IMPROVING ACCESS TO JUSTICE THROUGH COMMUNITY BASED DISPUTE RESOLUTION (CBDR) FOR HOUSING, LAND AND PROPERTY DISPUTES IN MYANMAR

HOUSING, LAND AND PROPERTY RIGHTS LEGAL AWARENESS INFORMATION MATERIAL

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I. HOUSING, LAND AND PROPERTY (HLP) RIGHTS INTERNATIONALLY AND IN MYANMAR.

I.1. What are HLP Rights?

As a human being and as a citizen or resident of Myanmar you personally have - under international and national law - a series of human rights. Some of these rights relate to the house where you live and the land that you use.

These rights are called housing, land and property rights, or HLP rights.

HLP rights are all of the rights in international and national law that in any way affect the rights and circumstances related to housing, land and property. HLP rights include:

- The right to adequate housing,
- The right to property (use, possession, transfer, control),
- The prohibition of discrimination,
- The right to a fair trial,
- The right to an effective remedy,
- The right to housing and property restitution,
- The right of displaced persons and refugees to return home.
- Customary land rights.

Individuals, governments and international organisations around the world have agreed to recognise these rights because they are based on shared universal values, human dignity and our shared humanity. These rights are designed to ensure you have:

- a decent place to live in peace and dignity;
- a home that is safe, affordable and adequate for your needs;
- secure land tenure (the legal right to ownership or use of land) that protects you from the illegal taking of your land, forced eviction and harassment;
- legal protections against discrimination and in support of equality of treatment for men and women; and
- special protections for vulnerable groups such as children, the elderly, disabled persons, displaced persons and others.

When any of these guarantees are not present in your life, your HLP rights are not in place, and that they may have been abused or violated.
I.2. Are HLP Rights found in International Law?

The government of Myanmar has officially committed itself to respecting these rights. The most well-known international human rights document, the Universal Declaration on Human Rights (UDHR, 1948), applies to every country and includes the first-ever mention in a global document of the 'right to adequate housing' in its Article 25(1). The Declaration creates obligations for the government of Myanmar.

Additionally, in October 2017, the Myanmar government committed to the International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966). Article 11(1) of s and commits all government authorities – at the Union, state and local levels – to comply with its terms.

In 1991, the UN Committee on Economic, Social and Cultural Rights adopted ‘General Comment No. 4 on the Right to Adequate Housing’ which interprets Article 11(1) of the ICESCR. It lists the following seven components form the core contents of the human right to adequate housing: (a) legal security of tenure; (b) availability of services, materials, facilities and infrastructure; (c) location; (d) habitability; (e) affordability; (f) accessibility; and (g) cultural adequacy. If you do not have any of these guarantees in place, your right to adequate housing is not yet in place.

Everyone in the country, therefore, can legally demand that their HLP rights guaranteed by the UDHR, the ICESCR and other treaties that create additional rights, are fully complied with by all public officials in Myanmar, and that new national laws recognising these are put in place as promised.

I.3. Does Myanmar national law also recognise HLP rights?

Article 37 of the Constitution establishes that “The Union: (a) 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; (b) shall enact necessary law to supervise extraction and utilization of State-owned natural resources by economic forces; and (c) shall permit citizens right of private property, right of inheritance, right of private initiative and patent in accord with the law.”

This does not mean that there are no HLP rights in Myanmar, but rather expresses the ultimate power of the state on land issues (including the ability to expropriate subject to the law and with the provision of adequate compensation). Hence, in addition to Article 37, there are some rights in the Union Constitution that recognize individual HLP rights. These are rights that can be claimed and demanded by everyone in Myanmar, with the government legally required to ensure that all of them are in place:

347. The Union shall guarantee any person to enjoy equal rights before the law and shall equally provide legal protection.

348. The Union shall not discriminate any citizen of the Republic of the Union of Myanmar, based on race, birth, religion, official position, status, culture, sex and wealth.

353. Nothing shall, except in accord with existing laws, be detrimental to the life and personal freedom of any person.
355. Every citizen shall have the right to settle and reside in any place within the Republic of the Union of Myanmar according to law.

356. The Union shall protect according to law movable and immovable properties of every citizen that are lawfully acquired.

357. The Union shall protect the privacy and security of home, property, correspondence and other communications of citizens under the law subject to the provisions of this Constitution.

372. The Union guarantees the right to ownership, the use of property and the right to private invention and patent in the conducting of business if it is not contrary to the provisions of this Constitution and the existing laws.

381. Except in the following situations and time, no citizen shall be denied redress by due process of law for grievances entitled under law:
(a) in time of foreign invasion;
(b) in time of insurrection;
(c) in time of emergency.

