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Ethnic Conflict and Lands Rights in Myanmar

INTRODUCTION

Burma/Myanmar¹ has been affected by ethnic conflict and civil war since independence in 1948. The situation further worsened after the military coup in 1962, when minority rights were further curtailed. Myanmar's ethnic minority groups have long felt marginalized and discriminated against, resulting in a large number of ethnic armed opposition groups fighting the central government—dominated by the ethnic Burman majority—for ethnic rights and autonomy. Their main grievances are the lack of influence in the political decision-making processes; the absence of economic and social development in their areas; and what they perceive as Burmanization policies by successive governments since independence including repression of their cultural rights and religious freedom. The fighting has taken place mostly in Myanmar's borderlands, where ethnic minorities are most concentrated.

Myanmar has entered a pivotal stage in its political and economic development. Following the adoption of a new constitution in 2008, the first national elections in over 20 years were held under the previous ruling military government, the State Peace and Development Council (SPDC), which had been in power since 1997. A new military-backed government was inaugurated in March 2011, headed by President Thein Sein, a former general and former SPDC prime minister.

The advent of a new quasi-civilian government has caused a significant change in the political atmosphere, raising the prospect of fundamental reforms in national politics and economics for the first time in many decades. These include introducing new and revising existing laws that will have great impact on ethnic communities and ethnic rights in the country. The reform process has also raised hopes that a long overdue solution can be found to more than 60 years of devastating civil war. The government has signed new ceasefires with most ethnic armed opposition groups, but fighting has resumed with others, raising questions about the true intentions of the government and its ability to control the *tatmadaw* (national armed forces).

However, while these two important processes are closely connected to each other, they are currently not linked and occur in separate arenas with different stakeholders. The peace talks are taking place between the government's Union Working Level Peace Committee (UWPC) and the Nationwide Cease-fire Coordination Team (NCCT) formed by ethnic armed opposition groups. The government is supported in its efforts by the Myanmar Peace Center, a quasi-independent organization run by representatives of business and civil society and former exiles. Political parties are not directly involved in the peace talks. The lawmaking process, on the other hand, is conducted by the relevant ministries, the presidential office and the parliament. Several key issues that are highly relevant for ethnic peace are now being discussed in the political capital Naypyitaw without any involvement of the conflict actors that are currently at the negotiation table. This raises the question of how to integrate the outcomes of these two separate—but clearly closely related in terms of issues—processes. As an ethnic representative advising ethnic armed group in the peace process stated, “They are already dividing up the pie, and by the time we have finished our political dialogue, it is already finished.” This is exactly what is happening with the issue of land in Myanmar, especially in ethnic regions, where new cease-fires in combination with new land laws have opened space for large-scale land grabbing.

ETHNIC DIVERSITY

Myanmar is one of the world's most ethnically diverse countries. The majority of the population, which is ethnically Burman and predominantly Buddhist, lives in the central plains and valleys. In contrast, most ethnic minority groups, which make up 30 to 40 percent of the estimated population of 50 million, live in the rugged hills and mountains surrounding the central lowlands, where large numbers of them practiced upland swidden cultivation.

The former SPDC regime officially recognized 135 different ethnic groups under eight major “national ethnic races” (Hla Min 2000, 95–99). These figures are questionable, however, since there are no reliable population figures. The country's first national census was conducted in March–April 2014, a contentious government-led but internationally supported project completed just before the 2015 national elections. The question of ethnic identity was one of the most controversial elements of the census. By using flawed designations that date from the colonial era and ignoring the considerable complexity of the present political situation in Myanmar, the census raised ethnic tensions at precisely the moment that peace negotiations were focused on building trust and communal tensions were flaring up. There are many communities and internally displaced persons in the conflict zones of the ethnic borderlands who have not been properly included as well as others with marginal legal status who would have preferred to disappear in an official counting exercise. The scheduling of the census in the year before a key general election and before political agreements have been achieved in the cease-fire talks has only deepened concerns. Finally, in August 2014, the government decided to postpone the release of ethnic population data until after the 2015 elections (TNI 2014; MacGregor 2014).

