sup> Two laws in particular have been repeatedly cited by land rights experts as being counter-productive to securing land tenure security in Myanmar: 1) The Farmland Law of 2012, which covers the confiscation process for land actively being used; and 2) The Vacant, Fallow, and Virgin Land Law, which allows for the confiscation of any land categorized as vacant, fallow, or virgin. Although villagers never explicitly name these laws, a number of cases were reported in which government officials or wealthy actors demarcated land, both privately and communally held, as uncultivated in the process of confiscating it. For more information regarding these particular cases, see the subsection: *Land Subtypes*. For more information regarding the current legal context in Myanmar, see *Appendix 3*; see also: *Access Denied*, TNI, 2012.

<sup>224</sup> Large-scale land concentration is made legal by legislation such as Article 10(a)(1) of the Vacant, Fallow and Virgin Land Law, which allows for industrial agricultural projects of up to 50,000 acres: Vacant, Fallow and Virgin Lands Management Law (Myeylut Myeylet nint Myeyyaingmya U P'Dey), Pyidaungsu Hluttaw, March 2012, Article 10(a)(1). Also see: *Burma's Environment: People, Problems, Policies*, BEWG, 2011, p. 37.

<sup>225</sup> *What Future for the Rubber Industry in Myanmar?*, Global Witness, March 2014, p. 9.

<sup>226</sup> *Burma's Environment: People, Problems, Policies*, BEWG, 2011, p. 73.

<sup>227</sup> See sources #76 and #54.

<sup>228</sup> For an example from Thaton District, see source #42; for Toungoo District, see source #88; for Nyaungleblin District, see source #54; for Mergui-Tavoy District, see source #23; for Hpapun District, see source #36; for Dooplaya District, see source #62; for Hpa-an District, see source #18.

<sup>229</sup> For example see source #2.

<sup>230</sup> For example see source #75.

<sup>231</sup> For example see source #36.

<sup>232</sup> For example see source #56.

<sup>233</sup> For example see source #43.

attributed to the Tatmadaw,<sup>234</sup> and one case each linked with the remaining groups.<sup>235</sup> One report also held an unnamed armed group partially responsible for the confiscation of land for agricultural purposes.<sup>236</sup>

In three of these cases, the Tatmadaw<sup>237</sup> or Karen BGFs<sup>238</sup> were directly involved in commercial agricultural business operations for their own profit. When discussing the issue of land confiscation for commercial agricultural purposes, one KHRG researcher highlighted this trend occurring in Hpa-an District, stating, “*There are over four or five BGF camps profiting by growing rubber plantations and selling the [rubber] to others [in my area].*”<sup>239</sup>

In addition, a total of eight cases involved collusion between the Myanmar government or armed actors and private business interests. Cases included either: a Karen BGF working with private companies<sup>240</sup> or wealthy individuals;<sup>241</sup> Myanmar government officials working with private companies<sup>242</sup> or wealthy individuals;<sup>243</sup> or the DKBA and KNU/KNLA-PC working with wealthy individuals [see inset box, *Identifying Trends*, below for more detail].<sup>244</sup>

**Identifying Trends: A pattern of collusion between state/state-backed actors and private business interests**

Collusion between state or state-backed armed actors, as well as other armed actors, and private business interests has been identified in the current reporting period as a serious issue in southeast Myanmar. As one KHRG researcher in Hpa-an District remarked:

*“Rich people have built a relationship with leaders [Myanmar government officials], and then the leaders sold those hills [to them].”*

Situation Update written by a KHRG researcher, Nabu Township, Hpa-an District/Central Kayin State (Received in December 2012)<sup>245</sup>

The most common actors involved in such cases were the Myanmar government and Karen BGFs, who have colluded with both individuals and corporations.<sup>246</sup> A number of these cases followed a pattern whereby government officials or state-backed armed actors would confiscate land from individuals as well as communities to then lease out to the private party or parties involved. This is exemplified by the following case in Nyaunglebin District that occurred in 2013:

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<sup>234</sup> For example see source #76.

<sup>235</sup> For the case involving the KNLA, see source #75; for the DKBA case, see source #62.

<sup>236</sup> See source #56.

<sup>237</sup> See source #76.

<sup>238</sup> See sources #29 and #36.

<sup>239</sup> This quote is drawn from discussions with researchers held in Kayin State in November 2014. For more information please see the *Methodology* section.

<sup>240</sup> See sources #42; #51; and #86.

<sup>241</sup> See sources #42; #51; and #62.

<sup>242</sup> See sources #2 and #42.

<sup>243</sup> See sources #42; #9; #54; and #56.

<sup>244</sup> See source #62.

<sup>245</sup> See source #2.

<sup>246</sup> For cases of collusion between Karen BGFs and Myanmar private companies, see sources #42; #51; and #86; between Karen BGFs and individuals, see sources #42; #51 and #62; between the Myanmar Government and Myanmar private companies, see sources #2, #42; between the Myanmar Government and individuals, see sources #42; #9; #54; and #56.

*"In 2013 the Myanmar government sold a lot of land in the Shwegyin-Ler Doh area. Private business owner U Ye Htun bought 200 acres of land for a commercial rubber plantation project in Myay Ni Kon. U Nyan Hsway Win also bought 200 acres in Too Wah Koh village beside the Shwegyin-Ler Doh highway."*

Situation Update written by a KHRG researcher, Shwegyin and Kyaukkyi townships, Nyaunglebin District/Eastern Bago Region (Received in November 2013)<sup>247</sup>

In one of the most complex cases of land confiscation for agricultural projects, BGF Battalion #1014, the DKBA, and the KNU/KNLA-PC were all involved in the confiscation of land for sale to wealthy individuals. This case occurred in Kyonedoe Township, Dooplaya District, and, as the report describes below, the multitude of actors made it increasingly difficult for villagers to protect their land:

*"There are 75,320.09 acres of forest in Kyonedoe Township. The civilians could not protect it after the emergence of the DKBA, BGF and KPC [KNU/KNLA Peace Council]. These armed actors demarcated the forest into plots and sold it to rich people from other places..."*

*It was easy to protect the forest when there were only the KNU and the Burmese government [in the area]. Because there are so many armed actors [now], some people said that we would have to call the forest a rubber plantation [because armed actors, villagers and business people from other areas grow so many rubber trees there]."*

Situation Update written by a KHRG researcher, Kyonedoe Township, Dooplaya District/Southern Kayin State (Received in February 2014)<sup>248</sup>

Collusion, however, goes beyond simply the seizure and sale of land. In another instance, BGF Battalion #1014 was instead employed by a Myanmar company to protect their seized land holdings:

*"The army camp that is in Hpah Paw village takes care of security for a company's rubber plantation and teak tree plantation so that there will be no destruction [caused by animals]. The KNU has not given permission for the rubber and teak tree plantations. Therefore, the Shwe Than Lwin Company<sup>249</sup> continues to take protection from the BGF."*

Situation Update written by a KHRG researcher, Hpa-an Township, Thaton District/Northern Mon State (Received in July 2014)<sup>250</sup>

This trend is most likely due to a combination of factors, including: the liberalisation of the economy and sudden influx of capital without proper regulation or independent oversight;<sup>251</sup> increased access to previously remote or unstable regions facilitated by the preliminary ceasefire;<sup>252</sup> domestic legislation that favours foreign direct investment and large-scale projects over local land tenure schemes;<sup>253</sup> and the continued impunity with which

<sup>247</sup> See source #54.

<sup>248</sup> See source #62.

<sup>249</sup> The Shwe Than Lwin Company, chaired by Kyaw Win, works closely with the Myanmar government as well as with ethnic armed groups in Myanmar, especially the DKBA. The company is involved in the imports industry, while also owning domestic rubber and cement enterprises. In addition to the present case being cited, the company has been implicated in a case of land confiscation in Ywa Ngan Township in southern Shan State, where they confiscated 1,375 acres of land from farmers with no compensation being paid to the victims. "Tracking the Tycoons," *The Irrawaddy*, September 2008.

<sup>250</sup> See source #86.

<sup>251</sup> "Myanmar: Myanmar at Risk of Land-Grabbing Epidemic," Asian Legal Resource Centre, *20<sup>th</sup> Session of the Human Rights Council, Agenda Item 4, General Debate*, June 6, 2012, p. 2.

<sup>252</sup> Agence France-Presse, "Ceasefire Deal Fuels Land Grabs in Karen State: Report," *DVB*, published: March 5, 2013.

<sup>253</sup> For an assessment of land laws in Myanmar, see, for example: *Access Denied: Land Rights and Ethnic Conflict in Burma*, TNI, May 2013. Also see *Appendix 3* for further information.



government and government backed groups continue to operate, especially in ethnic areas.<sup>254</sup> Such collusion not only risks eroding villagers' confidence in the preliminary ceasefire agreement and trust in the Myanmar government, but also exacerbates major development issues in Myanmar such as local food security, individuals rights to land, and sustainable (both social and environmental) development as a whole.<sup>255</sup>

Villagers reported that confiscation of land for the purpose of commercial agriculture occurred largely without compensation or consultation.<sup>256</sup> Of the 21 cases of land confiscation related to agricultural projects, there was only one documented case in which partial compensation was paid to individuals,<sup>257</sup> with no reports of proper consultation taking place. The one instance where compensation was paid occurred in Thaton District and involved two wealthy individuals named Win Hlaing and Thaung Htin. The two men had forced some villagers to sell their land away, while also seizing land from others without providing any compensation.<sup>258</sup> As the KHRG researcher who documented the case describes:

*"Since the ceasefire, many companies and rich people entered and planted rubber plantations. Some of the rubber plantations included villagers' land and villagers had to sell their land. Some villagers had to give up [their land without compensation] because of explicit threats."*

Situation Update written by a KHRG researcher, Hpa-an, Thaton, Bilin townships, Thaton District/Northern Mon State (Received in July 2013)<sup>259</sup>

## 2. Project subtypes

### a. Rubber plantations

According to villager testimony collected from December 2012 to January 2015, rubber plantations were found to be the most common type of project implemented on land confiscated for commercial agricultural purposes, with 17 of the 21 reported cases pertaining to their implementation or expansion.<sup>260</sup> They were documented in Thaton,<sup>261</sup> Nyaunglebin,<sup>262</sup> Mergui-Tavoy,<sup>263</sup> Dooplaya<sup>264</sup> and Hpa-an districts.<sup>265</sup> Confiscation for this type of agribusiness development were carried out by private corporations,<sup>266</sup> wealthy individuals,<sup>267</sup> Myanmar government officials,<sup>268</sup> Karen BGFs,<sup>269</sup> the KNU/KNLA-PC,<sup>270</sup> the Tatmadaw,<sup>271</sup> the DKBA,<sup>272</sup> and the KNLA.<sup>273</sup> In one report from Kyaikto Township, Thaton District, a single individual confiscated over 2,000 acres of land for this purpose:

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<sup>254</sup> "Land Policies and Land Laws Must Reflect Rights and Interests of Vulnerable Communities," Burma Partnership, February 23<sup>rd</sup> 2015.

<sup>255</sup> *Guns, Cronies and Crops*, Global Witness, March 2015, p. 4, 32.

<sup>256</sup> For an example of case where compensation was not paid, see source #88.

<sup>257</sup> See source #42.

<sup>258</sup> Ibid.

<sup>259</sup> Ibid.

<sup>260</sup> See sources #2; #18; #42; #51; #75; #86; #9; #23; #29; #87; #76; #43; #54; #56 and #62.

<sup>261</sup> See sources #42; #86; #9 and #87.

<sup>262</sup> See source #54.

<sup>263</sup> See source #23.

<sup>264</sup> See sources #62 and #51.

<sup>265</sup> See sources #2; #18; #75; #29; #76; #43; and #56.

<sup>266</sup> See sources #2; #18; #42; #51; #86 and #87.

<sup>267</sup> See sources #18; #42; #51; #75; #9; #23; #54; #56; and #62.

<sup>268</sup> See sources #2; #42; #9; #54; and #56.

<sup>269</sup> See sources #42; #51; #86; #29; #76; and #62.

<sup>270</sup> See sources #75; #76; #43; and #62.

<sup>271</sup> See source #76.

<sup>272</sup> See source #62.

<sup>273</sup> See source #75.

*“U Ye Htun came into Pa Loh Hkee village tract and confiscated 2,600 acres of land to plant rubber trees. U Ye Htun can do this because he got a permission letter from Naypyidaw. [Due to the land being confiscated], it became difficult for villagers to graze their cattle and buffalo.”*

Situation Update written by a KHRG researcher, Kyaikto Township, Thaton District/Northern Mon State (Received in November 2013)<sup>274</sup>

In another case from Thaton District, the Max Myanmar Company, which has an established rubber plantation in Shwe Yaung Pya village, Shwe Yaung Pya village tract, Thaton Township, has continued to expand its land holdings at the expense of local villagers:

*“Now they [Max Myanmar company] have a new policy: in the summer season they make a fire protection line [fire perimeter to protect rubber plantations], and in the rainy season they plant small rubber trees in the fire perimeter. They can plant two rows of rubber [trees] in the fire perimeter. They confiscate some of the villagers’ land and community forest each year to make a new fire perimeter.”*

Situation Update written by a KHRG researcher, Thaton Township, Thaton District/Northern Mon State (Received in July 2014)<sup>275</sup>

The prevalence of rubber plantations in southeast Myanmar ties into a larger trend in Myanmar. Over the past two decades, the number of commercial rubber plantations has increased significantly throughout Myanmar. As of 2013, total rubber acreage totalled 1.43 million acres, and Myanmar now ranks 9<sup>th</sup> in the world for rubber production.<sup>276</sup> It is being produced primarily for export, with 90 percent of rubber produced in Myanmar going either to China or one of Myanmar’s ASEAN neighbours.<sup>277</sup> Despite its growing popularity however, the high initial cost of seedlings coupled with the fact that it takes trees at least seven years to mature means that rural farmers are rarely able to afford the initial sunk costs and are unable to enter the competitive market, exacerbating growing inequality within Myanmar.<sup>278</sup>

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<sup>274</sup> See source #9.