I.4. What are the land laws, rights of use and practices in Myanmar?

Besides international laws and the Union Constitution, a range of other laws and policies are relevant to HLP rights questions, including the Land Acquisition Act (1894), the Lower Myanmar Town and Village Lands Act (1898), the Farmland Act (2012), the Vacant, Fallow, and Virgin Lands Management Law (2012) and many others. Unfortunately, these laws often conflict with international laws protecting HLP rights, and are still frequently used to restrict or violate HLP rights rather than guarantee them in practice.

There are different HLP rights systems in Myanmar, and they vary throughout different parts of the country. These include Government statutory land laws and use rights that give the government the authority to grant individuals, corporations or development projects the right to use land. There are also customary land laws and use systems throughout all corners of the country that accord land use rights to local communities. Customary land systems are however still not formally recognized by Myanmar law.

Some positive steps have been taken since 2010 to restore HLP rights to people who suffered the theft of their lands during previous decades, including the establishment of a Committee for Rescrutinising Confiscated Farmlands and Other Lands. However, this and other bodies have not yet led to large-scale returns of land.

Advocacy is underway throughout the country to develop a new national law and procedure that would allow everyone who has lost land in recent decades and been displaced to submit HLP claims for the return of their land under law. To date the new law has not been passed.
II. HOW DO HLP RIGHTS WORK IN PRACTICE IN MYANMAR?

II.1. How do I access HLP rights in practice?

One of the most fundamental human rights is the right to an effective remedy for any perceived violation of a human right. This means that people everywhere must have a local administrative or legal procedure that they can invoke to make a claim to HLP rights. This right is recognized by the Myanmar 2008 Constitution under its Article 381, which states:

“381. Except in the following situations and time, no citizen shall be denied redress by due process of law for grievances entitled under law:
(a) in time of foreign invasion;
(b) in time of insurrection;
(c) in time of emergency.”

Accessing HLP rights in practice means taking practical steps which both recognise and protect rights. The law of Myanmar recognises your right to use different types of housing and land in a productive way, as long as you follow certain rules. The first step in protecting your HLP rights is to register your house and land. Historically you may have been able to access HLP rights just by having tax slips and buyer-seller contracts. Since 2012, however those documents are not as strong as they were in the past as proof of your ownership and use.

If you live in areas of government authority, you should approach official government departments to register your property.

If you live in areas where Ethnic Armed Organisations (EAOs) are active, particularly in Kayin, Mon and Kachin, you may also be able to approach those authorities to obtain EAO land documents.

II.2. What are the different types of land in Myanmar?

In Myanmar, there are different types of land. It is important to understand what kind of land you are dealing with because different types of land are administered by different government bodies. The most important categories of land are:

a. Farmland. It is administered by the Farmland Administration Bodies, Ministry of Agriculture, Livestock and Irrigation, MoALI.

b. Virgin land. It is administered by the Central Committee on VFV Land, MoALI.

c. Vacant and Fallow land. It is administered by the Central Committee on VFV Land.

d. Forest land. It is administered by the Ministry of National Forest and Environment Conservation.

e. Grant land. It is administered by the General Administration Department (GAD), Ministry of Home Affairs.
f. Town land. It is administered by the GAD and the Department of Agricultural Land Management and Statistics (DALMS).

g. Village land. It is administered by the GAD and the DALMs. Sometimes Town and Village land include “La Na 39” land, which is farmland authorized for other purposes such as building.

h. Cantonment land. Administered by the Tatmadaw.

i. Religious land. Administered by the GAD (Ministry of Home Affairs, MoHA).

j. Freehold land. Private property which dates back to colonial times.

k. Customary land. Administered by ethnic groups through custom and not yet recognized by law in Myanmar.

II.3. How do I register my land?

The procedures for the registration of land and housing are different depending on the type of land or the housing that you want to register. Below are the procedures for a) Farmland, b) Vacant, Fallow and Virgin Land, c) Forest Land, d) Township and Village Land, e) Town and Village Housing.

a) Farmland

According to the government, Farmland can include land used for many different purposes including rice farming, rubber plantations, vegetables and flowers, etc. If you are unsure which type of land you are using, ask the Village-Tract Administrator (who is present in the Village Farmland Administration Body).

If you are using farmland, you should register the land according to the Farmland Law 2012. To do this, you need to:

- Be 18 years-old
- Be a citizen of Myanmar
- Be on a household list
- Have the approval of the Ward/Village-Tract Administrator and two witnesses of the adjacent farm land that you are actually using the land
- Have some evidence that you have used the land in the past (Form 105, tax slips, buyer-seller contract, testimony from neighbours)

You should approach your Village-Tract Administrator who has the necessary application form, called “Form 1” (see Annex II and III). You will need to provide any documents or evidence you have of your prior use. If you have “Form 105” (a kwin map of your land provided by the Department of Agricultural Land Management and Statistics, or DALMS), this can be submitted along with Form 1. This will make the process faster. If you do not have Form 105, the process will take longer.