Under the 2008 constitution, Myanmar is administratively divided into seven regions and seven states: Chin, Kachin, Karen, Kayah (or Karenni), Mon, Rakhine, and Shan (Ministry of Information 2008). The ethnic states comprise some 60 percent of Myanmar's territory, and the majority ethnic population of each state is reflected in its

name. The majority Burman population inhabits the seven regions (formerly called divisions). The regions and states are not monoethnic and cannot be seen as representing an entire ethnic group. There is a substantial non-Burman population in some of the regions, such as the Karen in the Ayeyerwaddy region and Tanintharyi region. Shan state has many other ethnic groups, including the Akha, Lahu and Intha; there is a significant Shan population in Kachin state; and many Burmans live in the cities and larger towns in the ethnic states. The government has also designated six new “self-administered areas” for some ethnic groups that do not form a majority in their state or region. These are the Naga Self-Administered Zone in Sagaing Region; the Danu, Pa-O, Palaung, and Kokang Self-Administered Zones in Shan state; and the Wa Self-Administered Division also in Shan state. Other distinct ethnic groups do not enjoy this special status.

CONFLICT DYNAMICS

There are two main forms of conflict in Myanmar. The first is over what the nature of the state should be and how state power (dominated today by the ethnic Burman majority) from the center connects with the periphery, which is dominated by a wide range of ethnic minority groups. Concomitantly there is the struggle over how the state is governed and the absolute control exerted by the military until recently over all executive, legislative, and judicial powers. Since the quasi-civilian government of President Thein Sein assumed office in March 2011, the *tatmadaw*-backed USDP government is still very much in control of national politics and the economy. The country’s most obvious ethnic divide, meanwhile, is between the Burman majority and other ethnic nationalities. Furthermore, in Shan state some of the smaller minority groups, such as the Wa, Akha, and Lahu, resent what they see as the dominance of the majority Shan population. There are also conflicts within ethnic communities. Myanmar’s Muslim population has probably suffered the most from religious and ethnic discrimination, and anti-Muslim riots have taken place on numerous occasions in several towns in central Myanmar. Muslim community

leaders claim that these attacks have been instigated—or at least tolerated—by the military government. Tensions are particularly high in Rakhine state, where a Muslim minority, who self-identity as the Rohingya, faces ethnic and religious discrimination.

The main grievances of ethnic minority groups in Myanmar are lack of influence over the political decision-making processes; the absence of economic and social development in their areas; and what they see as the military government’s Burmanization policy, which translates into repression of their cultural rights and religious freedoms. Ethnic minorities in Myanmar feel marginalized and discriminated against, and in effect, the armed rebellions in Myanmar are their response. Without addressing the grievances and aspirations of the ethnic groups, the prospects for democracy, peace, and development are grim. The nonrecognition of ethnic land rights is also a key concern. According to a senior official of the Kachin Independence Organization (KIO), an ethnic armed opposition group seeking a federal union based on democratic principles:

Successive Burmese governments have oppressed ethnic peoples and colonized their lands. Land in ethnic areas has been confiscated by the central government over the last 60 years. But the conflicts over land grabbing are more recent, as farmers in the central part of the country had their land grabbed and started to protest.²

Decades of war and oppression have caused great suffering for the peoples of Myanmar, especially in the conflict-affected areas in ethnic minority regions. The conflict has led to mass displacement and contributed to the breakdown of the education and health systems, underdevelopment, militarization, destruction of infrastructure and communication, food insecurity, discrimination, and human rights violations. Areas where multiple conflict actors are present (sometimes referred to as “dual administration”) are particularly difficult for local communities. Often, all of the conflict actors, including

Myanmar army units and ethnic armed opposition groups, place demands on local communities (food, finance, intelligence, recruits). At the same time villagers risk being accused by one side of helping the other, which can result in life-threatening situations. In many areas with active conflict, villagers fear all groups entering their community with weapons, and their immediate reaction is to run away.

