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Scott Leckie: 'Burma could very easily become the displacement capital of Asia'

By DAVID STOUT

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Displacement Solutions founder and director Scott Leckie.

Following the publication of Displacement Solutions recent report on housing, land and property rights in Burma, DVB's David Stout spoke with the organisation's founder and director Scott Leckie about land disputes and new legislation in the country

In the last six to eight months there's been a lot of commotion made about land disputes in Burma. Legally speaking, what's setting the precedent for this to happen now?

Well the whole phenomenon needs to be looked at in terms of the history of the country when it comes to land ever since independence, whereby a system of law, which essentially gave all power to the state when it came to the control, use and allocation of land, was used and very often abused by those who were members of the state or closely associated with the state to acquire land for personal benefit.

That process may take a slightly different form today and may manifest itself in slightly different ways than it did in the past, but the environment now – with greater openness and greater commercial possibilities, business possibilities and investment possibilities – has put ever greater and increasing pressure on land with the net result being that values go up, expectations go up, and therefore the incentives to acquire land and benefit from it personally have also consequentially expanded. That of course leaves those who reside on the land in an extremely difficult position, particularly in a country which traditionally has not taken housing, land and property (HLP) rights of the citizenry very seriously.

In positive terms, there is recognition within some sectors of the government that land grabbing is actually a problem that should be stopped and is something that should be remedied if it is carried out.

Nonetheless, the structures in place – the lack of institutional means of preventing the practice, laws that were on the books before the recent reforms commenced and new laws that have been adopted in the last year or two – all play their own unique and distinct roles in facilitating these highly predictable processes.

And because they are so predictable, it's very clear that in any country that's undergoing structural political transition that the land sector is always going to be hard hit by those with vested interests – either

those who stand to gain from new changes or those who are fearful of losing privileges and stature that they may have had in the past.

Many things need to occur in order to reduce these practices, which we see almost on a daily basis now throughout the country. One can explain the history of Burma in many ways, but very rarely do we look at Burma exclusively through the lens of land questions and housing and property rights' issues. But if we do, one can see that this immense amount of state-oriented/military control over land is part and parcel of what's allowed the non-democratic forces to be in power for so long.

So we need HLP rights to be a greater source of equality and more equitable social relations instead of being a source of privilege, wealth and political dominance. Rather, the HLP sector needs to become something that's part and parcel of every single person's ordinary living experience so that everyone in the country has access to secure land, which is safe and has access to services that are affordable and cannot be taken away at a moments notice by forces that are better connected or more powerful than ordinary people in society.

Particularly with the Farmland Law, Displacement Solutions wrote in its report that this is one of the first times in the country that the Parliament worked with civil society groups to bring about a bill that in some ways would be more democratic. Now this represents a big moment in the Parliament because it shows that the reforms are real but in another sense you say the bill is still lacking. Can you talk about that process?

I think it's a phenomenon that exists in many sectors in many different ways in the country. There are reforms underway, whether it's in banking or at the economic level, where there are some changes but there's also reliance on past methodologies as well. You very much have that same double-edged process underway with the adoption of the two laws [the Farmland Law and the Vacant, Fallow and Virgin Lands Management Law]. We would consider it a good thing that at least some civil society groups had some measure of input into commenting on early drafts of the law, which did help to soften some of the rougher edges of the earlier drafts.

At the same time, the influence that was gained by civil society groups and others was at the end of the day very limited compared to the overall power that is associated with that law and those who backed it. It's very obvious to us that of all the new laws that could have been adopted during a reform period that these two laws were two of the first chosen. There is a rationale behind that process, which is designed to entrench vestiges of the former regime's benefits to those who are behind it.

What we would have liked to see and hope very much will be seen in the future when it comes to lawmaking on these issues are initiatives that are much more driven by expertise, by popular sentiment, by consolidated, strong and compressive policies emerging from civil society and the political parties – not a top-down approach, which is designed ultimately to ensure that any ill-gotten gains that were achieved during the past five decades are entrenched and where a bias is clearly built in that is clearly favour of the wealthier classes of society.

We favour a comprehensive review of both the Farmland Act and the Vacant Land Act, a systematic repeal of a number of the provisions of both and preferably, what we'd really like to see, is a national housing, land and property rights summit to be convened in the very near term, which would then lead to the adoption of a comprehensive HLP rights act, which would consolidate the entire existing legal code which is quite extensive on this question.