If no other people object to your claim, the Township Farmland Administration Body will issue a Land Use Certificate once the process is completed. This may take between 4-12 months.
In the future if you wish to change the use of the land, for example, to grow a different crop, you must register this change with your Village-Tract Farmland Administration Body.

b) Vacant, Fallow and Virgin Land

If you wish to make a claim to use land that has been left vacant by another person, or has never been used before, you can apply to use this land under the Vacant, Fallow and Virgin Land Management Law (or VFV Law), up to a limit of 50 acres.

To apply for this land, you must be planning to use the land for growing seasonal crops, industrial plants, perennial plants or orchards. For these activities you must fill out Form 1. If you are planning to use the land for livestock farming, you must fill out Form 2. These forms can be submitted to the Township Level Vacant, Fallow and Virgin Land Management Committee. If your application is successful (if the land is not being used and there are no objections), you will receive one of three Forms from the Central Committee for Vacant, Fallow and Virgin Land Management:

- Form 11 - permission granting the rights to grow seasonal crops and plants.
- Form 12 - permission granting the rights to grow perennial plants and orchard products.
- Form 13 - permission granting rights to use land for livestock farming.

If the application is successful, the grant is valid for 30 years, provided the land is used according to the rules (you must start your activities within two years and pay taxes on the land starting two years after the permission is granted).

The person applying for agricultural projects will have to pay a fee of MMK 3,000 per acre to make an application.

If your application is rejected, you will receive a rejection notice known as Form 16 from the Central Committee for Vacant, Fallow and Virgin Land Management.

I am using unregistered Vacant, Fallow or Virgin land. How long do I have to register my land use?

The Vacant, Fallow and Virgin Land Management Law was amended on 11 September 2018 (VFV Law Amendment). The VFV Law Amendment states that you have until 11 March 2019 to register your Vacant, Fallow or Virgin land use.

If you do not register your land use by this time and are caught on this land, you could be arrested and imprisoned for up to 2 years, be fined up to 500,000 MMK or both.

In applying for a user permit you need to take into account the following facts.

The September 2018 amendment states that customary land of ethnic nationalities is excluded from such requirements as customary land is not VFV land. However, at the moment customary land is not yet defined in Myanmar laws and regulations.

On one hand, if you are successful in getting a use right over VFV land your land will be secured through a 30 year concession. On the other hand, if you apply:
• You only get the land for 30 years.
• The right of use will not be inherited by your successors.
• When you apply for the use right you have to specify how will you use the land. If you do not follow such specification you could lose the land use right.
• If you do not use the land as planned within the stipulated time the government may revoke your land use right.

The amendment has been criticised by international and national non-governmental organisations. They have called for its implementation to be halted.

c) Forest Land

If your community has a forest which the community uses as a common resource for timber, fruit, animals or other resources, the law says that your community can apply to have that resource recognised as a community forest, which will then be legally protected. To do this your community must form a Management Committee made up of a chairman, secretary, treasurer and two members. The Chairman can then make an application for a Forest User Group Certificate with the Township Forest Department.

Recognition of community forest is valid for 30 years and after approval and the group must make a Management Plan and submit it to the District Forest Department. Once community forests are recognised, they are managed by the community and assistance is available from the Forest Department (for example, providing free seeds, technical advice and protection from and grabbing). To keep the Forest User Group Certificate, the members must follow the rules and register any changes in use with the Forest Department.

d) Town and Village Land

You should register the land at the Township through your Village-Tract Administrator. The Township GAD will issue a Grant document if the land is village or town land and you are entitled to it.

e) Town and Village Housing

Many people in Myanmar live in village or town houses that are registered with the Department of Agricultural Land Management and Statistics (DALMS) under the names of their grandparents or parents. If you wish to protect your HLP rights, it is a good idea to change the registration with DALMS into your own name. You should approach the Township DALMS and request assistance to change the name in the records. DALMS has publicly available information on what steps to take and the fees to pay. It is important to remember that this is a long process and may involve several different fees. If you have any documents that can assist your claim take that to the DALMS office with you. These documents may include things like tax slips, buyer-seller contracts or Form 105. If you do not have any of these things you will need to rely on the testimony of your neighbours and your Village-Tract or Ward Administrator for assistance.

II.4. What if I face problems trying to register my land?