According to UNOCA, 100,000 internally displaced persons (IDPs) are in Kachin and northern Shan states because of ongoing armed conflict; another approximately 140,000 IDPs are in Rakhine state because of continuing inter-communal tensions. In addition, there are an estimated 400,000 IDPs in the conflict-affected areas in the southeast of the country, primarily in Kayah, Karen, and Mon states. Thailand hosts some 120,000 refugees in official camps (UNOCHA 2015; TBC 2014). Recent fighting in Kokang region has caused some 30,000 people to cross the border into China, according to Chinese media, with other sources adding that the total number of people displaced could be significantly higher (Dinmore 2015). After decades of war and oppression, hundreds of thousands of ethnic minority people have fled their villages due to armed conflict, and one day, when peace returns to their communities, they hope to go back and reclaim their homes and ancestral lands. However, neither the peace process nor the new laws is so far offering any hope that this will materialize soon.

Many of the larger ethnic armed opposition groups have set up departments to administrate the areas under their control or influence. These include health and education departments and often also forestry, mining, and agriculture. In the past, several ethnic armed opposition groups controlled significant territory with substantial population. They established education and health systems with their own curriculum in local languages and with local staff, thus creating parallel systems, often based on systems and protocols from neighboring countries. They set up meaningful systems to serve often marginalized and underserved population in these war-torn areas. They have also introduced policies, including on health and education, and

also on land. The Karen National Union (KNU), for instance, has developed an elaborate land policy based on existing customary tenure practices while other groups, such as the Kachin Independence Organization (KIO), have issues several rules and procedures that also recognizes these rights.

After decades of civil war, some conflict actors—notably a large number of government-backed militias in Shan state—no longer have an agenda for political change, as they benefit from the status quo and instability and focus more on economic issues. Some of these groups are involved in illegal activities, including the drug trade, and benefit materially from the ongoing conflict. They have also engaged in land-grabbing to establish plantations or related to natural resource extraction in ethnic regions where they are active, usually in cooperation with businessmen from central part of Myanmar and neighboring countries.

THE REFORM AND PEACE AGENDA

Since the end of 2011, the government has held peace talks with all major ethnic armed opposition groups in the country. The talks represent a much needed change from the failed ethnic policies of the last decades. They are an important first step by the Thein Sein government toward achieving national reconciliation and peace in the country. By February 2012, initial peace agreements had been reached with 13 ethnic armed opposition groups, most of whom already agreed to a truce with the previous military government. The new truces include four basic points: to conclude a cease-fire; to inform the other party in advance about troop movements in or near each other's area; to set up liaison offices; and to hold future talks. Some of the agreements contain additional pledges to work together on issues such as drug control, education, development, and the resettlement of group members.

Despite continuing difficulties and suspicions, the initiatives for peace by the Thein Sein government represent a welcome and significant break with the past. First, the talks for the first time included

all major ethnic armed opposition groups and the government dropped all preconditions. Government negotiators have taken a more conciliatory approach, focusing on building trust, and acknowledged that previous cease-fires had not been successful because they did not benefit the people. The government also dropped its earlier demand for armed groups to convert into Border Guard Forces (BGFs).³ Also significant is that all of the new agreements are in writing, unlike the informal verbal truces of the past, when only the KIO had a written agreement. Furthermore, the contents of the new agreements have been made available to the public through government media. However, the agreements have yet to transform into a political dialogue and move beyond the establishment of new ceasefires.

More worrying is the renewed conflict with other groups. The resumption of fighting in Kachin state and northern Shan state during the new Thein Sein government (breaking a 17-year-old ceasefire with the KIO, concluded with the previous military regime), and the large government offensive against the KIO headquarters Laiza at the end of 2013, is of great concern. Fighting has also increased in other parts of northern Shan state, notably in the Palaung and more recently also in the Kokang regions. The fighting has displaced many civilians and has led to great mistrust among the ethnic population in these areas, as well as among other ethnic groups where new cease-fires have come into place, about the real intentions of the new government. As a result, a government proposal for a nationwide cease-fire ceremony continues to be delayed. There is no trust between the parties.

There are several other challenges emerging from the new cease-fires that have opened space for unsustainable natural resource extraction and land grabbing. At the same time there is as yet no structure that has emerged from the peace process that could start to address these issues, such as cease-fire monitoring by independent bodies, mechanisms for communities to bring forward complaints or grievances, and dispute settlement mechanisms. The only structure that the Myanmar army has agreed to is opening of liaison offices by cease-fire groups. However, local communities complain that these

often mostly function to facilitate business deals. Civilians are often also afraid to visit liaison offices as association with armed opposition groups is still illegal and could potentially result in long jail terms.