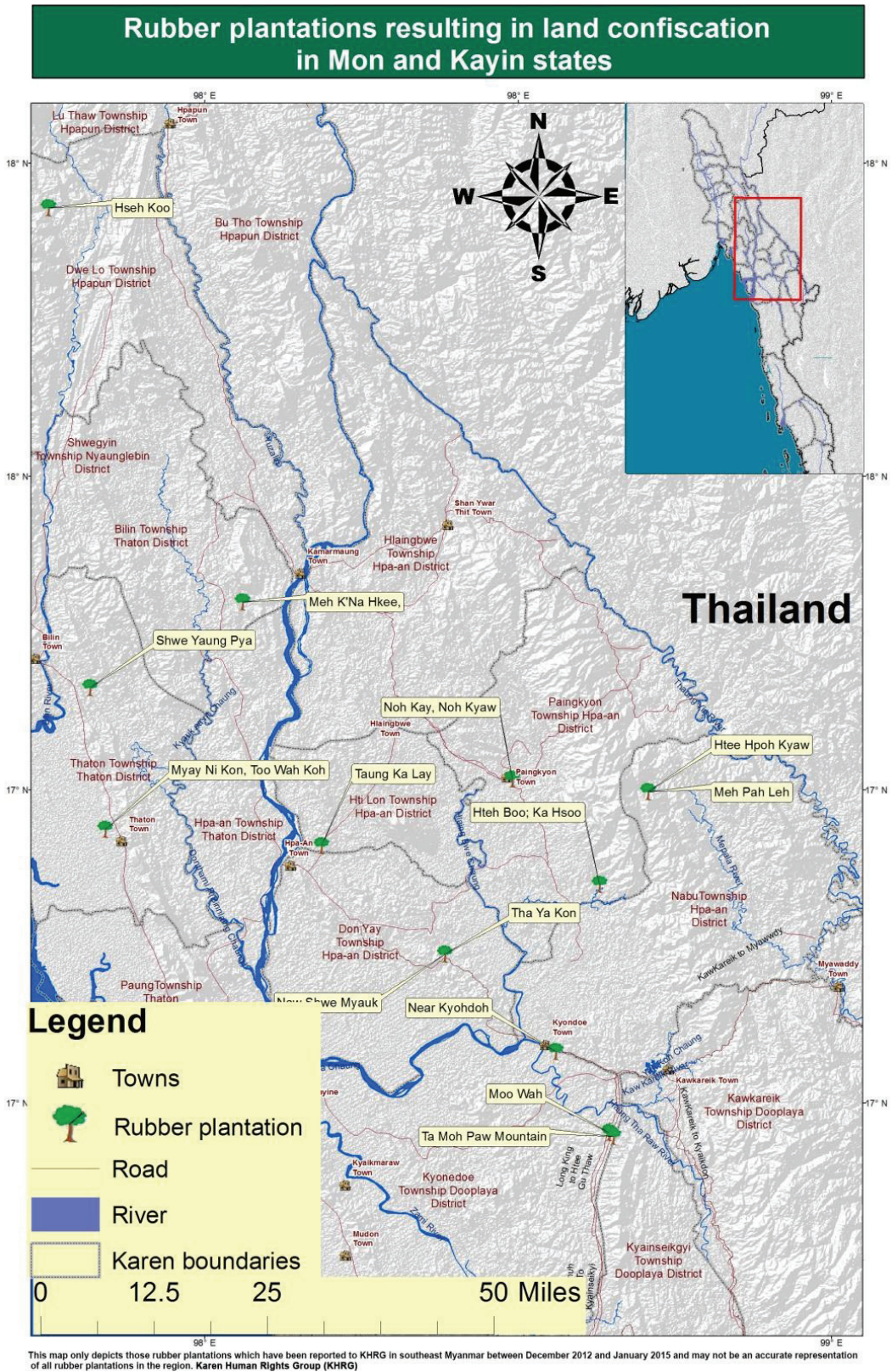
<sup>275</sup> See source #87.

<sup>276</sup> *What Future for the Rubber Industry in Myanmar?*, Global Witness, March 2014, p. 3.

<sup>277</sup> The ASEAN countries importing sizeable amounts of rubber from Myanmar include: Singapore, Malaysia, Indonesia, Vietnam, and Thailand; *Burma’s Environment: People, Problems, Policies*, BEWG, June 2011, p. 75.

<sup>278</sup> *Ibid.* Other issues, such as volatile international markets and environmental destruction, also impact the sustainability of wide-spread rubber plantation development in Myanmar. For a complete assessment of the current prospects for the rubber industry in Myanmar, see: *What Future for the Rubber Industry in Myanmar?* Global Witness, March 2014.

Map 5:



## **b. Other agricultural projects**

In addition to rubber plantations, one case each of land confiscation for the purpose of developing aloe,<sup>279</sup> teak,<sup>280</sup> bean,<sup>281</sup> betel nut,<sup>282</sup> coffee,<sup>283</sup> and cardamom plantations<sup>284</sup> were also reported by KHRG researchers from December 2012 to January 2015. Two cases made reference to dog fruit plantations,<sup>285</sup> while another did not specify the exact usage of the farmland.<sup>286</sup>

## **3. Land subtypes**

When analysing reports from the field, KHRG found that a further distinction needed to be made between privately held land that had been seized and communal or community based land that had been confiscated. The distinction often had implications for the way in which the land was taken and the impact that the loss of land would have on local communities.

### **a. Private land holdings**

This sub-section considers cases in which land that was deemed the exclusive purview of one individual or household, either according to local perspectives on land tenure and/or due to the formal registration of their land by the Myanmar government or KNU,<sup>287</sup> was confiscated for the purpose of commercial agricultural development. In 11 out of 21 agriculture-related confiscation cases the seized land had been privately-held by an individual.<sup>288</sup> Cases of private land holdings being confiscated for the purpose of agricultural projects were recorded in Thaton,<sup>289</sup> Nyaunglebin,<sup>290</sup> Mergui-Tavoy,<sup>291</sup> Toungoo,<sup>292</sup> Hpapun,<sup>293</sup> and Hpa-an districts.<sup>294</sup> Myanmar government representatives,<sup>295</sup> Karen BGFs,<sup>296</sup> and wealthy individuals<sup>297</sup> were the most common actors involved in the confiscation of individuals' land. The KNU/KNLA-PC was also implicated in two cases,<sup>298</sup> while the Tatmadaw,<sup>299</sup> the KNLA,<sup>300</sup> and a private corporation<sup>301</sup> were considered responsible in one instance each.

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<sup>279</sup> See source #18.

<sup>280</sup> See source #86.

<sup>281</sup> See source #40.

<sup>282</sup> See source #36.

<sup>283</sup> See source #88.

<sup>284</sup> Ibid.

<sup>285</sup> See sources #88 and #36.

<sup>286</sup> See source #54.

<sup>287</sup> For an instance in which government land titles were granted to villagers, see source #30; for cases in which the KNU had begun to measure land in order to provide titles, see source #11 and #46.

<sup>288</sup> See sources #42; #75; #23; #29; #88; #76; #54; #40; and #36.

<sup>289</sup> See source #42.

<sup>290</sup> See source #54; which includes two cases of individuals' land being confiscated.

<sup>291</sup> See source #23.

<sup>292</sup> See source #88.

<sup>293</sup> See sources #40 and #36.

<sup>294</sup> See sources #75; #29; and #76 (which includes two such cases).

<sup>295</sup> See sources #42; #88; #54 (which includes two such cases); and #40.

<sup>296</sup> See sources #42; #29; #76; and #36.

<sup>297</sup> See sources #42; #75; #23; and #54.

<sup>298</sup> See sources #75 and #76.

<sup>299</sup> See source #88.

<sup>300</sup> See source #75.

<sup>301</sup> See source #42.

In one particular case in Hpa-an District, two individuals, San Mya Aung and U Aung Mya, confiscated eight to 13 acres of farmland from six separate individuals.<sup>302</sup> To do so, they had to collaborate with a number of different actors, including high ranking members of the KNLA and KNU/KNLA-PC.

Securing the land tenure rights of individual farmers and villagers in southeast Myanmar has proved difficult. Despite the fact that the Myanmar government is the ultimate owner of all of the land in the state,<sup>303</sup> land tenure in southeast Myanmar was, until quite recently, governed in large part according to customary land tenure systems, remaining largely inaccessible to the Myanmar government.<sup>304</sup> However, changing circumstances, including the 2012 preliminary ceasefire and new land laws in Myanmar, pose unique challenges to these traditional land tenure arrangements. For instance, in 2012, the Farmland Law introduced a land market in which land use rights can be legally bought, sold, and transferred in the form of Land Use Certificates (LUC).<sup>305</sup> This system of quasi-private ownership has been heavily criticised by land and human rights experts in Myanmar, as it neglects the rural poor's existing claims to the land in favour of large-scale private sector investment.<sup>306</sup> Securing this legally recognised land tenure has now become an imperative of some villagers,<sup>307</sup> while serious questions continue to be raised regarding the human rights implications of current land laws in Myanmar.

## **b. Communal land**

Between December 2012 and January 2015, KHRG researchers recorded seven cases in which communal or community held land was confiscated.<sup>308</sup> Cases were recorded in four of seven KHRG research areas in southeast Myanmar: Thaton,<sup>309</sup> Nyaunglebin,<sup>310</sup> Dooplaya,<sup>311</sup> and Hpa-an districts.<sup>312</sup> Myanmar government officials,<sup>313</sup> Karen BGFs,<sup>314</sup> the DKBA,<sup>315</sup> and the KNLA/KNU-PC,<sup>316</sup> as well as one unnamed armed group,<sup>317</sup> were all documented as having confiscated communal lands for agricultural purposes. Moreover, in six of the seven recorded cases of community land being confiscated, either wealthy individuals and/or private companies were named as perpetrators,<sup>318</sup> with only one case not involving a private corporate actor.<sup>319</sup>

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<sup>302</sup> See source #75.

<sup>303</sup> Constitution of the Republic of the Union of Myanmar, Government of Myanmar, September 2008, Chapter I, Article 37 (a): The government “is the ultimate owner of all lands and all natural resources above and below the ground, above and beneath the water and in the atmosphere in the Union.”

<sup>304</sup> *Access Denied: Land Rights and Ethnic Conflict in Burma*, TNI, May 2013, p. 2.

<sup>305</sup> *Ibid*, p. 3.

<sup>306</sup> This issue is exacerbated by the lack of government safeguards and the presence of wide-spread, systemic corruption, which overwhelmingly favours those in Myanmar with wealth and influence over rural and marginalised populations. For a complete assessment of the Farmland Law, see, for example: *Access Denied*, TNI.

<sup>307</sup> For instance, in one report a village head in Nabu Township requested that land in his area be officially registered so that, in “an attempt at confiscating his land, he [could] prove with official evidence that he owns the land.” For the full report, see source #18. For a complete analysis of formal land registration as a strategy to protect villagers’ land, see section III: *Village agency*, subsection: *Formal Land Registration*.

<sup>308</sup> See source #2; #76; #51; #43; #54; #56; and #62.

<sup>309</sup> See source #42.

<sup>310</sup> See source #54.

<sup>311</sup> See source #51 and #62.

<sup>312</sup> See source #2; #43; and #56.

<sup>313</sup> See source #2; #42; #54; and #56.

<sup>314</sup> See source #42; #51; and #62.

<sup>315</sup> See source #62.

<sup>316</sup> See sources #43 and #62.

<sup>317</sup> See source #56.

<sup>318</sup> For cases involving wealthy individuals, see sources #54; #56; and #62; involving private companies, see source #2; for cases involving both these actors, see source #42 and #51.

<sup>319</sup> See source #43.



In the majority of these cases, land was sold by the government or a BGF battalion to either private corporations or wealthy individuals.<sup>320</sup>

Communal lands, in the form of community forest land, shared grazing land, and other land governed according to a shared ownership tradition, is an important aspect of land tenure rights in southeast Myanmar. Protecting such community land is crucial, as villagers repeatedly cited cases where land used for livelihood purposes (such as firewood collection and housing materials) was seized for agricultural projects, barring their access and negatively affecting their livelihoods.<sup>321</sup>

In one notable report of land confiscation for the purpose of commercial agricultural purposes, local villagers indicted BGF Battalion #1012, the DKBA, and the KNU/KNLA-PC as having confiscated communal lands to then be sold to wealthy individuals.<sup>322</sup> Villagers in this instance noted that the competing actors and overlapping interests made it increasingly difficult for villagers to ensure the community retained control over the land.<sup>323</sup>

Forest land in particular, which is often used by local communities according to traditional practices, enjoys certain legal protections in Myanmar, including the formal registration of 'community forests', guaranteed community usage rights, and allowances for "community forestry [to supplement] livelihoods."<sup>324</sup> Despite these formal provisions, in four cases of communal land confiscation villagers made specific mention of the fact that the land had previously been demarcated as forest land.<sup>325</sup> As a KHRG researcher from Thaton District describes, land in both the Paw Kyoh Weh and Hpah Paw protected forest areas was confiscated by individuals with the Myanmar government's approval:

*"Individual rich people, Win Hlaing and Thuang Htin, went to request the land from the [Myanmar Government] in order to work on the land for 30 years, and the Burma Government gave them permission to work in the Paw Kyoh Weh and Hpah Paw protected forest areas, within which S--- village, T--- village and H--- village are located. There is a total of 500 acres of land [that were granted by the Myanmar Government to the two rich people]... Nowadays, rich people often go to report land as uncultivated and the government gives many of them permission."*

Situation Update written by a KHRG researcher, Hpa-an, Thaton, Bilin townships, Thaton District/Northern Mon State (Received in July 2013)<sup>326</sup>

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<sup>320</sup> For cases of collusion between the Myanmar Government and wealthy individuals, see source #2; #42; and #54; between the Myanmar Government and private companies, see sources #2 and #54; between Karen BGFs and wealthy individuals, see sources #51 and #62. For more information regarding collusion between private business actors and the Myanmar government, state-backed armed actors and other armed groups, see the inset box in this section, *Identifying Trends: A Pattern of Collusion Between State Actors and Private Business Interests*.

<sup>321</sup> For example see source #62; also see the *Livelihoods* subsection of this chapter for more examples of cases where access to materials was restricted due to land confiscation for commercial agriculture.

<sup>322</sup> See source #62. For a more detailed analysis of this case, including full quotes, as well as an assessment of collusion between Myanmar government sponsored actors and business interests more generally, see the inset box in this section, *Identifying Trends: A Pattern of Collusion Between State Actors and Private Business Interests*.

<sup>323</sup> In this particular case, villagers refer to the land as "forest land," on which they carried out "hill field farming," as well as collected different building supplies such as bamboo and thatch roof shingles. Villagers stated that the armed actors came into the area and demarcated the forest into plots, which they then sold to wealthy individuals. The community member concludes, "It was easy to protect the forest when there were only the KNU and the Burmese government [in the area]. Because there are so many armed actors [now], some people said that we would have to call the forest a rubber plantation." See source #62 for the full report.