If you experience problems with the land registration process, there are a number of development and human rights organisations who may be able to assist you. These may include organizations (either local or national) which focus on land issues and may be able to provide
free assistance or advice (See Annex I). Some organisations include EcoDev, Karen Development Network, Spectrum, Human Rights Foundation of Monland, Kachin Conservation Working Groups, Karen Environment and Social Action Network, EarthRights International, various Farmers Networks, and others may be able to provide you with assistance. Legal aid service providers are present in several state/regional capitals across Myanmar (Legal Light, Legal Clinic Myanmar, Mawlamyine Justice Centre, UNDP Rule of Law Centres, Shingnip, Kachin Legal Aid Lawyers Network, pro bono firms) and these may also provide free assistance, depending on your case. Some international organisations may also be able to assist including Norwegian Refugee Council and Namati.

If you are prevented for some reason from registering your land, you should at minimum try to record the history of your land use and gather any documentation that have that demonstrates your past land use and possession. If you are able to, you should try to document testimony from your neighbours and the village headman/woman (if you are unable, try to find someone who can help write documents for you). Their testimony might be useful in future if your situation changes.

II.5. I want to register my land, but I do not have the money to do so. What should I do?

In some areas, you can approach civil society organisations such as EcoDev, Human Rights Foundation of Monland, Spectrum or others, which provide financial assistance to register use rights. If there are any free legal aid services in your area they can be approached, as can Farmers Networks who may be able to assist.

II.6. How can I protect myself from “land grabbings” (illegal taking of land without a clear, fair legal process)?

If you have not registered your land in the past and others attempt to obtain rights over land that you are using, or that your family have been using for a long time, the law states that a public notice must be placed in the Township Farmland Administration Body office and the Ward/Village-Tract Farmland Administration Body office where the land is located, telling those in the area about the claim. The notice must be placed by one of the government committees with authority to address land issues – the Township Farmland Administration Body, Township Vacant, Fallow and Virgin Land Management Committee or other government authorities, depending on the type of claim being made. The public notice lets people in the area know about the claims.

You will have 30 days after the notice is posted in which to register your objection. You will need some evidence that you are using the land (Land Use Certificate, tax slip, evidence of your village head or neighbours). You can make your objection to the Ward or Village-Tract Administrator. If you are not happy with the decision of the Ward/Village-Farmland Administration Body or other body deciding the claim, you can appeal the decision to the Township Farmland Administration Body.

In the context of expropriations (land takings by public authorities), it is important to understand that the state can expropriate property from individuals without violating HLP rights, as long as this process is done in accordance with the law, following a legitimate aim and meeting the necessity and proportionality requirements (e.g., providing adequate compensation). A fair balance should exist between the needs of the public interest (e.g., to build a road) and the interests of the individual. Hence, adequate compensation should be given to persons whose property is expropriated.
II.7. How can I obtain compensation in case of an expropriation?

a) Government Departments or Military Confiscation.

If your land is taken by a Government Departments or the Military and they use it for the purpose for which it was expropriated, for example to build government buildings or a military base, the law allows this to happen as it is in the public interest. However, you should be paid compensation for your loss.

You can submit a complaint and a request for compensation to:

1. The Department responsible for the expropriation. When making the complaint, you should refer to the *Land Acquisition Act* 1894, which requires compensation be paid for land that has been legally taken, and provide any evidence of your past use of the land (Land Use Certificate, tax slips, buy-seller contracts, evidence of neighbours and Village-Tract Administrator).

2. Any level of the Committee for Rescrutinising Confiscated Farmlands and Other Lands (Ward/Village-Tract, Township, District, State/Region or Union). These committees are responsible for making sure that land taken by the Government/Military is being used for its correct purpose. You should submit your complaint, along with any evidence of your past land use (Land Use Certificate, tax slips, buy-seller contracts, evidence of neighbours and Village-Tract Administrator) and request compensation according to the *Land Acquisition Act* 1894.

If your land is taken by the Government or Military and it is not used for the purpose that it was taken for, the law says that the land should be returned to you. You can submit a complaint to any level of the Committee for Rescrutinising Confiscated Farmlands and Other Lands (Ward/Village-Tract, Township, District, State/Region or Union), especially for Military confiscations. These committees are responsible for making sure that land taken by the Government/Military is being used for its correct purpose.

The formal ways to complain about land confiscation can be very slow and sometimes do not produce results. Another approach is to find a person or group who can represent your interests, to approach those responsible for taking your land try to negotiate with them. This could be a Village-Tract Administrator, a religious leader, or a respected elder from your community. You could also approach legal aid service providers who are sometimes present in Townships to assist you to make complaints and a claim for compensation.

b) Companies.