LAND REFORM

Since the advent of the Thein Sein government in March 2011, land rights (among other pressing concerns) have risen to the top of the national political agenda, as easing restrictions on media and people's rights to organize have led to increased news reports on protests by farming communities across the country against land grabbing. Land confiscation for agribusiness has been on the rise since the late 2000s, with a total of nearly 2 million acres allocated to the private sector by the then military government of the State Peace and Development Council (DAP 2011).

While some of the protests are aimed at past land grabs, others involve fresh cases happening amid what appears to be a new wave of land grabbing on an unprecedented scale since the implementation of a new round of government reforms. The reforms include several new laws on land and investment that change the legal basis for land use rights, especially in the uplands, while establishing a legal land market in order to encourage domestic and foreign investment in land. There are serious concerns that these changes will further exacerbate land tenure and food insecurity for the majority population in Myanmar that relies on their farm fields and forests for their livelihoods. This is because the new laws do not take into account the existing land tenure situation in ethnic areas where shifting cultivation in the uplands is common and where few have formally recognized land titles, not to mention national identity cards. Indeed, the new laws do not recognize customary and communal land rights at all. Nor do they consider the right of return of hundreds of thousands of ethnic villagers who have been displaced from their ancestral lands because of the decades-old conflict and economic marginalization. Consequently, the new laws are seen as exclusively benefitting the private sector, particularly large foreign investors, at the expense of

smallholder farmers, who make up three-quarters of the country's population.

At the same time, the Thein Sein government is moving to introduce a new economic development model for the country. In his inauguration speech in March 2011, the president declared his intention to invite foreign investment to develop the country and its people (New Light of Myanmar 2011). Declaring poverty reduction as the cornerstone of its economic reform package, the government sees stimulating industrial agricultural production—especially for rubber, palm oil, and paddy rice—through massive foreign investment as one of its main strategies to achieve this.

The government has yet to produce a detailed development plan. But the new land and investment laws are clearly key pillars, meant to facilitate the agrarian transformation from subsistence rural farm livelihoods to an industrial cash-crop economy. However, these laws passed through parliament very quickly, without benefit of broad public debate or serious consideration of their political, economic, and social ramifications. They are widely seen as benefitting mainly, if not exclusively, local cronies and former generals—some of whom were involved in drafting or passing these laws as newly elected members of parliament.⁴

In March 2012, a year after the new Thein Sein government had come to power, the Farmland Law and the Vacant, Fallow, and Virgin Land Law were passed. These two laws significantly changed the way land is governed in the country. The Farmland Law stipulates that land can be bought, sold, and transferred on a land market with land use certificates. This is highly problematic in a country where large numbers of people tilling the land do not have formal land titles. The Vacant, Fallow, and Virgin Land Law stipulates that all land not formally registered with the government can be allocated to domestic and foreign investors. The laws do not take into account the land rights of ethnic minorities and fail to recognize customary and communal tenure systems in land, water, fisheries, and forests. As a result, large numbers of farmers in the country, including most up-

land ethnic communities, have suddenly become “squatters” under this law. These laws were passed through parliament quickly, without the benefit of broad public debate or an inclusive consultation process. Both laws mainly benefit commercial interest and have already facilitated land grabbing. They have also created several land-related conflicts with an increasing number of protests by local communities affected by these developments (TCN 2013).

Because of these two new land laws families and communities living in upland areas—now labeled “wastelands”—have no legal land rights and land tenure security. This immediately puts ethnic upland communities under the real threat of losing their lands, which are precisely the areas heavily targeted by resource extraction and industrial agricultural concessions as well as infrastructure development. These two land laws dispossess farmers, especially upland subsistence farmers, of their right to farm, and more broadly their right to land and to decide how they will use and manage their farm and forestlands (Woods 2013).