<sup>324</sup> For a full analysis of the 1995 Myanmar Forest Policy, 1996 Forest Working Plans Community Forest and the Forest Instruction of 1995, see: *Burma's Environment: People, Problems, Policies*, BEWG, 2011, 34-35.

<sup>325</sup> See sources #42; #51; #54; and #62.

<sup>326</sup> See source #42.

In an instance of collusion between a Karen BGF battalion and wealthy individuals, villagers once again stated that land from a protected forest reserve was being sold off:

*“Some members of a BGF cooperated with rich people from other areas and they sell the Dali Reserve Forest for 270,000 kyat (US \$273.56) per acre, with nearly all of the land from the forest reserve is to be sold. Since November 30<sup>th</sup> 2012, they sold 100 acres of the forest reserve near Moo Wah [village] and the rest of the forest became a new rubber plantation.”*

Situation Update written by a KHRG researcher, Kyonedoe Township, Dooplaya District/Southern Kayin State (Received in September 2013)<sup>327</sup>

One method employed by both government officials and private corporate actors when confiscating land has been to demarcate communal lands as ‘uncultivated’ in order to then confiscate it for commercial agricultural purposes.<sup>328</sup> In one particular report, a KHRG researcher explicitly stated that the government had done this:

*“Land that the government sold belongs to villagers, including villagers’ dog fruit plantation, resident farmland and some parts of the deep forest. But the government designated these areas as uncultivated land and then sold it to private companies and business owners.”*

Situation Update written by a KHRG researcher, Kyaukkyi & Shwegyin townships, Nyaunglebin District/Eastern Bago Region, (Received in September 2013)<sup>329</sup>

The ability for state actors to designate land as ‘uncultivated’ is facilitated by new land laws in Myanmar such as the Vacant, Fallow, and Virgin Lands Management Law.<sup>330</sup> Such laws fail to recognise locally defined tenure systems, which often include communal systems of land tenure. In instances where laws such as this are coupled with negligence or corruption on the part of the Myanmar government, villagers have reported instances of abuse.<sup>331</sup>

#### 4. Consequences

Out of the reports KHRG analysed, villagers identified livelihood issues, violent threats, environmental destruction, and forced labour as the primary consequences of land confiscation for commercial agricultural purposes. Livelihood issues were the predominant consequence identified, with 15 of the 21 reports documenting negative impacts on local villager livelihoods due to this type of land confiscation.<sup>332</sup> In comparison, only two cases of violent threats<sup>333</sup>

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<sup>327</sup> See source #51.

<sup>328</sup> Three separate reports made reference to land being designated as “*uncultivated*” in order for it to then be confiscated. See sources #42; #54; and #56.

<sup>329</sup> See source #54; see also source #56 for an example of where land was designated as uncultivated by wealthy individuals in order to confiscate it.

<sup>330</sup> Although never explicitly referenced by villagers in testimony, the Vacant, Fallow and Virgin Lands Management Law is recognized by a wide range of human rights, land rights, and legal experts in Myanmar as being detrimental to communal and traditional land tenure systems in Myanmar. Explicit mention by villagers of the fact that government officials and private business interests are using the designation of ‘uncultivated’ as justification for the confiscation of land indicates that such a law is not helping to protect their tenure rights (whether or not confiscation would occur regardless of the legislation cannot be determined). For the full text of the law, see: The Vacant, Fallow, and Virgin (Myet Lut Myey Let Nint Myey Yaing Mya) Management Law, Pyidaungsu Hluttaw, November 10<sup>th</sup> 2012; for a complete analysis of the law, see, for example: Food Security Land Core Group, *Legal Review of Recently Enacted Farmland Law and Vacant, Fallow and Virgin Lands Management Law: Improving the Legal and Policy Frameworks Relating to Land Management in Myanmar*, 2012.

<sup>331</sup> In one instance, two wealthy individuals were leased a total of 500 acres of land in Thaton District by the Myanmar government, who failed to properly investigate their claims that the given land was ‘uncultivated’ and therefore within their purview to lease. In fact, the 500 acre plot fell inside two protected forest areas and included areas where villagers had traditionally worked. For further details, see source #42.

<sup>332</sup> See sources #2; #42; #51; #9; #23; #29; #87; #88; #76; #43; #54; #40; #56; and #62.

<sup>333</sup> See sources #75 and #76.

and one incident each of environmental destruction<sup>334</sup> and forced labour<sup>335</sup> were recorded within this documentation period.

### a. Livelihood issues

Land confiscation for the purpose of agricultural projects has negatively affected local livelihoods in a number of ways, most clearly seen in the loss of farmland<sup>336</sup> and pasture land for grazing livestock.<sup>337</sup> In one case from 2014, the loss of land left local villagers without farmland to work on. As one local KHRG researcher explains:

*"In 2014, the SPDC [Myanmar Government]<sup>338</sup> has [so far] confiscated over 250 to 300 acres of land. The villagers in Leik Tho [sub-township], Thit Khwa Taung village and Let Pet A'in village usually work on plantations [for their livelihood]. The crops produced in the region are cardamom, dog fruit, and coffee beans. After the confiscation [of their land], the local people are now unemployed [unable to work the land]. Because of these issues, the land owners whose lands have been confiscated face problems with their economic and social situations, as well as their livelihoods."*

Situation Update written by a KHRG researcher, Thandaunggyi Township, Toungoo District/  
Northern Kayin State (Received in July 2014)<sup>339</sup>

Closely related to the issue of lost farmland, villagers on a number of occasions were forced to pay high fees to re-lease their land from those who had confiscated it, significantly affecting the amount of income they could generate.<sup>340</sup> One woman from Paingkyon Township, Hpa-an District, was forced to sell her gold savings and livestock in order to re-lease her land [see pictures below].<sup>341</sup>

Land confiscation for the purpose of commercial agriculture production also had a negative impact on the lives of local villagers by limiting their access to firewood<sup>342</sup> and traditional building materials,<sup>343</sup> as well as barring them from accessing areas traditionally used for foraging.<sup>344</sup> In one case in Hpa-an District, one KHRG researcher cited the loss of access to foraging areas and building materials as having had the worst effect on local conditions:

*"I am inclined to report about [the] cutting down [of] trees, bamboos and t'la aw trees.<sup>345</sup> This has caused the biggest negative impact to the place where villagers do livelihoods and find food [forage for vegetables and hunt wild animals].*

*On December 8<sup>th</sup> 2012, I stayed in A--- and Y--- villages and travelled through village-by-village; then, I heard that many villagers have been grieving because people have cut down t'la aw trees, which are used for roofing thatch...Some people make a living by collecting t'la aw [leaves]*

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<sup>334</sup> See source #51.

<sup>335</sup> See source #42.

<sup>336</sup> See sources #51; #23; #112; #76; #54 (which includes two cases); #40; and #62.

<sup>337</sup> See sources #9; #87; #43; #54; #56; and #62.

<sup>338</sup> In Karen; the Burmese phrase *Na Ah Pa* (SPDC) is commonly used to refer to the Myanmar government or to Myanmar's state army; the Tatmadaw. Many Karen villagers who were accustomed to using the phrase *Na Ah Pa* (SPDC) continue to use that phrase; despite the official dissolution of the SPDC in March 2011; see: *Myanmar Times*; April 4-10<sup>th</sup> 2011.

<sup>339</sup> See source #88.

<sup>340</sup> See sources #42 and #29.

<sup>341</sup> See source #29.

<sup>342</sup> See sources #29; #87; #54; #56; and #62.

<sup>343</sup> See sources #2, #76, #56 and #62.

<sup>344</sup> See source #2.

<sup>345</sup> *T'la aw* trees are teak-like trees with large leaves, which are traditionally collected by villagers and used to make thatched shingles for the roofs of houses.



*and selling them. The price of one hundred sheets of thatch is 5,000 kyat (US \$5.82) to 7,000 kyat (US \$8.15), so, from my point of view, t'la aw [leaves] have a huge benefit to villagers."*

Situation Update written by a KHRG researcher, Nabu Township, Hpa-an District/Central Kayin State (Received in December 2012)<sup>346</sup>

These different consequences are often felt in tandem with one another. For instance, of the 15 cases in which livelihood issues were mentioned as a consequence of land confiscation, seven of them listed two or more of the above mentioned negative impacts.<sup>347</sup> One incident from Kyonedoe Township, Dooplaya District, involved the seizure of forest land by a number of armed actors for sale to wealthy individuals. In this case, the loss of land meant both a decrease in access to farmland as well as the loss of building materials, which villagers were then forced to pay for:

*"We can say that poor people who do not have land and do hill field farming have almost no land to cultivate. This is because there are many [different] authorities [armed actors] in the area, and the soldiers and some villagers worked together and sold the land to rich people from other areas, and the rich people are growing rubber trees. Therefore, it is hard for the local people to do cultivation and hard for them to find wood, bamboo, leaves for roofing and posts for fencing when they build houses. Now they have to pay 500 kyat (US \$0.51) for one bamboo [pole] and 500 kyat for one fence post."*

Situation Update written by a KHRG researcher, Kyonedoe Township, Dooplaya District/Southern Kayin State (Received in February 2014)<sup>348</sup>

#### **b. Violent threats, forced labour and environmental destruction**

Land confiscation for commercial agricultural purposes was also associated with a number of other issues, including cases of violent threats, a case of forced labour, and an instance of environmental destruction. Both cases in which violent threats occurred involved local villagers being threatened at gun point.<sup>349</sup> In Hpa-an District, one case of land confiscation involved the perpetrators repeatedly threatening villagers with their guns:

*"The first person whose land was confiscated is named B---; three acres of her paddy fields and seven acres of her plantations were confiscated. There were two bamboo huts in the plantation and they [individuals connected with the perpetrators] destroyed both of them. They also threatened her with their guns.... They threatened the villagers with their guns many times."*

Situation Update written by a KHRG researcher, Don Yin Township, Hpa-an District/Central Kayin State (Received in April 2014)<sup>350</sup>

The instance of forced labour occurred in Thaton District in 2013 and was jointly carried out by BGF Battalion #1014, Shwe Than Lwin Company,<sup>351</sup> and Hein Naing Win Company.<sup>352</sup> Villagers from seven surrounding villages were forced to work on the rubber plantation that had been established on the confiscated land, and were paid 2,000 kyat (US \$2.06) for one day's work. Each family was fined the same amount if they did not provide one person per household for work.

Finally, the one documented case of environmental destruction discusses the ill effects of deforestation, which in turn has led to soil degradation.<sup>353</sup>

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<sup>346</sup> See source #2.

<sup>347</sup> See sources #29; #87; #76; #54 (which includes two cases); #56; and #62.

<sup>348</sup> See source #62.

<sup>349</sup> See sources #75 and #76.

<sup>350</sup> See source #75.

<sup>351</sup> For more details regarding the Shwe Than Lwin Company, see *Identifying Trends* in this section.

<sup>352</sup> See source #42.

<sup>353</sup> See source #51.

## 5. Trends compared to 2011-2012

A number of trends identified in past KHRG reports have once again been documented in this reporting period.

From 2011 to 2012, as well as in subsequent research periods, KHRG has documented cases in which land was designated as 'uncultivated' so that it could be confiscated by corporate actors, with the government prioritising private-sector interests at the expense of local interests.<sup>354</sup> Both collusion between actors<sup>355</sup> and the confiscation of land designated as 'uncultivated'<sup>356</sup> are trends that have continued through the present reporting period. According to KHRG researchers, Land Form 105,<sup>357</sup> which favours the interests of land speculators, is still widely used in such cases as a means of gaining access to this presumably 'uncultivated' land.<sup>358</sup> The government then gives permission to implement various projects on this land, including commercial agricultural plantation projects, prioritising a centralised system of distribution over local land tenure systems.

A lack of consultation with regards to land confiscation for commercial agricultural projects has also been a consistent finding in KHRG's research.<sup>359</sup> From 2011 to 2012 it was observed that confiscation almost always occurred without consultation of "project affected communities,"<sup>360</sup> with compensation rarely being paid and often inadequate.<sup>361</sup> For land confiscation related to agricultural purposes, these trends have persisted, as there have been no reported cases of consultation and only one case of compensation in this particular context since 2012.

From 2011 until 2012, prior KHRG research had identified an increase in reports of negative effects on livelihoods due to land confiscation.<sup>362</sup> As noted above, loss of livelihoods has continued to be a major trend affecting those who have had their land confiscated for agricultural purposes. Loss of farmland due to confiscation has been repeatedly found to be a major impediment to local livelihoods, reiterating the fact that "people living in rural areas of southeast Myanmar depend on access to land for agrarian livelihoods activities, such as hill and flat-field paddy farming, animal husbandry, and small-scale cash-crop plantations."<sup>363</sup> In the current reporting period, testimony has continued to show the loss of farmland negatively impacting local communities' livelihoods. KHRG researchers have also identified a lack of access to firewood and traditional building materials as an additional livelihood impact of land confiscation, a trend that was not identified in KHRG's previous reports.

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<sup>354</sup> *Losing Ground*, KHRG, 2013, p. 27; *Truce or Transition?*, KHRG, 2014, p. 91.

<sup>355</sup> For an analysis of such collusion, see the inset box in this section, *Identifying Trends: A Pattern of Collusion Between State Actors and Private Business Interests*.

<sup>356</sup> For a discussion of such cases, see the *Land Subtypes* subsection.

<sup>357</sup> Land Form 105 is a non-permanent holding register, and is the first step towards securing full tenure rights. After securing this initial form, land must be cultivated continuously for three years without being left fallow. If the tenure holder has a strong enough relationship with the Settlements and Land Records Department (SLRD), they can then secure a Form 106, which acts as a permanent holding register; see *Burma's Environment: People, Problems, Policies*, BEWG, 2011, p. 39.

<sup>358</sup> According to information received during field meetings with researchers from Thaton and Nyaunglebin districts, land speculators continue to work with the Myanmar government to demarcate land plots as uncultivated, without ever actually surveying the land or consulting local villagers.

<sup>359</sup> *Losing Ground*, KHRG, 2013, p. 26.