If a company is currently trying to take your land you can try to negotiate with its representatives to try and stop it. You may also appeal to the Village-Tract Farmland Administration Body and argue against the taking if the company is trying to register its use as Farmland. If the company is connected to the Military, it is better to make a complaint to the Union level Committee for Rescrutinising Confiscated Farmlands and Other Lands and if possible to a Member of Parliament.

If you have enough money to hire a lawyer, or secure the help of one who will take your case for free, you can file a legal suit against the company under the Criminal Code for Criminal Trespass. If you are successful in proving your land use rights, the company may be ordered to stop its efforts to take the land and return it to you. However, you may still need to bring a civil suit against the company to get compensation for losses, or work with lawyers and NGOs to pursue other legal and advocacy strategies.
II.8. My land is already taken and is being used by someone or a company illegally. How do I get the land back?

You can do one or all of the following:

• Make a complaint to any level of the Committee for Rescrutinising Confiscated Farmlands and Other Lands (Ward/Village-Tract, Township, District, State/Region or Union).
• Appeal to the Ward/Village-Tract Farmland Administration Body if a Farmland claim is made.
• Approach the company directly or through an intermediary to negotiate.
• Alert the media.
• Bring a criminal suit for trespass if you can afford it.
• Seek free legal aid assistance if available.

II.9. The villagers wrote several complaint letters to authorities to stop confiscation of their land, but they did not get any reply. What options are available to the complainants?

Unfortunately, there is often little that can be done about delays in responses by government authorities. Alerting as many of them as you can about your claim and the delay is probably the best strategy. You can also contact influential MPs, the media and international organizations with influence to try and speed up a response.

II.10. How do I reclaim my land being occupied by the Tatmadaw for a military base or barracks?

It is difficult and slow to reclaim land taken by the Tatmadaw. You can file a claim with the Committee for Rescrutinising Confiscated Farmlands and Other Lands (Ward/Village-Tract, Township, District, State/Region or Union). If the land is being used for a public purpose, you will not be able to reclaim the land. If it is not being used for the purpose that was claimed when it was taken, you are entitled to compensation.

II.11. I bought land 30 years ago, but a religious organization is now claiming that the land belongs to them. What can I do to protect my rights?

It depends on if you can prove that the land is not classified as religious land with the DALMS. If it is, it will be difficult to reclaim. If it is not, you may be able to register the land with DALMS using any documentation and witness testimony. However, it may be better to negotiate for compensation.
III. CAN I HAVE MY CUSTOMARY LAND RIGHTS RECOGNISED?

Under the current laws of Myanmar, customary land rights are not well protected. Usually, those with customary land rights have little or no documentation and such lands are only rarely registered. However, if you wish to register your land use rights, you are still able to approach the Village-Tract Farmland Administration Body and make an application for a Land Use Certificate using the testimony of the village head and two neighbours as your witnesses. Many people with customary land rights also have some limited documents, like tax slips and buyer-seller contracts. These can strengthen your claim with the authorities.

If you are from a remote mountainous area and practice shifting cultivation (individually or communally), it is unlikely that you will be able to register your interest in the formal system as the law does not yet recognise this type of farming.

The Vacant, Fallow and Virgin Land Management Law Amendment (11 September 2018) now mentions customary land and shifting cultivation. This Amendment has caused controversy among CSOs, as it is not clear how these terms will be defined, or how the law will be enforced.

I am using shifting cultivation. How does the new Vacant, Fallow and Virgin Management Law Amendment affect me?

Article 30 of the Amendment states that the law does not apply to shifting cultivation land and customary lands designated under traditional culture of the local ethnic people. If you are using shifting cultivation, then your land should not be governed by this law.

You should request documentation (a letter) from the Village-Tract Administrator and DALMS to verify that your land is not covered by this law, and that there can be no Vacant, Fallow or Virgin land claims or Land Use Certificate claims made by other parties over your land.

If the VTA refuses to perform this service, you should submit a request to the Vacant, Fallow and Virgin Land Committee at the Township level for the same documentation. You may require legal assistance from a local CSO, farmers network or legal aid to gain access to Township authorities.
IV. TRANSFERRING HLP RIGHTS THROUGH A SALE OR INHERITANCE.

IV.1. How can I pass on the right to use my land to my children or other family members?

Once a Land Use Certificate is obtained, you are able to pass the rights to children and family members by making an application to the Township Farmland Administration Body and filling out Form 9. This Form is the application to change the name of the registered user of the land.

IV.2 Can I sell or transfer the use-right of my land to another party, and if so what do I need to do to make the transfer legal?

Yes, you can sell or transfer your land use rights. This must be done in the presence of the Village-Tract Farmland Administration Body. A stamp duty must be paid and you must sign a transfer deed.