We think now is an ideal time to bring all the different forces together – the state, civil society actors, businesses, farmers organisations, NGOs, donors. We would like to see everyone with an interest in the

HLP sector in one room for a few days and really put all the issues on the table, in an environment of mutual trust and respect and for effectively the first time have an open and meaningful national debate about where the country wants to go when it comes to HLP questions. It's so easy to imagine worse case scenarios when it comes to land questions in the country and we want to avoid those at all costs.

In Southeast Asia there are a lot of worst-case scenarios, but are there countries that have been in political transition and handled this process in a much more equitable and fair manner?

Well, unfortunately there are not enough good examples to go by and this is why we're hopeful that Burma can lead the way in many respects. Burma does have the advantage of being able to see where these issues have been dealt with poorly over the past 25 years. You can glean small, sub-examples, so to speak, of good initiatives in a number of different countries, but generally those need to be viewed within the context of much larger policies that were not necessarily in favour of the rights of the weaker sections of society.

South Africa was the poster child of positive political change for a number of years, but a whole a range of HLP reforms that were undertaken in the early years after apartheid were emerged from the spirit of the ANC's Freedom Charter and which found full recognition within the Constitution, unfortunately never came close to bearing the fruit that people expected from it.

But the sentiment was there. The political will to make it happen wasn't. But there was certainly an intention to achieve universal decent housing for all and to decrease or eradicate forced eviction and to ensure restitution for land that had been taken on racial grounds in South Africa, but it just didn't play out the way that everyone had hoped.

I think the same thing could be applied to many of the countries in Eastern Europe – the former communist countries where things went in a much more neo-liberal, conservative free-market direction, which led in many cases to the emergence of new oligarchs who happened to also control large tracts of land.

East Timor is another really sad example; a country where the sky was the limit in terms of what could have happened in a positive way with respect to HLP rights, but where many years after independence and the changes took place with the removal of Indonesia after 25 years of occupation, it's still virtually impossible to buy or sell a piece of land or a house or to feel sufficient degrees of secure tenure.

Those are all incredibly important warning signs of what could happen in Burma if the authorities and civil society are not careful in addressing HLP concerns. Burma could very easily become the displacement capital of Asia by simply not learning from the painful lessons of countries that have undergone transitions and that clearly favoured economic development over the HLP rights of people.

The Government needs to look no further than the market-driven approaches in Thailand or state-driven approaches in Laos or China whereby – despite economic liberalism within the business sector – the state remains all dominant when it comes to determining where people are going to live, how they will live and whether or not they can stay on their own traditional land. We wouldn't want to see the authorities in Burma emulate either the Thai approach nor the Chinese or Laotian approach and certainly not the Cambodian approach.

Burma needs to go its own way and learn from the mistakes of others and use this tremendous opportunity to bring everybody together, show good faith, show the wisdom that is needed and get everybody talking and find the best way forward so that everyone living in the country can live out their lives with full residential dignity, safe in the knowledge that their HLP rights – all of them – will be secured throughout

all stages of their lifetimes. This is our vision for the people Burma

How vibrant are the civil society groups at the moment and how are the political parties responding to these issues?

We have definitely seen civil society expanding quite extensively when it comes to these issues, and groups such as the Land Core Group are particularly encouraging to watch. At the same time, though, there's still a long way to go. There's a lot more attention placed on the rights of farmers in rural areas than there is for slum dwellers in urban areas. There's clearly a rural emphasis, but that comes from the nature of the country, where 60 to 80 percent of the people are rural. There needs to be more attention paid to the rights of urban dwellers, particularly in downtown areas that will obviously go up in value which creates its own form of economic eviction by pushing anyone who lives in the city centre to the outskirts.

In terms of political parties, I would say all of the political parties, including the National League for Democracy, need to have a deeper understanding of the importance of these issues for the economic development of the country, the rule of law and the protection of human rights in the country.

I haven't seen a great deal of attention toward these issues from any of the political parties. That's something that really needs to be focused on in the coming months and years. A clear embrace of HLP rights by the major political parties will serve to strengthen the reform process and help to expand ever further the democratic processes now underway in the country.

-This interview has been edited and condensed.

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