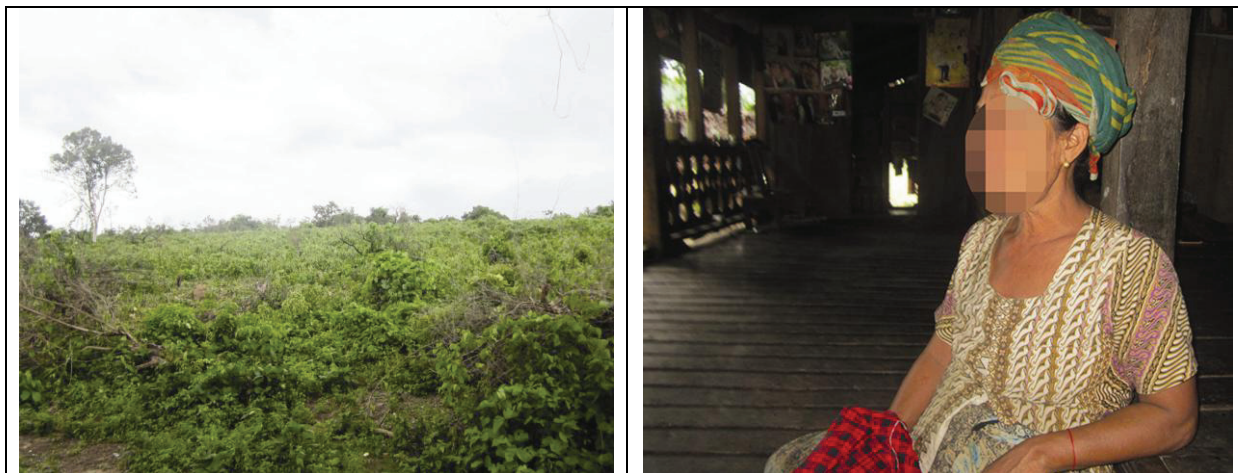
<sup>360</sup> *Truce or Transition?*, KHRG, 2014, p. 90.

<sup>361</sup> *Ibid*, p. 90.

<sup>362</sup> *Losing Ground*, KHRG, 2013, p. 54.

<sup>363</sup> *Truce or Transition?*, KHRG, 2014, p. 97; *Losing Ground*, KHRG, 2013 p. 55.

In contrast to past years,<sup>364</sup> KHRG researchers did not document any cases of displacement or resettlement due to agricultural projects in new reports received between December 2012 and January 2015.<sup>365</sup>



These two photos were taken on June 4<sup>th</sup> 2013. In them, you can see both a woman and her land that has been confiscated in A---- village, A---- village tract, Paingkyon Township, Hpa-an District/Central Kayin State. Naw A---, a 51 year old woman, had six acres of her land confiscated by BGF Cantonment Area Commander Kya Aye. When she approached him to try to regain her land, he said, *“If you want your lands back, come and give me 600,000 kyat (US \$547.80) and I will return the land to you.”* Naw A--- was then forced to sell her gold and five cows so that she could afford to buy back her own land. After BGF Cantonment Area Commander Kya Aye received the money, he returned the land to Naw A--- without giving her any land document. He simply closed the incident by saying, *“We will no longer bother your land.”* [Photos: KHRG]



The above photos were taken on March 24<sup>th</sup> 2014 near the Ta Moh Paw Mountain in Hlaingbwe Township, Hpa-an District/Central Kayin State. The photo on the left shows villagers’ paddy fields that have been confiscated by General Hpah Nwee and General Win Naing Sein of an unknown BGF battalion. The photo on the right shows the four owners of these paddy fields. Villagers noted that if they do try to issue complaints about the confiscation they will be threatened by the perpetrators with guns. They remain afraid of the BGF commanders. [Photos: KHRG]

<sup>364</sup> *Losing Ground*, KHRG, 2103, p. 31.

<sup>365</sup> This discrepancy may simply reflect a shift in focus on what type of livelihood issues are being reported, rather than the emergence of new livelihood issues. See *Methodologies* section for a more detailed discussion.



This photo was taken on March 17<sup>th</sup> 2014 in northern N---village, Tha Yat Kon village tract, Hpa-an District/Central Kayin State. The photo is of a large piece of land confiscated by Mya Aye, a member of the KNU/KNLA-PC. As can be seen, a rubber plantation was established on the confiscated land. Rubber plantations constituted the most prevalent use of land confiscated for agricultural purposes. [Photo: KHRG]



The above photo was taken on March 8<sup>th</sup> 2014 near the eastern side of R--- village, Taung Ka Lay village tract, Don Yin Township, Hpa-an District/Central Kayin State. The photo is of a sign which reads, “[Tatmadaw] *Light Infantry Battalion #205's teak plantation.*” Prior to this land being confiscated, villagers collected thatch shingles in this area, with some of the land also being used for paddy fields. This photo only shows part of the land which was confiscated by the military and which is now being used as a commercial teak plantation. [Photo: KHRG]

## D. Militarisation

*“We are unable to [work on] our farm. If we go [to the farm] they might shoot us...In the upper part of the land the quality of the soil is very good for growing rice but they built houses for the KPF [there]. We cannot work on the land. We [the villagers] just live in fear.”*

Maung A---, (male, 42), B--- village,  
Kawkareik Township, Dooplaya  
District/Southern Kayin State (Interviewed  
in August 2014)<sup>366</sup>

From December 2012 to January 2015, KHRG received 22 reports regarding 10 separate incidents of land confiscation by armed actors in order to build new camps, expand existing ones, and build housing for the families of soldiers, as well as for commercial projects to fund military activities. Villagers identified the Tatmadaw and state-sponsored armed actors, such as Karen BGFs and the KPF, as the perpetrators of these abuses. Only two of the 10 separate incidents involved compensating villagers for land seized, while only one incident involved consultation prior to land confiscation, which also involved the deliberate use of misinformation to ensure villagers agreed to the land seizure.

This chapter focuses on the confiscation of land as one facet of militarisation. Militarisation during the preliminary ceasefire period is viewed with a great deal of suspicion by local villagers in Karen communities of southeast Myanmar, and any actions that maintain or increase a military presence is viewed as hostile. Villagers identified confiscation of land for military purposes as just one aspect of a larger trend of militarisation since the January 2012 preliminary ceasefire between the KNU and Myanmar government, which also includes an increase in troop rotations; the resupply of rations, weapons and ammunition; and skirmishes between armed actors.<sup>367</sup> This emerging trend was documented in KHRG’s previous thematic report, *Truce or Transition?*, and was not comprehensively covered in *Losing Ground*. Thus, this chapter diverges slightly from the previous chapters, documenting villager testimony related to militarisation continuing on from *Truce or Transition?*

In addition to information regarding land confiscation since the 2012 preliminary ceasefire, KHRG researchers have also continued to receive information regarding cases of confiscation by the Tatmadaw and state-sponsored armed actors which occurred prior to 2012. The period between 1989 and 2012 was particularly prone to such confiscation; a report by the Farmland Investigation Commission (FIC) recently found that the military has confiscated almost a quarter of a million acres of land across Myanmar, with only a small

### Key Findings

- Villagers identified the Tatmadaw, Karen BGFs, and KPF as perpetrators of land confiscation for military purposes.
- Land confiscated was used for building new camps, expanding existing camps, building housing for families of soldiers, and for commercial activities to fund military pursuits.
- In the majority of cases in which land was confiscated, villagers were not provided with compensation, or we provided with partial compensation far below what villagers considered fair.
- In the majority of cases, villagers were not consulted prior to confiscation, and in one case villagers were deliberately misled into signing an agreement which turned over their land to an armed actor.
- Throughout the reporting period, KHRG continued to receive reports detailing the negative impacts of cases where land had been confiscated prior to December 2012, highlighting the ongoing trend of land grabbing by the Tatmadaw over the last several decades.

<sup>366</sup> See source #99.

<sup>367</sup> See “Ongoing militarisation of southeastern Burma/Myanmar, since the January 2012 ceasefire agreement between the Karen National Union (KNU) and the Burma/Myanmar government,” KHRG, February 2015 and *Truce or Transition?*, KHRG, 2014.



fraction of it having been returned or compensated for.<sup>368</sup> Over the last two years, KHRG continued to receive information regarding past land confiscations, corroborating the finding of the FIC, as villagers in southeast Myanmar continue to report suffering repercussions from land confiscations perpetrated at different times over the past several decades.

Although the Myanmar government acknowledges widespread land grabbing by the Tatmadaw,<sup>369</sup> they have been slow to follow through with commitments to restitution and compensation of land,<sup>370</sup> and have admitted that some land seized by the military will never be returned.<sup>371</sup> In particular, land confiscated prior to the 2012 Farm Land Law may not be returned, as it was confiscated under *La Na* 39, or Article 39 of the 1953 Land Nationalisation Act of Myanmar.<sup>372</sup> *La Na* 39 states that agricultural land may be used for other purposes, such as rubber plantation or military camps, with permission from the President or his appointees.<sup>373</sup>

## 1. Occurrences and actors

Since December 2012, KHRG has received 22 reports documenting 10 separate incidents involving the confiscation of land by Myanmar government sponsored groups, related to militarisation. These incidents occurred in Thaton,<sup>374</sup> Toungoo,<sup>375</sup> Hpapun,<sup>376</sup> Dooplaya,<sup>377</sup> and Hpa-an districts<sup>378</sup> and were perpetrated by or with the cooperation of the Tatmadaw,<sup>379</sup> Karen BGFs,<sup>380</sup> KPF,<sup>381</sup> and Myanmar government officials.<sup>382</sup>

According to KHRG reports, villagers and KHRG researchers reported that land confiscation for military purposes occurred primarily without prior consultation and without compensation in the majority of incidents. Of the ten separate incidents of land confiscation that KHRG documented, only two incidents involved compensating villagers for their land,<sup>383</sup> one of which involved only partial compensation below what villagers believed to be fair.<sup>384</sup> Only one

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<sup>368</sup> *Yearning to Be Heard*, HURFOM, 2015, 16.

<sup>369</sup> In March 2013 the Farmland Investigation Commission, a parliamentary investigation, submitted a report to Burma's Union Parliament outlining massive land grabbing by the Tatmadaw. The Myanmar government agreed to return 18,364.49 acres of the approximately 300,000 acres of land confiscated by the Tatmadaw over the past several decades. See: "Military involved in massive land grabs: parliamentary report," *The Irrawaddy*, March 2013; See: Zarni Mann, "Only Fraction of Land Seized by Military Will be Returned: Minister," *The Irrawaddy*, July 18<sup>th</sup> 2013.

<sup>370</sup> "MPs urge prompt return of confiscated land," *The Irrawaddy*, September 26<sup>th</sup> 2014.

<sup>371</sup> The Myanmar government announced 50,000 acres of land where projects had already been constructed would not be returned, but that compensation would be arranged instead. See: Shwe Aung, "Ministry Agrees to Return Meagre Fraction of Land Confiscated by Military," *DVB*, July 18<sup>th</sup> 2013.

<sup>372</sup> For example, in Kyauykyi Township, Nyaunglebin District, villagers reported being told by the Township administrator that land confiscated under *La Na* 39 would not be returned to villagers, see "Nyaunglebin Interview: U A--", December 2012," KHRG, July 2014; "Nyaunglebin Interview: Daw U---, December 2012," KHRG, July 2014.

<sup>373</sup> The Land Nationalisation Act (1953), Myanmar.

<sup>374</sup> For example see source #3.

<sup>375</sup> For example see source #88.

<sup>376</sup> For example see source #106.

<sup>377</sup> For example see source #100.

<sup>378</sup> For example see source #15.

<sup>379</sup> For example see source #88.

<sup>380</sup> For example see source #100.

<sup>381</sup> Ibid.

<sup>382</sup> For example see source #2b.

<sup>383</sup> For example see source #1b.

<sup>384</sup> For example see source #22.

incident mentions consultation prior to confiscation, with the consultation involving deliberate misinformation to ensure that villagers would agree to the land seizure:<sup>385</sup>

*“They [Myanmar government officials] said they will give the same amount that the villagers asked [for as compensation]. They ordered the villagers to say that we are satisfied with the compensation. We cannot do anything as we mistakenly [were misled] signed the agreement.”*

Land Grabbing Form written by a KHRG researcher, in Dwe Lo Township, Hpapun District/Northeastern Kayin State (Received in December 2013)<sup>386</sup>

## 2. Identifying and quantifying sub-types

### a. Strengthening/reinforcing camps and building new camps

KHRG has received 20 reports that document nine individual instances of land confiscation for the purpose of either building new military camps or reinforcing and expanding existing ones. These include instances of confiscation prior to December 2012 that continued into KHRG’s reporting period. This particular type of abuse was perpetrated by or with the cooperation of the Tatmadaw,<sup>387</sup> KPF,<sup>388</sup> Karen BGFs,<sup>389</sup> and Myanmar government officials.<sup>390</sup>

For example, KHRG received ten reports<sup>391</sup> regarding one instance of land confiscation that began in May 2012 and continued throughout 2013. In this case, villagers reported that BGF Battalion #1013 and Myanmar government officials confiscated their land in order to construct a new camp for the battalion. The villagers, whose land is in P--- village tract, Dwe Lo Township, Hpapun District, assert that they were misled into signing an agreement:

*“The villagers had to agree. Hteh Ner Ser convinced the villagers that he was [a peace representative] from the KNU headquarters [who gave official permission for the camp to be built], so the villagers mistakenly signed the agreement.”*

Land Grabbing Form written by a KHRG researcher, Dwe Lo Township, Hpapun District/Northeastern Kayin State (Received in December 2013)<sup>392</sup>

As noted earlier, the increased presence of Tatmadaw forces during the ceasefire period creates suspicion among local villagers. Their insistence on building new camps and fortifying camps compound these fears, as one villager explains:

*“There is no change in the activity of the Burma army [Tatmadaw]; they send food when it is time to send food and they rotate the soldiers when it is time to rotate the soldiers. They strengthen their camps. They made fences with barbed wire and covered the roofs with zinc in some places. In the past, they made the fences with bamboo. For example, LIBs #547 and #549 did not have cement walls [in their camps] before the ceasefire. But they built cement walls and also built strong foxholes after the ceasefire.”*

Saw D---, (male, 48), A--- village, Nabu Township, Hpa-an District/Central Kayin State (Interviewed in December 2013)<sup>393</sup>

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<sup>385</sup> For example see source #1b.

<sup>386</sup> Ibid.

<sup>387</sup> For example see source #100.

<sup>388</sup> Ibid.

<sup>389</sup> Ibid.

<sup>390</sup> For example see source #106.