IV.3. I gave my land to a brother to use it, but after some time he sold off the land without my consent/knowledge. How do I get back my land?

If the land was registered with a LUC, you should approach the Village-Tract Farmland Administration Body to intervene in the matter. If the land was not registered, then you may need to approach the Village-Tract Administrator (or a higher level of administration, depending on how influential the buyer is) with some proof that you were using this land before and ask for assistance.

IV.4. Someone’s land with fruits and a wood plantation was sold off to another person by a village leader. Do village leaders have authority to sell other people’s land? Given the position of village leaders, how do I get justice?

The village leader has no authority to sell individual or communal land. If a village leader is involved in fraud, the owner of the land must go above the village head and appeal to a higher level of authority such as the Township Administrator.

IV.5. How can I be assisted to make a strong contract when selling my land to companies and other people?

When making contracts it is important that you seek legal advice to make the contract binding. You may seek legal advice from a free legal aid provider (See Annex I).
VI. HOW DO I GET LEGAL ASSISTANCE TO SOLVE LAND ISSUES?

Dealing with the formal system is confusing and often expensive. You may wish to approach civil society organisations such as (see Annex I for more details):

- Mon Women's Organisation
- Shan Women's Action Network
- Kachin Women's Association
- Karen Human Rights Group
- Karen Women's Organisation
- Karenni National Women's Organisation
- Women's League of Burma
- Palaung Women's Organisation
- Legal Clinic Myanmar
- Ethnic human rights groups in your region

You should also check with the legal aid service providers mentioned above and in Annex I to see if you qualify for free legal advice and/or representation.

VI.1. Who can assist me to resolve disputes over land?

Disputes over land are common in all countries, including Myanmar. Sometimes these may be as simple as a dispute between neighbours over land boundaries, but in many instances far more serious matters are present which can even involve the theft and acquisition of people’s land by Government, the Military, companies and other individuals.

If you have a disagreement or dispute with another person, group, government agency, company or individuals over land, you may wish to engage in:

- Direct negotiation with involved individuals or parties.
- Mediation by an acceptable third party to reach voluntary agreements.
- Assistance from the Village-Tract Administrator and Land Use Committee.
- Assistance from Land Management Committees under the Farmland Law (2012).

If your land has been confiscated or grabbed by the Military, other government agency, company or a private party, you may wish to engage in:

- Direct negotiation with involved individuals or parties.
- Mediation by an acceptable third party to reach voluntary agreements.
- Assistance from the Village-Tract Administrator.
- Assistance from Committee for Rescrutinising Confiscated Farmlands and Other Lands (2016).
- Legal assistance by a legal aid provider.
VII. WOMEN’S HLP RIGHTS.

VII.1. As a woman, is my situation similar or different for getting formal recognition of my rights?

Women have the same legal rights as men

- Women have the right for their names to appear on official land documentation.
- The Farmland Law says that a rights holder need only be a member of the household, not necessarily a man.
- It is up to the individual to exercise their rights to land.

VII.2. Can women register their own land?

Yes. Women have equal HLP rights as men and can legally register their property. In accordance to both international law and Myanmar laws, women and men have equal rights to Housing, Land and Property. Gender discrimination is always prohibited. In Myanmar, a woman can register land through the regular land registration process. The 2012 Farmland Law (Chapter II, Section VI) does not prioritise the head of the household as it is often believed. The registration forms do not require that these are filled by the head of household, but rather by the applicant (whoever this is). Joint registration of land by a woman and her husband is also possible.

VII.3. Do women belonging to ethnic minorities have equal rights with men?

In some places, ethnic minorities may not be able to exercise these rights. Some ethnic groups give priority of inheritance to men. In some ethnic areas, like parts of Kachin for example, when a husband dies, it is custom for the land rights to pass to a male child, even if he is underage. His mother will merely be a custodian until he reaches 18, when the rights will pass to him.

If you are part of one of these groups and want assistance in trying to exercise your rights, you can go here (there are many organisations throughout Myanmar, see Annex I for more details):

- Mon Women’s Organisation.
- Shan Women’s Action Network.
- Kachin Women’s Association.
- Karen Women’s Organisation.
- Karen National Women’s Organisation.
- Women’s League of Burma.
- Palaung Women’s Organisation.
- Legal Clinic Myanmar.
- Ethnic human rights groups in your region.
VIII. HLP RIGHTS IN CONFLICT-AFFECTED AREAS.

VIII.1. If I cannot use my land due to insecurity and/or presence of land mines, that land is considered vacant. How does the law protect my rights?

If you have been forced to move due to conflict, unfortunately the law of Myanmar does not consider this a valid reason to leave your land fallow. Unless you are able to register the land using the Farmland Law or the VFV Law, pay taxes on the land and continue to use it, the land may be reclassified as Vacant or Fallow.