Land grabbing and land speculation by domestic and international companies and local political elites are further incentivized by the new Foreign Investment Law, which was passed on November 1, 2012, after months of acrimonious debate in the country’s parliament and business associations. Although there are still several investment obstacles for foreign companies, the law has provided the legal measures for liberalization to attract foreign investment into the country, especially in the natural resource extraction and agribusiness sectors (Buchanan et al. 2013, 28–29).

The government enacted the Special Economic Zone (SEZ) Law on January 27, 2012, to provide the legal mechanism for SEZs in the country (Thidar Kyaw et al. 2011). The law provides several incentives for foreign investors, including up to 75 years of land use rights for large-scale industry; low income tax rates; exemption from import duties for raw materials, machineries, and equipment; no restrictions on foreign shareholding; relaxed foreign exchange controls; and government security support. Concerns about the SEZs have been

raised in the national parliament about the lack of benefits to the country overall as well as to the local population surrounding the SEZs and the potential for environmental degradation and industrial pollution. Two large SEZs have already been established in ethnic regions, causing massive land grabbing: the Dawei SEZ in Tanintharyi region and the Kyaukphyu SEZ in Rakhine state. Five other SEZs are planned in ethnic regions (Buchanan et al. 2013, 29-30; Loeven 2012; Aye Sapay Phyu 2012).⁵

In response to growing criticism, in June 2012 the president established the Land Allocation and Utilization Scrutiny Committee, headed by the minister of the Ministry of Environmental Conservation and Forestry (Keen 2012). This committee is to advise the president on land use policy and land laws; it was partly created to offset the Ministry of Agriculture and Irrigation's monopoly of power over the land laws and land allocation. The committee has not yet been able to revise the land laws or adopt new legislature that would safeguard farmers' land rights.

In the same month the president established the Land Investigation Committee. This is composed of members of parliament and is headed by a representative of the military-backed Union Solidarity Development Party (USDP). The committee has no decision-making power and is only mandated to investigate land grab cases, which must not go back before 1988 (the period before the previous military regime).⁶ The committee has concluded that the majority of land grabbing was done by the military (Noe Noe Aung 2012; Htet Naing Zaw et al. 2013).

On October 18, 2014, the Myanmar government unveiled a much-awaited draft, the National Land Use Policy (NLUP) for public comment. Once it is finalized, the new policy will guide the establishment of an overarching framework for the governance of tenure of land and related natural resources such as forests for years to come. This is a very important step for Myanmar, given the fundamental importance of land policy for any society—particularly those with recent and complex histories of political and armed conflict and pro-

tracted displaced populations. With a majority of Myanmar's population living and working in rural areas, agriculture is a fundamental part of the country's social and economic fabric. The situation is particularly dire for the country's ethnic minority groups, who make up an estimated 30 percent of the population.

The government initiated a consultation process and organized 17 public consultation workshops throughout the country.⁷ Given the crucial importance of land for the lives and livelihoods of the peoples of Myanmar, and the number of land-related conflicts in the country, this was an important and welcome decision by the government. However, local organizations were quick to point out that the consultation process did not provide a meaningful platform for communities to fully understand the meaning and potential impact of the draft NLUP since it was announced at short notice and did not take sufficient time to fully reflect their concerns and aspirations and provide sufficient feedback. Despite these concerns, various local and international organizations held pre-consultations workshop all over the country, to raise awareness about the draft NLUP text and facilitate community responses. This included Land in Our Hands (LIOH), a network of representatives of community based organizations and local organizations advocating for land rights for local communities, which organized 12 pre-consultation workshops. Following this, two expert meetings were organized in Naypyitaw and Yangon to solicit further input. Once adopted, the NLUP will have serious consequences for the current land-related legal landscape.

ETHNIC LAND RIGHTS AND PEACE

The NLUP is being negotiated while conflict in the country has yet to be resolved. Although fighting continues in some areas—notably in Kachin state and northern Shan state—the new cease-fires have put the issue of resettlement of IDPs and refugees higher on the agenda. Among the key issues left to resolve in the current peace process is access to and control of land. Discussion on land conflict and land rights has so far been almost absent in the peace process, even though

securing land rights is one of the hallmarks of international postconflict development. Instead, the new cease-fires, coupled with the new land and investment laws, have opened up lucrative opportunities for companies to buy up land in conflict-affected areas. This is especially worrying since many people have been displaced due to the conflict of their ancestral lands due to the conflict, but have no formal land titles.