<sup>391</sup> See sources #1b; #2b; #3b; #4b; #5b; #6b; #7b; #8b; and #22.

<sup>392</sup> See sources #3b.

<sup>393</sup> See source #15.



## **b. Building barracks for soldiers family members**

Confiscated land was also utilized for building barracks and homes for soldiers' family members. KHRG received two reports regarding one such incident in Kawkareik Township, Dooplaya District, perpetrated by the Tatmadaw, Karen BGFs, and KPF.<sup>394</sup>

In this case, villagers report that beginning in October 2010, Tatmadaw forces began confiscating villagers land in order to build housing for KPF and Karen BGF soldiers and their families to live in. As the following illustrates, villagers were stripped of arable land and faced explicit threats from those perpetrating the offence:

*"The KPF and BGF gathered the farm owners and told them not to complain about the land confiscation, otherwise they will put them in jail. They are threatening the owners and because of this the owners are afraid to complain."*

Situation Update written by a KHRG researcher, Kawkareik Township, Dooplaya District/  
Southern Kayin State (Received in September 2014)<sup>395</sup>

## **c. Appropriating land to fund military activities**

KHRG has received three reports concerning the confiscation of land in order to fund military activities, documenting a total of two separate incidents.<sup>396</sup> All of these incidents have been perpetrated by the Tatmadaw, and villagers have reported that the Tatmadaw leases the land back at prices too high for the average villager to pay.

One such case occurred in Bu Tho Township, Hpapun District, where villagers reported land confiscation by Tatmadaw LIB #43.<sup>397</sup> Rather than work the land themselves, the battalion rented the land to villagers at a high price. Given the inflated rate, some villagers were unable to afford the rent, meaning that parts of the land were left unutilized. LIB #434 also began using the soil and clay from the land to produce bricks. As one KHRG researcher explains, it was expensive for villagers to gain access to the land:

*"U D---, a villager from H---, went to the commander of LIB #434 and asked permission to make bricks [for commercial purposes on that land]. He has to pay [LIB #434] 400,000 kyat (US \$402.82) per summer. The commander of LIB #434 said [to the villagers] that he is making bricks in order to fund the battalion."*

Situation Update written by a KHRG researcher, Bu Tho Township, Hpapun District/  
Northeastern Kayin State (Received in July 2014)<sup>398</sup>

In this case, the Land Use and Management Committee committed, in writing,<sup>399</sup> to the return of all of the confiscated land. However, the Hpapun Town administrator, who summoned villagers to a meeting regarding the issue, told them in person that their land would not be returned, and that they should refrain from reporting the case as it, "*damages the country's dignity.*"<sup>400</sup>

A second incident, also in Bu Tho Township, followed a similar trend.<sup>401</sup> Khin Zaw Tun, the captain of the Tatmadaw Ammunition Platoon #642, extended the fence of his battalion camp

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<sup>394</sup> See sources #100; and #99.

<sup>395</sup> See source #100.

<sup>396</sup> See sources #43; #101; and #102.

<sup>397</sup> See sources #91; #102; and #101.

<sup>398</sup> See source #91.

<sup>399</sup> See photos below for more information.

<sup>400</sup> See source #60.

<sup>401</sup> See source #91.

to include two acres of Saw C---'s field, a villager from K--- village. Once again, they tried to re-lease the land to those who had had it confiscated, only to find that villagers were unable to pay the large leasing costs:

*“Villagers must pay 100 baskets (2,090 kg. or 4,608 lb.) of paddy or 50 baskets (1,045 kg. or 1,843.20 lb.) of paddy [per year, depending on the size of the farm]. The villagers did not work on it [the confiscated land], because they [Tatmadaw] leased it at a very high leasing rate.”*

Situation Update written by a KHRG researcher, Bu Tho Township, Hpapun District/  
Northeastern Kayin State (Received in July 2014)<sup>402</sup>

### 3. Consequences

Out of the reports KHRG analysed, villagers and KHRG researchers identified livelihood issues as the primary negative consequence caused by land confiscation for military purposes. Of the ten cases assessed, seven cited livelihood issues<sup>403</sup> as a major consequence while one involved an incidence of displacement.<sup>404</sup>

#### a. Livelihood issues

Villagers from Thaton,<sup>405</sup> Toungoo,<sup>406</sup> Dooplaya,<sup>407</sup> Hpapun,<sup>408</sup> and Hpa-an districts<sup>409</sup> reported that their livelihoods were negatively impacted due to the confiscation of their land. They were left without their farms and plantations and therefore without their main means of subsistence and/or income, forcing them to work as day labourers in order to support themselves and their families. In one instance, villagers took up an alternative craft due to the military barring them from accessing their land and crops:

*“According to the villagers, if they [the land owners] collect the crops from their plantations without getting permission from the superior officer [and if the soldiers catch them], they [the soldiers] ask them to leave the crops with them. They also say that the land no longer belongs to you [the villagers] anymore. [Now], the villagers weave mats and sell them for their livelihoods. They [the villagers] said to help them [resolve this problem] if there are people who are willing to help them.”*

Situation Update written by a KHRG researcher, Thandaunggyi Township, Toungoo  
District/Northern Kayin State (Received in July 2014)<sup>410</sup>

This report goes on to say that some villagers have remained unemployed since having their land seized:

*“After the confiscation [of their land], the local people are now unemployed. Because of these issues, the land owners whose lands have been confiscated face problems with their economic and social situations, as well as their livelihoods.”*

Situation Update written by a KHRG researcher, Thandaunggyi Township, Toungoo  
District/Northern Kayin State (Received in July 2014)<sup>411</sup>

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<sup>402</sup> Ibid.

<sup>403</sup> For example see source #100.

<sup>404</sup> For example see source #15.

<sup>405</sup> For example see source #3.

<sup>406</sup> For example see source #88.

<sup>407</sup> For example see source #100.

<sup>408</sup> For example see source #102.

<sup>409</sup> For example see source #15.

<sup>410</sup> See source #88.

<sup>411</sup> Ibid.

## b. Displacement

The one case of displacement occurred in Nabu Township, Hpa-an District where 30 households consisting of 150 people had over 1,000 acres of land confiscated by the Tatmadaw.<sup>412</sup> These villagers were forced to stay in the garden of a monastery after being evicted. Many of them were forced to abandon the village altogether due to the loss of land:

*"The land is not the villagers' land if we look at their laws because the law says that the air, land and water belong to the [Myanmar] government. In the past the highest ranking commander of these three battalions told the villagers that the land did not belong to the villagers because the land was located within range of submachine guns belonging to the camp. Notably, one of the villages there called Y--- village had to relocate to a monastery because the Burma army confiscated their land. They hope that the Burma army will withdraw from their village and they will get the chance to go back and live in their village."*

Saw D---, (male, 48), A--- village, Nabu Township, Hpa-an District/Central Kayin State  
(Interviewed in December 2013)<sup>413</sup>

### **Case Study: Border Guard Forces Battalion #1013 constructs a new camp in Hpapun District**

Of the relevant reports KHRG received during the reporting period, a disproportionate number of those reports dealt with a specific project in Dwe Lo Township, Hpapun District.<sup>414</sup> Villagers in this case reported that their land had been confiscated by the Tatmadaw and BGF Battalion #1013 for the construction of a new base for the battalion. They confiscated a total of 135 acres of land, including cashew and rubber plantations, and began construction in June of 2012; since then, 75 buildings have been constructed on the land. The two BGF Battalion #1013 commanders in charge of this project are Major Hla Kyaing and Major Htu Lu (from Baw Kyoh Leh army base),<sup>415</sup> while the individual in charge of organising the construction is U Ha Than.

Villagers reported being misled into signing away their land by an individual posing as a KNU representative condoning the construction of the camp. Compensation for land was paid, but in a haphazard and incomplete fashion, with different individuals receiving drastically different amounts per acre and often only being compensated for parts of their land. In addition, villagers whose lands were confiscated for the project explicitly stated that, although they received compensation from BGF Battalion #1013 for their land, they accepted it only out of fear:

*"They [BGF and Tatmadaw] confiscated these civilians' lands, and they did not consult with the civilians [to see if] civilians agreed or did not agree. They came directly and cleared the land then set up the residence. They confiscated it [the lands] and provided compensation as they desired to the civilians. Even though the civilians did not agree, they [civilians] had to take it [compensation] quietly because they were afraid."*

Situation Update written by a KHRG researcher in Dwe Lo Township, Hpapun District/  
Northeastern Kayin State (Received in May 2013)<sup>416</sup>

<sup>412</sup> See source #30.

<sup>413</sup> See source #15.

<sup>414</sup> See sources #22; #1b; #2b; #3b; #4b; #5b; #6b; #7b; and #8b.

<sup>415</sup> Major Htu Lu was previously the commander of the DKBA battalion referred to as white elephant or *k'chaw wah* in the Karen language.

<sup>416</sup> See source #22.

In addition to direct intimidation by BGF Battalion #1013, fears have also been raised by villagers regarding the possibility of conflict between the KNLA,<sup>417</sup> who have called for a termination to the construction, and Karen BGFs:

*“According to the community member, the risk of ongoing construction is that the KNLA might engage in an armed attack if this project is not terminated. The local community is deeply concerned about such armed conflict, as they believe that the BGF will continue to build its army base until it has been successfully completed.”*

Photo Note written by a KHRG researcher in Dwe Lo Township, Hpapun District/Northeastern Kayin State (Received in December 2013)<sup>418</sup>

This illustrates the tenuous nature of the ongoing ceasefire from the perspective of local villagers, as well as the counterproductive effect that ongoing militarisation has on such perspectives.

#### 4. Incidents prior to the 2012 Ceasefire

KHRG researchers have also recognised another trend regarding land confiscation in relation to militarisation whereby villagers who were previously unwilling or unable to report cases of land confiscation experienced an increase in freedom to express their complaints after the preliminary ceasefire agreement signed by the KNU and Myanmar government. Therefore, during the reporting period KHRG researchers increasingly reported past land confiscation cases by the Tatmadaw which have occurred since 1975. In addition to the cases discussed above, KHRG had documented six cases related to land confiscation for the purpose of militarisation from Toungoo,<sup>419</sup> Nyaunglebin,<sup>420</sup> Hpapun,<sup>421</sup> and Dooplaya districts<sup>422</sup> that date from prior to the reporting period.

In one instance, villagers from Bu Tho Township, Hpapun District, reported that they are still unsatisfied regarding the confiscation of their land that occurred prior to the ceasefire because of the lack of the consultation and compensation from the Myanmar government:

*“In Hpapun District, the land was arbitrarily confiscated by Hpapun District’s Land Registration and Management Department and Land Administrative Department, which are [now both administered by] U Thein Sein’s government. They then gave the land to the Tatmadaw battalions that are under Southeast Command Headquarters control, which are Light Infantry Battalion (LIB) #340, #341, #434 and #642. These lands were confiscated before any discussion of the ceasefire. The lands have now been indefinitely confiscated following the KNU and [Myanmar] government ceasefire agreement.*

*“An obvious example occurred in Ka Taing Ti village, Ka Taing Ti village tract. Operations Commander (G3) Zaw Myo Tin, who operates in Ka Taing Ti military camp, arbitrarily bought six acres of land with 1,000,000 kyats (US \$974.95) from Ko Myo Ka Taing Ti [former village head]. When he fenced in the land he had bought, he fenced more than six acres - around sixty acres. He therefore forcibly confiscated the land around his plot without letting the land owners know.”*

Situation Update written by a KHRG researcher, Bu Tho Township, Hpapun District/Northeastern Kayin State (Received in October 2014)<sup>423</sup>

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<sup>417</sup> See “Emerging issues: Security, peacebuilding and social cohesion,” in *Truce or Transition?*

<sup>418</sup> See: “Hpapun Photo Set: BGF Battalion #1013 land confiscation for army base Dwe Lo Township, June 2012 to November 2013,” KHRG, June 2014.

<sup>419</sup> See source #111.

<sup>420</sup> See source #55.

<sup>421</sup> See source #106.

<sup>422</sup> See source #64.

<sup>423</sup> See source #106.

Land confiscated in Thandaunggyi Township, Toungoo District, prior to December 2012 has been used for military target practice as well as the construction of Myanmar government buildings and a military compound.<sup>424</sup> Over 5,000 acres of farmland were confiscated there in 2000, creating long lasting difficulties for local communities.

Some cases date from much farther back. One case from Mone Township, Nyaunglebin District,<sup>425</sup> date from the mid-1970s during the Myanmar government policy of 'four cuts.'<sup>426</sup> Another case occurred in 1992 and involved a villager from G--- village, Bu Tho Township, Hpapun District,<sup>427</sup> This villagers' land was confiscated by the Tatmadaw in order to build a Tatmadaw monastery. This case demonstrates that the government has often fallen short of its commitment to provide restitution or compensation to those affected by land confiscation during the military regime:

*"They have not returned anything yet...they said they will give [compensation for the land] instead and that they will not give [the land back], but they have not given any money as compensation [yet]."*

U A---, (male, 46), B--- village, Bu Tho Township, Hpapun District/  
Northeastern Kayin State (Interviewed in July 2013)<sup>428</sup>

A prominent case received during this reporting period occurred in Nabu Township, Hpa-an District, where more than 1,000 acres of villagers' land was confiscated in the mid-1990s by Tatmadaw Battalions #547, #548, and #549.<sup>429</sup> As a result of this confiscation, roughly 150 villagers were displaced and have now lived in a monastery for nearly two decades. In 2013, villagers in Nabu Township acquired land grants from the local authorities, only to be informed by the Tatmadaw that their land grants were illegal and that the land still belongs to the military.<sup>430</sup> Their attempt to work through official processes was short lived, and they remain landless with little prospect of regaining their land. Cases such as these illustrate the ongoing barriers faced by villagers trying to rectify the violations and human rights abuses of the past.

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<sup>424</sup> See source #111.

<sup>425</sup> See source #55.

<sup>426</sup> In Myanmar, the scorched earth policy of '*pya ley pya*', literally 'cut the four cuts', was a counter-insurgency strategy employed by the Tatmadaw as early as the 1950's, and officially adopted in the mid-1960's, aiming to destroy links between insurgents and sources of funding, supplies, intelligence, and recruits from local villages. See: Martin Smith. *Burma: Insurgency and the Politics of Ethnicity*, New York: St. Martin's Press, 1999 pp. 258-262.

<sup>427</sup> See source #31.

<sup>428</sup> Ibid.

<sup>429</sup> See source #30.

<sup>430</sup> Ibid.