VIII.2. What steps do IDPs need to take to ensure that their land in their place of origin is secure?

At present, unfortunately there is very little that IDPs and refugees can do to protect land they left behind. If they can return to the land temporarily in order to farm and pay taxes to the authorities, they may be able to maintain use rights. Otherwise these rights are at risk.

VIII.3. How do we take measurement of land located in mountainous areas?

DALMS is the government department responsible for all land measurements in Myanmar. They should be willing to come to your area if the security situation allows it.

VIII.4. What steps do IDPs who need to settle elsewhere need to take to acquire land?

IDPs need to change the location of their household list from the Township where they formerly lived to the Township where they currently reside. If they have the required money, there is no reason why they cannot buy houses or use land in a new location, if they still have the correct documentation. Nevertheless, IDPs should keep records relating to their original homes and lands which can be used in any eventual restitution programme that may be established.

VIII.5. How do I prove illegal occupation of my land by other people?

You require some form of evidence (documents or testimony from neighbours and local authorities) that you were using the land before the other occupants, and that the current occupants are not recognized as the owners within your community.
VIII.6. I wish to register my land but the land is infested with landmines. How can registration be done to protect my land from being grabbed?

You will probably not be able to register this land while it is contaminated with land mines. DALMS may refuse to travel to such areas where security is an issue.

VIII.7. I lost all relevant documents to my land during the conflict. How can I replace these documents?

If you paid taxes on your land, the Village-Tract or Township authorities will have records which you can request when you are able to return. If you had a Land Use Certificate, the Township Farmland Administration Body has a record of your use rights, if you are able to access that body. If you lost your civil documentation, MoLIP (La Wa Ka) has One Stop Services in certain areas, or you can approach Township MoLIP offices to re-register for civil documents (you may contact the Norwegian Refugee Council, see Annex I for more assistance).
ANNEX I – ORGANISATIONS PROVIDING LEGAL AID AND RELEVANT ASSISTANCE.

Legal Clinic Myanmar
Website: www.legalclinicmyanmar.org

LCM Yangon Office
Phone: 09450048660
Hotline: 0933376993, 0933376994

LCM Kachin Regional Office
Phone: 09979197420

LCM Rakhine Regional Office
Phone: 09250883064

LCM Meikhtila Regional Office
Phone: 09258295107

LCM Mandalay Regional Office
Phone: 09798673014

LCM Ayeyarwaddy Regional Office
Phone: 09260338726

Rule of Law Centres

Rule of Law Center Yangon
Office administrator: Zar Chi Win
Email: zwin@idlo.int
Phone: 095099654

Rule of Law Center Mandalay
Nga - 2/153, Thu Marlar Street Bet: 62 and 63 Street,
Dahlia and Zalat Wah Street,
Chan Mya Tharsi Township, Mandalay.
Office Administrator: Myint Mo Tun
Email: mtun@idlo.int
Phone: 09772764749

Rule of Law Center Myitkyina
No (178), Shwe Taung Street,
Myo Thit Quarter, Myitkyina
Office Administrator: Ban Mun San
Email: bsan@idlo.int
Phone: 09457033696

Rule of Law Center Taunggyi
No (D-60), Yeik Thar Street,
Thit Taw Quarter, Taunggyi
Office Administrator: May Han Aye
Email: maye@idlo.int
Phone: 09775900905

International Non-Government Organisations/
Non-Government Organisations/
Civil Society Organisations/
Community Based Organisations

Namati

Yangon Office
Phone: 09459898267

Norwegian Refugee Council

Information Counseling and
Legal Assistance Programme, ICLA
(Access to Civil Documents, Housing, Land and
Property Rights, Collaborative Dispute Resolution).

Yangon (NRC Main Office)
Jose Arraiza, ICLA Specialist,
09776310548, Jose.m.arraiza@nrc.no

Bago Region (Taungoo NRC Office)
Saw Tun Naing, ICLA Technical Officer,
09450030026, tun.naing@nrc.no

Kachin State (Bhamo NRC Office)
Charles Awici, Project Manager,
0942195821, awici.charles.churchill@nrc.no

Kayah State (Loikaw NRC Office)
Veronica Sein Hla, ICLA Technical Officer,
09428362329, veronica.seinhla@nrc.no

Kayin State (Hpa An NRC Office)
Yi Soe, ICLA Project Manager South East,
0941005286, yi.so@nrc.no

Mon State (Thaton NRC Office)
Naw Khin Thu, ICLA Technical Officer,
09256095441, naw.thu@nrc.no

North Shan State (Lashio NRC Office)
Charles Awici, ICLA Project Manager,
0942195821, awici.charles.churchill@nrc.no