In Karen areas, since the conclusion of a cease-fire with the KNU, private companies have been applying for permission from the central government to carry out business in areas where the KNU has been active. Furthermore, there are concerns about business deals operating behind cease-fire negotiations and fears that the present cease-fires will repeat past mistakes (Buchanan et al. 2013, 17-21). There has been no transparency regarding the business deals with members of armed opposition groups as part of the cease-fire negotiations, nor about any government-promised development projects targeting these ethnic areas. Ethnic civil society organizations and political parties have raised concerns over these backroom business deals, believing it is necessary to ensure that any so-called development projects benefit local communities. Some of them call for a temporary halt to these projects until ethnic peace and inclusive political agreements have been reached (Mizzima 2012; Letter 2012). Participants at a people's forum in Karen state in October 2012, for example, attended by thousands of Karen people affected by conflict, stated that the central government "is using the peace process to push forward unregulated development projects without proper safeguards or policies." They called on both the government and the KNU to improve the cease-fire and peace process and include local organizations in the decision-making process to promote sustainable peace and development. "Large-scale economic investment must be suspended during the peace negotiations," the statement said. "The government and the KNU must first address the issue of local ownership of natural resources" (Saw Eh Na 2012).

A number of ethnic armed groups such as the KIO recognize customary land tenure principles, including shifting cultivation, in

areas under their influence. The KIO also issues individual land use certificates. “We have a different perspective on land ownership,” says a senior KIO official. “In Kachin and Shan states, all the land belongs to the native people who have traditional titles over these. But the Myanmar government thinks this is free and vacant land.” Under these customary practices, anyone who wants to settle down into someone’s land has to pay some kind of tribute. “The ethnic people do not have any written policy and law, we have customary rights and land use,” says the KIO official. “We want to know whether these can be legalized and included in the new land use policy.” Although the KIO does not have a specific land policy, the organization has regulations in place related to land use and taxation since the end of the 1960s. The KIO has for example warned companies that any land use without permission in the region under its influence—and thus not just the territory under its control—is considered illegal.⁸

Similarly, the KNU land policy recognizes existing customary occupation and use rights, such as for upland swidden cultivation, community forestry, and grazing as well as the right of return to their homelands for displaced peoples, including IDPs and refugees. Soon after its formation in 1949, the KNU established several departments including forestry and agriculture to administrate the territory under its influence, which at that time was significant, and included large areas along the Thai border. The first KNU land policy was ratified at its ninth congress in 1974, partly in response to increasing land confiscations and nationalization by the military government which had come to power in 1962. In the mid-2000s the KNU agricultural department started a process to revise and update the policy under the slogan “Land to the native people”; the new policy was approved at the fourteenth KNU congress in 2009. Currently the policy is being reviewed again with involvement of local communities and Karen civil society organizations to better reflect existing customary land tenure realities on the ground. The new draft KNU land policy, which is finalized and awaiting approval, recognizes, restores, protects, and supports informal and formal land use rights and is based on custom-

ary law and practice, specifically for land tenure. It also has special provision for restitution and restoring lands to IDPs and refugees. Where this is impossible, the policy stipulates that the original owners may be given land elsewhere (KESAN 2014).

Such provisions are in line with international standards, but are currently lacking in the NLUP. The United Nations Principles on housing and property restitution for refugees and displaced persons (“The Pinheiro Principles”) state that “the right to housing, land and property restitution is essential to the resolution of conflict and to post-conflict peace-building, safe and sustainable return and the establishment of the rule of law” and that its successful implementation is “a key element of restorative justice, contributes to effectively deterring future situations of displacement and building sustainable peace.” Importantly, the principles state that “all refugees and displaced persons have the right to have restored to them any housing, land and/or property of which they were arbitrarily or unlawfully deprived, or to be compensated for any housing, land and/or property that is factually impossible to restore as determined by an independent, impartial tribunal.” It also stipulates that states should “demonstrably prioritize the right to restitution as the preferred remedy for displacement and as a key element of restorative justice” (United Nations Social and Economic Council 2005).