These photos were taken by an A--- villager on November 20<sup>th</sup> 2013 in B--- village, K'Ter Tee village tract, Dwe Lo Township, Hpapun District/Northeastern Kayin State. The first photo shows the entrance gate of BGF Battalion #1013's army camp with its military symbol. The signboard reads, "No. 1013 Border Guard Force, B--- village." According to a KHRG researcher who met with the A--- villager, the BGF battalion confiscated 135 acres of villagers' land, including villagers' rubber plantations, cashew plantations, and farms. There are 75 buildings in BGF Battalion #1013's army camp, with construction of the buildings almost complete. The landowners could not do anything to protect their land from being confiscated as they had already mistakenly signed documents and accepted compensation for their land from the BGF battalion and the Green Hill Company, a domestic corporation. [Photos: KHRG]



The above photo was taken by a KHRG researcher on January 29<sup>th</sup> 2014 in Meh Klaw village tract, Bu Tho Township, Hpapun District/Northeastern Kayin State. The photo depicts a farm that Tatmadaw LIB #340 confiscated from villagers. The photo shows the paddy field that LIB #340 planted during the rainy season, as well as the targets used for target practice by IB #19 and LIBs #340, #341, and #434. [Photo: KHRG]



The above photo was taken by a KHRG researcher in E-- village, Meh Klaw village tract, Bu Tho Township, Hpapun District/Northeastern Kayin State, on July 21<sup>st</sup> 2014. The photo shows land that was confiscated from villagers by Tatmadaw LIB #434. After they confiscated the land, the battalion was unable to work on it and so leased it to other people. However, the leasing fees were too high, so villagers who work the land are no longer required to pay any tax. Instead, villagers are allowed to work the land if they also help on the battalions own plots, ensuring that the land does not remain empty. [Photo: KHRG]

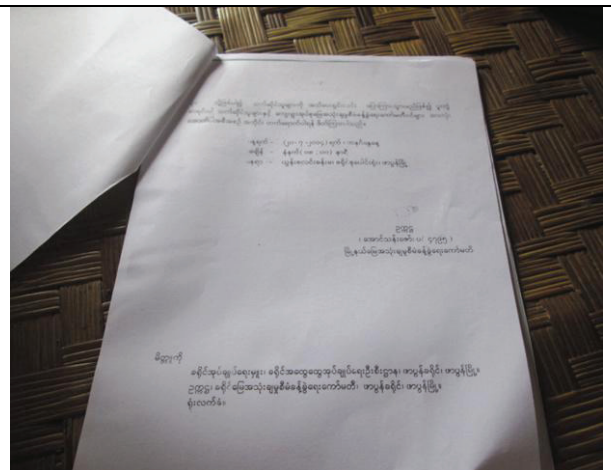
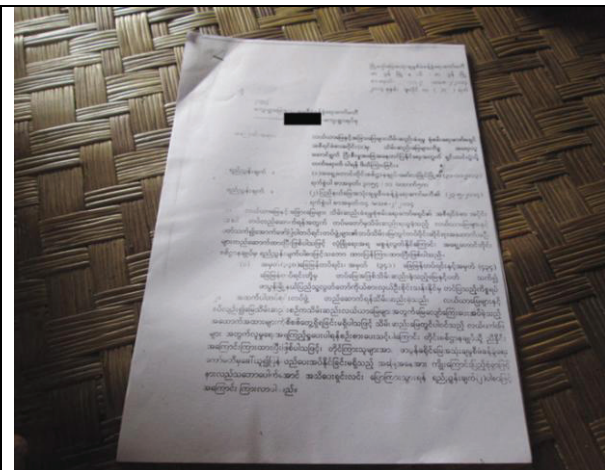




The above photo was taken on December 15<sup>th</sup> 2012 in Thandaung area, Thandaungyi Township, Toungoo District/Northern Kayin State. The sign marks land confiscated from villagers by Tatmadaw LIB #124, which will be used to build their barracks. [Photo: KHRG]



The above photo was taken on April 19<sup>th</sup> 2014 in Meh Klaw village tract, Bu Tho Township, Hpapun District/Northeastern Kayin State. This photo shows the modification and extension of Tatmadaw Ammunition Platoon #642's camp fence, which resulted in the confiscation of two acres of Saw A---'s farming fields. [Photo: KHRG]



These two photos were taken on September 12<sup>th</sup> 2014 in L--- village, Meh Klaw village tract, Bu Tho Township, Hpapun District/Northeastern Kayin State. They show a letter written by the Hpapun Township administrator and sent to the villagers whose lands have been confiscated by Tatmadaw LIBs #340, #341, and #434, asking them to attend a meeting. The letter subject read: "Meeting invitation regarding the Survey Commission Report, Chapter #1: About farm land, other land, and reporting on the transparent resolution of the land confiscation issue." A total of 43 farm owners were invited to attend the meeting. The Hpapun Township administrator wrote this letter to summon the farmers in order to inform them that their land will not be returned, although some farmers were still not aware of the meeting. At the meeting, the villagers were informed that the battalions had built a base on their land. The farm owners who attended the meeting said that the Hpapun Township administrator told them, "If we give back [the land] we will harm our country's dignity." [Photos: KHRG]

### III. Village agency

*"Whenever I go and meet with the villagers, I tell them that [other] people cannot address the problems for us. We have to solve the problems by ourselves. We have to solve [problems] like this. For example, if our own belongings are damaged, we have to note the information in detail and we need to report it to the media. We do not need to feel scared and anxious. We need to have the mind-set of being like a soldier who is fighting in a battle, and if one has been shot [in a battle], one will be dead. In other words, we need to fight to get back our land. We need to fight for our rights by ourselves."*

Situation Update written by a KHRG researcher, Hti Lon Township, Hpa-an District/Central Kayin State (Received in April 2014)<sup>431</sup>

Since December 2012, villagers have tried to address issues related to land confiscation in a number of different ways, including negotiation,<sup>432</sup> lobbying the Myanmar government<sup>433</sup> and the KNU/KNLA,<sup>434</sup> outreach to Non-Government Organisations (NGOs) and Community Based Organisations (CBOs),<sup>435</sup> formal registration of land,<sup>436</sup> and other techniques<sup>437</sup> such as direct confrontation<sup>438</sup> and outreach to the media.<sup>439</sup>

The majority of land owners whose land has been confiscated have been unsuccessful in getting their land back following confiscation, and unsuccessful in procuring full and fair compensation. According to one villager, this is because:

*"The land is not the villagers'. If we look at their laws, the air, land and water all belongs to the Government."*

Saw D---, (male, 48), A--- Village, Nabu Township, Hpa-an District/Central Kayin State (Interviewed in December 2013)<sup>440</sup>

#### Key Findings

- Villagers in Karen communities of southeast Myanmar have employed a variety of collective and individual agency strategies to confront development actors. These include negotiation, lobbying the Myanmar government, outreach to CBOs/NGOs, lobbying the KNU/KNLA, formal land registration, and a variety of other strategies including demonstrations and armed responses.
- There was a marked increase in the frequency and diversity of village agency responses compared to the prior reporting period of 2011-2012.
- Negotiation with development actors was the most commonly cited village agency response.
- A small number of cases of negotiation were successful in preventing or stopping a project. However, in most cases the villagers faced violent threats or even death for speaking out.
- Villagers reported lobbying EAGs, in particular the KNU/KNLA, in order to address abuses in areas where they exert influence; in some cases projects were prevented following EAG intervention.

<sup>431</sup> See source #78.

<sup>432</sup> See sources #6; #25; #30; #44; #45; #48; #50; #52; #53; # 64; #9b; #10b; #61; #67; #69; #75; and #81.

<sup>433</sup> See sources #22; #6; #68; #77; #26; #27; #102; #72; #80; #54; #1b; #2b; #63; #19; #25; #46; #84; #88; #56; #9b; #61; and #3b.

<sup>434</sup> See sources #42; #15; #86; #81; #82; #44; #56; #17; #72; #22; #30; and #10b.

<sup>435</sup> See sources #10; #31; # 62; #79; #84; #40; #60; #76; #64; #14; #16; #81; #45; #49; and #106.

<sup>436</sup> See sources #11; #18; #30; #47; #48; #44; and #46.

<sup>437</sup> See sources #17; #3b; # 46; #89; #77; #61; #13; #36; #1b; #2b; # 64; and #110.

<sup>438</sup> See source #110.

<sup>439</sup> See source #3b.

<sup>440</sup> See source #15.

Village agency refers to situations in which villagers undertake actions in the pursuit of a common objective. This can be done in various ways, including using village level committees or community advocacy organisations which seek to prevent abuses identified by villagers from occurring, or obtaining compensation for damage inflicted on land, livelihoods or both. These methods have been utilised by villagers in southeast Myanmar when communities' security and wellbeing is put at risk, or by groups trying to reach an agreement concerning a strategic way to recognise the rights of a larger group. Villagers in all seven geographic research areas have described community responses to business and development projects in order to try to prevent or mitigate negative impacts on their land and livelihoods. Unfortunately, serious obstacles continue to undermine these attempts to respond to threats on their land and livelihoods.

In a number of cases, villagers did not report engaging in any type of village agency strategies after their land was confiscated. One of the primary reasons for this is based on the past experiences of many villagers who have tried to submit complaints and never received a response or saw action taken.<sup>441</sup> For those that did receive a response, the answer was rarely satisfactory,<sup>442</sup> and in most cases attempts at redress failed or were outright ignored.

## **A. Identifying and quantifying types of village agency strategies**

Since December 2012, KHRG received a total of 89 reports describing agency strategies undertaken by villagers from all seven research areas, with 98 separate cases of strategies being deployed within these 89 reports.<sup>443</sup> Perpetrators of human rights abuses which led to village agency responses include the Myanmar government,<sup>444</sup> the KNU/KNLA,<sup>445</sup> wealthy individuals,<sup>446</sup> Karen BGFs,<sup>447</sup> private Myanmar companies,<sup>448</sup> foreign companies,<sup>449</sup> the Tatmadaw,<sup>450</sup> religious leaders,<sup>451</sup> and foreign NGOs/CBOs.<sup>452</sup>

### **1. Negotiation**

KHRG received 24 reports in which villagers used negotiation as a strategy to deal with collective and individual grievances. This strategy was documented by KHRG in four out of the seven research areas: Thaton,<sup>453</sup> Hpapun,<sup>454</sup> Dooplaya,<sup>455</sup> and Hpa-an districts.<sup>456</sup> Perpetrators involved included the Tatmadaw,<sup>457</sup> the KNU/KNLA-PC,<sup>458</sup> Myanmar private companies,<sup>459</sup> wealthy individuals,<sup>460</sup> Karen BGFs,<sup>461</sup> Myanmar government officials,<sup>462</sup> and foreign NGOs/CBOs.<sup>463</sup>

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<sup>441</sup> See sources #72; #68; #80; and #54.

<sup>442</sup> See sources #44 and #106.

<sup>443</sup> Some reports included more than one account/more than one type of village agency technique.

<sup>444</sup> For example see source #69.

<sup>445</sup> For example see source #16.

<sup>446</sup> For example see source #18.

<sup>447</sup> For example see source #30.

<sup>448</sup> For example see source #44.

<sup>449</sup> For example see source #64.

<sup>450</sup> For example see source #46.

<sup>451</sup> For example see source #39.

<sup>452</sup> For example see source #47.

<sup>453</sup> See sources #44; #45; #48; #88; and #93.

<sup>454</sup> See sources #106 and #69.

<sup>455</sup> See sources #58; #82; #67; #61; #9b; #10b; #64; #53; #52; and #50.

<sup>456</sup> See sources #25; #30; and #79.

<sup>457</sup> See sources #67; #88; #93; #100; #106; and #79.

<sup>458</sup> See sources #75 and #81.

<sup>459</sup> See sources #6; #44; #45; and #52.

*“Z--- villager Kyaw H--- said that they wanted to go and do farming on the land beside the road. The administrator still doesn’t give permission [for them to] work on their own land.”*

Incident Report written by a KHRG researcher, Z--- Village, Kawkareik Township, Dooplaya District/Southern Kayin State (Received in September 2013)<sup>464</sup>

In one case reported to KHRG, villagers and the village leaders had meetings to try and solve the land problems and some villagers requested that the KNU create land grants<sup>465</sup> for them.<sup>466</sup> In another case, villagers negotiated with the Tatmadaw for compensation for land lost because of the construction of a dam, but the Tatmadaw refused to listen to the villagers.<sup>467</sup>

The results of negotiation were largely similar to other village agency strategies; in some cases villagers gained compensation or received their land back,<sup>468</sup> but most land owners did not.<sup>469</sup> In one example, villagers and land owners in Kyainseikgyi Township, Dooplaya District, gathered together and negotiated with the Thoo Lei Company to prevent them from setting up a stone grinding machine in their paddy fields. Their negotiations were successful, and the construction workers relocated elsewhere to set up their machines.<sup>470</sup>

Negotiation is not without risks however; in other reports gathered by KHRG, villagers expressed that they were threatened when they tried to engage in negotiation with the Tatmadaw.<sup>471</sup> This was seen in a case where a villager whose land had been confiscated attempted to negotiate with the Tatmadaw and was subsequently threatened with violent abuses by a Tatmadaw commander:

*“The village tract leader went and told them [the Tatmadaw] “You said no one was going to fish and now you are fishing.” They [the Tatmadaw] then said to the village head “Do not say anything! It is not your concern. If you dare say [anything], then say it. [But] if the Tatmadaw and KNU [Karen National Union] fight against each other again in the future, you will see [what I will do to you].” They [the Tatmadaw] asked the two of them [village heads], “How many heads do you have, [are you willing to risk losing it]?”<sup>472</sup>*

Situation Update written by a KHRG researcher, Kyainseikgyi Township, Dooplaya District/Southern Kayin State (Received in December 2013)<sup>473</sup>

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<sup>460</sup> See sources #61 and #9b.

<sup>461</sup> See sources #25 and #30.

<sup>462</sup> See sources #50; #53; #10b; and #69.

<sup>463</sup> See source #48.

<sup>464</sup> See source #50.

<sup>465</sup> A land grant is a document which legally states land ownership. It is supposed to prevent the possibility of land confiscation because proof of ownership can be presented to authorities. Land grants are often dismissed by Myanmar government officials who claim they are illegal.

<sup>466</sup> See source #44.

<sup>467</sup> See source #79.

<sup>468</sup> See sources # 30 and #106.

<sup>469</sup> See sources #18; #10b; #75; and #79.

<sup>470</sup> See source #64.

<sup>471</sup> See source #67.

<sup>472</sup> The Tatmadaw soldier in this case was issuing a specific death threat to the village head.

<sup>473</sup> See source #67.

## 2. Lobbying the Myanmar government

KHRG received 23 reports related to lobbying the Myanmar Government in all seven KHRG research areas: Thaton,<sup>474</sup> Toungoo,<sup>475</sup> Nyaunglebin,<sup>476</sup> Mergui-Tavoy,<sup>477</sup> Hpapun,<sup>478</sup> Dooplaya,<sup>479</sup> and Hpa-an districts.<sup>480</sup> Perpetrators inflicting human rights abuses on villagers in these cases included wealthy individuals,<sup>481</sup> Karen BGFs,<sup>482</sup> the Tatmadaw,<sup>483</sup> the KNU,<sup>484</sup> government officials,<sup>485</sup> Myanmar private companies,<sup>486</sup> foreign companies,<sup>487</sup> DKBA,<sup>488</sup> and other unknown perpetrators.<sup>489</sup> Since December 2012, lobbying the Myanmar government has been one way in which villagers have sought to acquire a solution or reaction concerning the abuses faced.

This is generally accomplished via reporting in person/through the organisation of a team<sup>490</sup> or using a village head as a representative.<sup>491</sup> Lobbying the government was occasionally successful, but in most cases the villagers were denied their land back or denied adequate compensation.<sup>492</sup> In many cases, the villagers did not receive a response at all.<sup>493</sup>

*"Shwe Kyin Kyauk Na Gar Dam was finished [being] constructed in 2010. There are 1,800 acres of land [which] were flooded because of [the] dam and many farmlands and fruit gardens were destroyed and lost. Villagers in Shwe Kyin [Hser Htee] Township and Ler Doh Township demanded compensation for their land losses but until now [the] government has not approved anything yet."*

Situation Update written by a KHRG researcher, Kyaukkyi Township, Nyaunglebin District/  
Eastern Bago Region (Received in September 2013)<sup>494</sup>

*"Villagers in Noh Koo Village tract asked to repay back their [to receive compensation for] 20 acres of farmland or pasture land grabbed by the USDP. They will then use this farmland to generate income for community development. Until now there was no answer and no approval for what the villagers have been asking for. Loss of Noh Koo pasture land is negatively impacting food and livestock."*

Situation Update written by a KHRG researcher, Kyaukkyi Township, Nyaunglebin  
District/Eastern Bago Region (Received in September 2013)<sup>495</sup>

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<sup>474</sup> See source #63.

<sup>475</sup> See sources #72; #46; and #88.

<sup>476</sup> See sources #54 and #19.

<sup>477</sup> See source #80.

<sup>478</sup> See sources #22; #6; #77; #26; #102; #1b; #2b; and #3b.

<sup>479</sup> See sources #68; #27; #84; #9b; and #61.

<sup>480</sup> See sources #25; #76; and #56.

<sup>481</sup> See sources #22; #68; #72; #54; #19; #56; #9b; and #61.

<sup>482</sup> See sources #22; #26; #1b; #2b; #25; #76; #56; and #3b.

<sup>483</sup> See sources #22; #102; #72; #54; #46; #84; #88; and #76.

<sup>484</sup> See sources #22; #46; #77; and #56.

<sup>485</sup> See sources #6; #77; #27; #72; #80; #63; #19; #84; #56; and #3b.

<sup>486</sup> See sources #6; #68; #80; #1b; #2b; and #3b.

<sup>487</sup> See source #76.

<sup>488</sup> See sources #22; #76; and #56.

<sup>489</sup> See source #72.

<sup>490</sup> See source #25.

<sup>491</sup> See source #81.

<sup>492</sup> See sources #76; #22; and #72.

<sup>493</sup> See sources #54; #80; and #63.

<sup>494</sup> See source #54.

<sup>495</sup> Ibid.

### 3. Outreach to CBOs/NGOs

Out of 89 reports received from December 2012 highlighting village agency strategies, KHRG has received 17 reports from four research areas, Thaton,<sup>496</sup> Hpapun,<sup>497</sup> Dooplaya,<sup>498</sup> and Hpa-an districts,<sup>499</sup> documenting complaints to NGOs/CBOs either in person or through letters stating the harm inflicted on villagers due to natural resource extraction and development projects.<sup>500</sup> The objective of villagers approaching CBOs and NGOs is to acquire protection from human rights abuses and/or to attempt to procure proper compensation. Villagers have reached out to CBOs/NGOs related to abuses perpetrated by Karen BGFs,<sup>501</sup> Myanmar private companies,<sup>502</sup> foreign private companies,<sup>503</sup> DKBA,<sup>504</sup> KNU,<sup>505</sup> KNLA,<sup>506</sup> KPF,<sup>507</sup> KNU/KNLA-PC,<sup>508</sup> Myanmar government officials,<sup>509</sup> religious leaders,<sup>510</sup> the Tatmadaw,<sup>511</sup> wealthy individuals,<sup>512</sup> and others.<sup>513</sup>

### 4. Lobbying the KNU/KNLA

KHRG received 13 reports documenting villagers lobbying the KNU/KNLA to address particular abuses related to land confiscation and development in six out of the seven KHRG research areas: Thaton,<sup>514</sup> Toungoo,<sup>515</sup> Nyaunglebin,<sup>516</sup> Hpapun,<sup>517</sup> Dooplaya,<sup>518</sup> and Hpa-an.<sup>519</sup> Perpetrators of the abuses mentioned in these reports include wealthy individuals, Karen BGFs,<sup>520</sup> the Tatmadaw,<sup>521</sup> the KNU,<sup>522</sup> government officials,<sup>523</sup> Myanmar private companies,<sup>524</sup> foreign companies,<sup>525</sup> the KNLA,<sup>526</sup> wealthy individuals,<sup>527</sup> DKBA,<sup>528</sup> and other unknown actors.<sup>529</sup>

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<sup>496</sup> See sources #10 and #45.

<sup>497</sup> See sources #39; #14; #51; and #106.

<sup>498</sup> See sources #62; #84; #60; #49; #59; #64; and #81.

<sup>499</sup> See sources #78 and #76.

<sup>500</sup> See sources #76 and #31.

<sup>501</sup> See sources #62; #78; and #76.

<sup>502</sup> See sources #60; #59; #64; #81; and #45.

<sup>503</sup> See sources #76; #62; #64; and #49.

<sup>504</sup> See sources #62 and #76.

<sup>505</sup> See source #81.

<sup>506</sup> See source #16.

<sup>507</sup> Ibid.

<sup>508</sup> See source #76.

<sup>509</sup> See sources #84; #39; and #106.

<sup>510</sup> See sources #78; #39.

<sup>511</sup> See sources #31; #62; #78; #84; #76; #64; #14; #45; and #106.

<sup>512</sup> See sources #10; #14; #16; and #45.

<sup>513</sup> See source #81.

<sup>514</sup> See sources #42 and #86.

<sup>515</sup> See sources #44 and #72.

<sup>516</sup> See source #19.

<sup>517</sup> See sources #82; #17; and #22.

<sup>518</sup> See sources #81 and #10b.

<sup>519</sup> See sources #15; #56; and #31.

<sup>520</sup> See sources #42; #86; #56; #17; #22; and #30.

<sup>521</sup> See sources #15; #86; #17; #72; #22; and #30.

<sup>522</sup> See sources #42; #81; #56; and #22.

<sup>523</sup> See sources #82; #44; #56; #72; and #10b.

<sup>524</sup> See sources #42; #86; #81; #82; #44; and #17.

<sup>525</sup> See source #15.

<sup>526</sup> See source #17.

<sup>527</sup> See sources #42; #56; #72; and #22.

<sup>528</sup> See sources #56 and #22.

<sup>529</sup> See sources #81 and #72.



Lobbying the KNU/KNLA is one way in which villagers seek to acquire a solution or reaction concerning the abuses they faced. Similar to lobbying the Myanmar government, this is generally accomplished via report,<sup>530</sup> in person,<sup>531</sup> through the organisation of a team or through a village head who serves as a representative.<sup>532</sup> In areas where the KNU/KNLA exerts control or significant influence, villagers would present their concerns in the hopes that the KNU/KNLA would take action on their behalf.<sup>533</sup>

Lobbying the KNU/KNLA was also carried out by villagers when their land which has been deemed uncultivated is first logged and then converted into plantations, often rubber, in areas where the KNU exert their influence.

In Nabu Township, Hpa-an District, one KHRG researcher stated:

*“Rich people...and some resident business men cooperate together to confiscate t’ la aw forests. They said that it was uncultivated land so they operate on them, logging on them and then switching to rubber plantations...If we are not going to assess or protect and let more people plant rubber trees, after five years we will not have any cows [as grazing land has been confiscated] with no more t’ la aw leaf to collect either. Villagers have requested KNU leaders, relate to the [liaise with] Forest Department Leaders, Township leaders and District leaders to solve these issues as soon as possible.”*

Situation Update written by a KHRG researcher, Nabu Township, Hpa-an District/Central Kayin State (Received in October 2013)<sup>534</sup>

Lobbying the KNU/KNLA has also been carried out when villagers are facing land confiscation due to projects planned by private companies. In one particular case the planned project was the construction of a cement factory. Following discussions discussing the impending project, the KNU/KNLA denied the private company permission to go ahead with their plans:

*“In Hpa-an Township, there are two companies that have entered into the area, which are the Mi Zaing Taung Company and the Soe Naing Phyo Company. The Soe Naing Phyo Company intended to build a cement factory in Meh Ka Raw village...they asked the opinion of the local armed actors [KNU-KNLA], and the local armed actor leaders did not make a decision immediately... on April 28<sup>th</sup> 2014, the township leaders and some [KNU] officers went to Meh Ka Raw village and had a meeting with the villagers. The people who attended that meeting included [U Zaw Min], the Chief Minister of Kayin State and five of his friends [government officials working for him] and [representatives] from the Soe Naing Phyo Company...the villagers were asked whether they agreed to the building of the cement factory...no villagers liked the project, so they did not agree to it. Since the villagers did not give them permission, the KNU and KNLA leaders did not allow them to build the cement factory.”*

Situation Update written by a KHRG researcher, Hpa-an Township, Thaton District/Northern Mon State (Received in July 2014)<sup>535</sup>

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<sup>530</sup> See sources #9b and #80.

<sup>531</sup> See source #54.

<sup>532</sup> See sources #2b and #3b.

<sup>533</sup> See source #56.

<sup>534</sup> Ibid.

<sup>535</sup> See source #86.

## 5. Formal land registration

KHRG has received eight reports regarding formal land registration from Toungoo<sup>536</sup> and Hpa-an districts.<sup>537</sup> In these cases villagers either attempted to use existing documentation to prevent confiscation, or tried to obtain registration documents while projects were beginning or in process. These cases involved confiscation or attempted confiscation by Karen BGFs,<sup>538</sup> Myanmar private companies,<sup>539</sup> foreign private companies,<sup>540</sup> foreign CBOs / NGOs,<sup>541</sup> KNU,<sup>542</sup> Myanmar government officials,<sup>543</sup> religious leaders,<sup>544</sup> Tatmadaw,<sup>545</sup> wealthy individuals,<sup>546</sup> and others.<sup>547</sup>

The process involves the measuring of land by authorities such as the KNU or the Myanmar government, who then issue documentation indicating ownership of the land. Although the Myanmar government conducts formal land registration, it is unclear if standardised or consistent procedure and rules are followed. In addition, formal registration may also facilitate land confiscation if the registration process results in land being declared vacant or fallow.<sup>548</sup> Furthermore, in some cases the reports described villagers receiving land documentation from the township level, which the Tatmadaw later refused to accept as a valid document.<sup>549</sup>

*“Regarding the land issue in T’Nay Hsah [Township], the villagers struggled to get their farms and plantations back. In May 2013, they [villagers] went to get [land] documents at the Kawkareik [Myanmar government] office. They brought the land grants back in order to be able to work on their farms again. When they went and showed them [the land documents] to [Tatmadaw Light Infantry Battalion] battalion #548’s battalion commander, the army [commander] told them that, “Your documents are illegal so you cannot work on your farms. They [the farms] are military lands.”*

Situation Update written by KHRG researcher in Nabu Township, Hpa-an District/Central Kayin State (Received in July 2013)<sup>550</sup>

Despite attempting to utilise formal land registration as a strategy to prevent land confiscation, villagers were unsuccessful in either preventing confiscation, or obtaining compensation in the cases reported to KHRG. In other cases villagers in possession of land grants were forced to sell assets in order to pay bribes to armed actors so that their land would be returned:

*“If you want your lands back come and give me 600,000 kyat (US \$582.52) and I will return the land to you’ [He said]. And Naw Pee Yaw came back and sold her gold and five cows and she gave that money [to a BGF commander]. After he [BGF commander] received the*

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<sup>536</sup> See sources #47; #48; #44; and #46.

<sup>537</sup> See sources #11 and #30.

<sup>538</sup> See source #11.

<sup>539</sup> See source #44.

<sup>540</sup> See sources #48 and #47.

<sup>541</sup> See source #48.

<sup>542</sup> See source #46.

<sup>543</sup> See sources #47; #48; #44; and #11.

<sup>544</sup> See sources #47 and #48.

<sup>545</sup> See sources #46 and #30.

<sup>546</sup> See source #18.

<sup>547</sup> See source #11.

<sup>548</sup> For further details regarding the use of special land designations during land confiscation, see the *Agriculture* chapter sub-section, *Land Types*. For a complete analysis of land laws in Myanmar, see *Appendix 3*.

<sup>549</sup> See source #30.

<sup>550</sup> Ibid.

money, he returned the land to the woman without giving any [land] documents to her. He [The commander] also said "We are no longer bothering your land".

Photo Note written by KHRG researcher in Paingkyon Township, Hpa-an District/Central Kayin State (Received in July 2013)<sup>551</sup>

## 6. Other strategies

Since December 2012, KHRG has received 12 reports detailing a number of other agency strategies employed by villagers from four out of seven research areas, including Toungoo,<sup>552</sup> Hpapun,<sup>553</sup> Dooplaya,<sup>554</sup> and Hpa-an districts.<sup>555</sup> These include demonstrations,<sup>556</sup> outreach to the media,<sup>557</sup> destruction of development project materials,<sup>558</sup> and direct confrontation<sup>559</sup> in order to try and protect their land from confiscation.