CONCLUSION

Ethnic conflict has ravaged Myanmar since independence, and cannot be solved overnight. Cease-fire agreements negotiated at the local level between different armed ethnic opposition groups and the government are important first steps. However, to end civil war and achieve true ethnic peace, the current talks must move beyond establishing new cease-fires. The process must be fostered by an inclusive political dialogue at the national level and key ethnic grievances and aspirations must be addressed. Failure to do so will undermine the current reform process in the country and lead to a continuation of Myanmar’s cycle of conflict.

Recognizing and protecting ethnic land rights are important elements to solving the country's decades-old civil war, and discussions and agreements on ethnic land rights should be key components of the peace process. The land laws should address the question of how to move from an overly centralized system of governance in light of ethnic minority groups' desires to move toward a more federal system.

Inequitable distribution of resources between the Burman center of the country and the resource-rich ethnic periphery is one of the key drivers of ethnic conflict in Myanmar. To address the long-lasting political and economic grievances that stem from this, land rights must be the cornerstone of the peace process. Recognition of existing customary and communal tenure systems in land, water, fisheries, and forests is crucial to eradicating poverty and building real peace in ethnic areas, and to ensuring sustainable livelihoods for marginalized ethnic communities affected by decades of war. It is also crucial to facilitate the return of hundreds of thousands of ethnic minority IDPs and refugees who had to flee their homes and ancestral lands.

The land laws must ensure effective and adequate access to land for women, IDPs/refugees, and for landless laborers who seek to build a new life and livelihood for themselves and their families. Many communities in conflict areas often have no formal land titles, and customary rights are not always respected because of the highly mobile populations fleeing war zones. While members of some communities left their homes relatively recently, and in some instances have been still able to attend to their farms, others have lived for many years (and continue to live) in refugee camps in Thailand. For IDPs and refugees to return and to be able to rebuild their livelihoods, access to and control of land will be crucial.

Both the government and the ethnic armed groups need to ensure that measures are enshrined in law to protect and promote the land rights of existing, displaced, and returning ethnic populations and that these are included in cease-fire and peace agreements, as well as in their respective land policies.

NOTES

1. In 1989 the military government changed the official name of Burma to Myanmar. They are alternative forms in the Burmese language, but their use has become a politicized issue. Myanmar is mostly used within the country and in international diplomacy, and is now also starting to be more commonly used in English language abroad. For consistency, Myanmar will be used in this paper.
2. Interview with Senior KIO official, May 19, 2014.
3. Communication with representative of armed group attending talks with Railway Minister Aung Min, November 2011. In 2009, the regime suddenly announced that all cease-fire groups had to transform into Border Guard Forces (BGFs), which would divide their armies up in small units of 325 soldiers under *tatmadaw* command. This would weaken the groups militarily, and did not address any of their grievances and political aspirations. Therefore, most cease-fire groups rejected the proposal, and tension increased with some fears that cease-fires would break down and fighting resume, especially after the *tatmadaw* occupied the Kokang region, breaking a 20-year-old cease-fire. Only some of the smaller groups accepted the BGF proposal, which are now referred to by their BGF battalion numbers.
4. The new land laws were first proposed by U Htay Oo, the former minister of MOAI and now a senior member of the Union Solidarity and Development Party (USDP), the military-backed ruling party. They were hastily passed through parliament, encouraged by U Myint Hlaing, a former general and former northeast regional military commander and current minister of agriculture and irrigation, along with U Htay Myint, an elected member of parliament, owner of Yuzana Company, and one of the country's largest nonmilitary private land owners. Interviews with civil society representatives and former government officials, Yangon, January 2012 and July–October 2013.
5. Three more SEZs are planned in Karen state (Hpa-an, Myawaddy, and Three Pagoda Pass) and one each in Rakhine state and Shan state.
6. Terms of Reference (TOR) for the commission are on file with author.

7. One in each of the states and regions; two additional events in Shan state; and one in the capital, Naypyitaw.
8. Interview with Senior KIO official, May 19, 2014.

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