One way of protecting their land was to campaign against projects which would result in the confiscation of their land.<sup>560</sup>

*In Meh Way village tract, villagers heard that a company would begin gold mining in the Meh Way Kloh [River]. The civilians...organised themselves [to campaign against the project] and the village tract leaders completely prohibited [the project]...They prohibited [it] and posted notices about it along the road and river. The civilians [in Meh Say village tract] have prohibited gold mining in the coming years because they want the generations of their children and nephews to be able to sustain their livelihoods [without environmental damage].*

Situation Update written by KHRG researcher in Dwe Lo Township, Hpapun District/Northeastern Kayin State (Received in November 2013)<sup>561</sup>

While in some cases alternative strategies have been successful, as the example above demonstrates, in others they have not resulted in any positive outcomes for villagers. In one case, a monk who confronted the KNU/KNLA-PC over a logging project was murdered due to his opposition to the project:<sup>562</sup>

*"In the past they [the KNU/KNLA-PC] wanted to do logging in a garden. The monk did not let him to do the logging. I think he does not like monk...On October 8<sup>th</sup> [2014] we celebrated Ka Htein festival, we have a Pagoda and we respect our religion. On October 9<sup>th</sup> a [the] monk was arrested... After they brought monk to the army camp they went to Ka Nuh Hta road. They went one furlong<sup>563</sup> away and hit and burnt his back and then killed him."*

U A---, (male, 49) B--- village, Paingkyon Township, Hpa-an District/Central Kayin State (Interviewed in October 2014)<sup>564</sup>

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<sup>551</sup> Ibid.

<sup>552</sup> See source #46.

<sup>553</sup> See sources #17; #13b; #89; #13; #36; #1b; and #2b.

<sup>554</sup> See sources #61 and #64.

<sup>555</sup> See sources #77 and #110.

<sup>556</sup> See source #13.

<sup>557</sup> See source #3b.

<sup>558</sup> See source #14.

<sup>559</sup> See source #110.

<sup>560</sup> See Source #13.

<sup>561</sup> See source #13.

<sup>562</sup> See source #110.

<sup>563</sup> A furlong is a unit of distance equivalent to 0.2 of a km. or 0.125 of a mile.

<sup>564</sup> See source #110.

### **Village Agency Case Study: Hti Lon Dam, Hpa-an District**

Construction on the Hti Lon Dam, located in Hti Lon Township, Hpa-an District, began in 2006 and was completed in 2010, although the negative effects, primarily due to flooding, were still being reported to KHRG by villagers as late as March 2014. Villagers who had their land confiscated for the construction of the dam, or were displaced due to subsequent flooding, have tried a number of different strategies to obtain compensation for their losses. During the reporting period, villagers met with various media outlets to discuss their cases, provided videos and photos of the destruction caused to their land, and presented official petitions to government ministers regarding the land confiscated. Although they have yet to receive compensation, Nan Say Hwah, the local parliamentarian for the area, agreed to meet with them to hear their concerns, and promised to raise the issue of compensation with the Chief Minister of Kayin State as well as the Farmland Investigation Commission.<sup>565</sup> While the outcome has yet to be decided, this case shows that, in many instances, villagers will assertively advocate and take steps on their own behalf to address grievances.

*“3,000 acres of land were confiscated [by the government and wealthy individuals] in Hlaing Bwe Township, Hpa-an due to the construction of the Hti Lon Dam. [As a result of this project] the villagers encountered various difficulties. The villagers do not have land to live and work on, so they must do odd jobs in order to survive. In addition, a number of their children have gone to work in Thailand, as there is no work available locally... In a list submitted to me by the villagers there are 40 fields that were flooded. They submitted [to me] the amount of land and the names of the villagers whose land was confiscated. They also submitted the acres of land that were confiscated by the government and the rich people and the names of the 58 land owners whose land was confiscated. They gave videos that show the land was confiscated and a list of the land owners in their own hand writing.”*

Short Update, written by a KHRG researcher, Hti Lon Township, Hpa-an District/Central Kayin State (Received in March 2014)<sup>566</sup>

### **B. Trends compared to 2011-2012**

Previous KHRG research on land confiscation in southeast Myanmar identified 74 cases of village agency strategies being employed by villagers in the period between 2011 and 2012. In the current report, KHRG has identified 98 cases of village agency responses to land-related abuses. The number of reports has therefore increased in this reporting period compared to that of *Losing Ground*. This continues the overall trend of the frequency and diversity of agency responses. In addition to this overall increase, the type of responses in the current reporting period has also showed greater diversity. Responses such as negotiation and lobbying have increased in frequency, while formal registration of land and outreach to CBOs/NGOs have emerged as growing trends in this reporting period. This is not say that these strategies were not employed prior to December 2012, but rather that they emerged in the current reporting period as strategies consistently employed by villagers to defend their rights and prevent or address abuses.

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<sup>565</sup> The Farmland Investigation Commission was founded in August 2012 as part of the Farmer’s Affairs Committee, with the goal of identifying farmland ownership disputes. The first report issued by the commission in March 2013 indicated that over 250,000 acres of land had been confiscated by the Myanmar military, country-wide between July 2012 and January 2013. The commission has faced criticism for only highlighting land confiscation conducted by the military and not other actors. See “Rampant Land Confiscation Requires Further Attention and Action from Parliamentary Committee,” Burma Partnership, March 2013; and Htet Naing Zw and Aye Kyawt Kaing, ‘Military Involved in Massive Land Grabs: Parliamentary Report,’ *The Irrawaddy*, March 2014.

<sup>566</sup> See source #77.

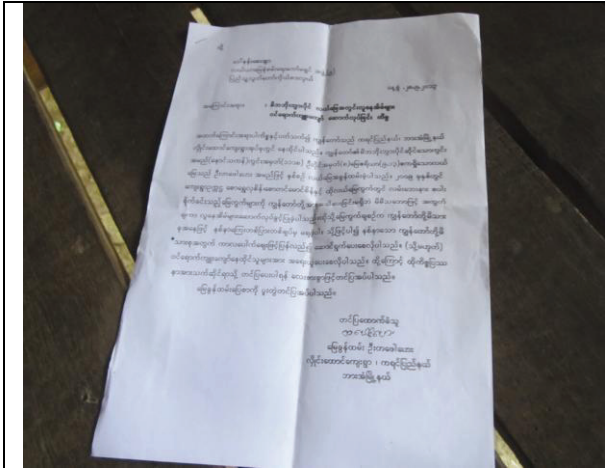


The above photos were taken on April 1<sup>st</sup> 2014 in the meeting hall of D--- village, Thandaunggyi Township, Toungoo District/Northern Kayin State. The KNU and local villagers met and discussed strategies to protect and preserve their land in the future if difficulties should arise. [Photos: KHRG]

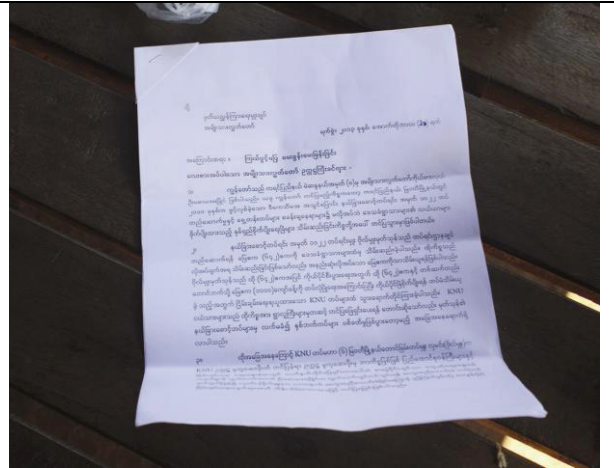


These photos were taken on April 27<sup>th</sup> 2014 in Thandaunggyi Township, Toungoo District/Northern Kayin State. They depict local villagers demonstrating against the building of a second dam on the Day Loh River. The prior construction of the Toh Boh Dam on the Day Loh River destroyed farmers' lands due to flooding, which also submerged a bridge. Villagers are campaigning for the Shwe Swun In Company to halt the construction of the second dam and to instead build another bridge to make traveling easier for residents in the region. Villagers report that the company did not confirm the termination of the project, but instead provided a barge for residents to use to cross the river. [Photos: KHRG]

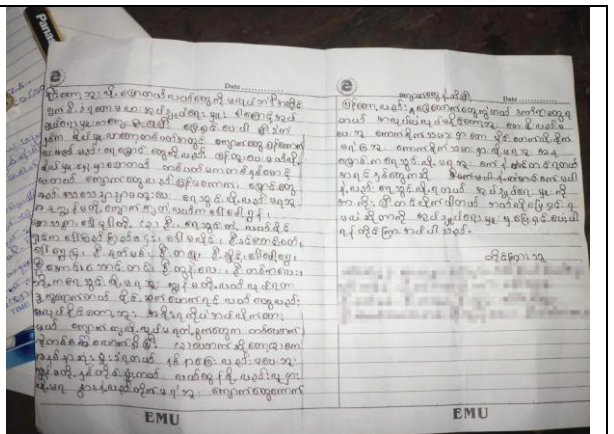
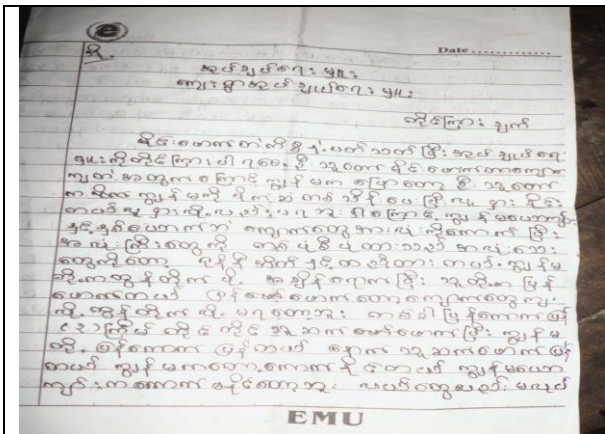




The above photo shows a complaint letter dated September 28<sup>th</sup> 2013 addressed to the Myanmar Parliamentary Farmland Investigation Commission Group #9 regarding the construction of houses on land which was inherited by a villager in H--- village, Hpa-an Township, Thaton District/Northern Mon State. The complaint letter was submitted by Saw T---, and complains about the village head Saw Hla Sein and Saw Tin Maung Sein building the houses on land which he inherited and owns without any consultation or compensation to the owner. [Photo: KHRG].



The above photo shows a complaint letter dated October 20<sup>th</sup> 2013 and lists the names of villagers who have had land confiscated in Hpa-an & Dooplaya districts/Central & southern Kayin State. It was sent to the Deputy Director from BGF Battalion #1022, accusing BGF Battalion #1022 Battalion Commander General Mote Thone, of confiscating 1,000 acres of villagers' land for military purposes. For his personal use he confiscated over 642 acres of additional land from villagers and threatened the villagers stating, "If you want back your land you will have to serve in a BGF or you have to deal with it with the law. If you don't like that I confiscated your land then I'll put you in jail." [Photo: KHRG]



The above photos were taken on November 28<sup>th</sup> 2013 in Kyonedoe Township, Dooplaya District/Southern Kayin State. They show a complaint letter from G--- villagers submitted to the village administrator regarding stone mining that destroyed local land. Stones from the project have blocked overflow drains resulting in villagers being unable to work on their land. The land owners have tried to collect the stones and clean up after the mining but to no avail. The villagers submitted this complaint to the village administration in order to take action against the mining in an attempt to resolve this issue. [Photos: KHRG]





The above photo shows a local villager reporting about the destruction of land due to stone mining in M---village, Kyondoe Township, Dooplaya District/ Southern Kayin State. The stone mining has affected villages around the Ma Yan Gone cliff. Due to the dispersal of large stones, the water systems for farming were blocked and badly damaged. Farm owners, including the M--- village head, reported this problem at the M--- village monastery. *[Photo: KHRG]*



The above photo was taken on December 18<sup>th</sup> 2013 in Kyonedoe Township, Dooplaya District/ Southern Kayin State. It shows a villager pointing to land that has been occupied since 1985 by village council chairman U New Aung and school Principal U Aung Nyien. The villagers did not receive any compensation from the destruction and confiscation of their land. Land owners U B---, his sons U J--- and U R--- and his daughter Ma P---, reported this incident and the fact that there are still other land owners who have not received compensation. *[Photo: KHRG]*



Villagers in Karen areas of southeast Myanmar continue to face wide spread land confiscation at the hands of a multiplicity of actors. Much of this can be attributed to the rapid expansion of domestic and international commercial interest and investment in southeast Myanmar since the January 2012 preliminary ceasefire between the Karen National Union (KNU) and the Myanmar government. KHRG first documented this in a 2013 report entitled 'Losing Ground', which documented cases of land confiscation between January 2011 and November 2012. This report, 'With only our voices, what can we do?', is a follow up to that analysis and highlights continued issue areas while identifying newly documented trends. The present analysis assesses land confiscation according to a number of different factors, including: land use type; geographic distribution across KHRG's seven research areas; perpetrators involved; whether or not compensation and/or consultation occurred; and the effects that confiscation had on local villagers. This report also seeks to highlight local responses to land confiscation, emphasising the agency that individuals and communities in southeast Myanmar already possess and the obstacles that they face when attempting to protect their own human rights. By focusing on local perspectives and giving priority to villagers' voices, this report aims to provide local, national, and international actors with a resource that will allow them to base policy and programmatic decisions that will impact communities in southeast Myanmar more closely on the experiences and concerns of the people living there.

*"Yes, now look at our ancestors' land that has been given to us, it is all being destroyed. They do business and get money. For us we have to sacrifice, suffer, and we get nothing out of it. How much can they bully us? What is human? We are equally human, yet they do not know whether other people will be hurt or suffer. They just care about their profits and are satisfied if they get money, not caring about other people's suffering and destruction. It is not human, it is animal... they can do whatever they want with a package of their money, but for us, with only our voices, what can we do?"*

Naw T--- (female), D--- village, Kyonedoe Township, Dooplaya District/Southern Kayin State  
(Interviewed in November 2014)

Founded in 1992, KHRG is an independent local organisation committed to improving the human rights situation in Myanmar by training and equipping local people to document their stories and gather evidence of human rights abuses; disseminating this information worldwide; and working directly with local villagers to enhance their strategies for protecting themselves from abuse and the effects of abuse. Examples of our work can be seen online at [www.khr.org](http://www.khr.org)