Rakhine State (Sittwe NRC Office)
Nu Mya Zan, ICLA Technical Officer,
09420084071, numya.zan@nrc.no

South Shan State (Taungyi NRC Office)
Kin Myat Thu, ICLA Officer,
094003032, khin.myat thu@nrc.no
Tanintaryhi Region (Myeik NRC Office)
Htay Htay Myint, ICLA Officer,
09250962775, htay.myint@nrc.no

(Dawei NRC Office)
Yin Mon Chaw, ICLA Technical Officer,
09770018740, yin.chaw@nrc.no

Spectrum
Website: spectrumsdkn.org/en

Yangon Office
Phone: +951516941

EcoDev
Website: myanmaraffairs.com
Email: alarm.myanmar@gmail.com
Phone: +951503301, +951503302

EarthRights International
Yangon Office
Email: infoasia@earthrights.org

KACHIN STATE
Kachin Legal Aid Lawyer Network, (KLALN)
Contact: U Khun Nawng
Phone: 09402581709 / 09251178678
Email: Khunnawng.mkn@gmail.com

Shingnip, Kachin Lawyers Group
Contact: Daw Dau Nan
Phone: 09787713464
Myitkyina Office Phone: 09400056609
Email: kachinlawyergroup2012@gmail.com

Kachin State Farmer Association
(formerly Kachin State Farmers’ Network)
Contact: U Tang Gu
Phone: 09784365536

Kachin Conservation Working Group
Contact: U Zau Bawk
Phone: 09257431819 / 09793303891

Spectrum
Contact: Ja Bawk
Phone: 09965668374 / 09783187904

Kachin Lawyers Group
Phone: 09787713464

Kachin Conservation Working Group
Phone: 09256468480

KAYIN STATE
Karen Development Network
Address: 369, Bogyoke Aung San Road
Lanmadaw P.O, Yangon
Director: Alan Saw U
Phone: 0943072293

Karen Environment and Social Action Network
Website: www.kesan.asia
Facebook page: www.facebook.com/KarenEnvironment

Thwee Community Development Network (TCDN)
CBO based in Kawt Ka Reik Township, Kayin State
Contact Person: Ko Thein Zaw (09799103054)
Contact Person: Ko Maung Ko (09444718133)

Karen Open Group (KOG)
CBO based in Hpa an Township, Kayin State

Ethnic Peace Resource Project (EPRP)
CSO based in Hpa an Township, Kayin State
Contact Person: Ko Myint Aung (09798473032)

Women Organization Network (WON)
Responsible persons: Sar Mu Htaw,
Hu Po Ka Paw, Kaung Su Laiang

MON STATE
Human Rights Foundation of Monland
Website: rehmonnya.org
Email: hurfomcontact@yahoo.com

Karen Development Network
Naw Beauty: 09250165567
Email: btmmth@gmail.com
Naw Sah Htoo: 09795092926
Email: nawsahhtoo@gmail.com

Legal Light
Mawlamyine Office, 09784728763
U Thein Swe: 09425340858
Daw Lai Yin Wi: 09255735029
Daw Moe Moe Thu: 09784728763

Mawlamyine Justice Centre
Phone: 951370933 Ext 3111 and 3112
Email: myjustice@mm.britishcouncil.org
Daw Cho Mar Soe:
09250527529, 09975370207
Mon State Development Network
Min Aung Mon: 09425272690
Email: Omgmon67@gmail.com
U Sein T: 094256270304

Myinttar Shin
Contact: Ohm Mar Than: 09425262147
Daw Aye Aye New: 09767876440

Myinttar Sone See
Contact: Daw Thi Thi Nwe
Phone: 09795897353, 09963003484

Paday Thar Moe
Contact: Khun Kyaw San
Phone: 09425294968
Email: legallight.ll@gmail.com

Legal Clinic Myanmar
Contact:
Daw Pyone Pyone Myint: 09773196618
Daw Nge Nge Tun: 09255776435
Email: lcm.mawlarymyine@gmail.com

HURFORM
Contact: Naing Choun
Phone: 09451064660, 09965296326

Loka Ahlin
Contact: U Ye Htut
Phone: 09425271371, 09979768749
Email: ynhhtut@gmail.com

Nyein Foundation
Contact:
Naing Tint Khaing: 0943196130
Naung Aung Htoo: 09425363781

Mon Region Land User Network (MRLUN)
Contact: Min Aung Mon: 09425272690
Email: Omgmon67@gmail.com

Mon Youth Progressive Organization (MYPO)
Contact: Min Zoau Htaw: 09960213869

Jeepyah Civil Society Development Organisation
Contact: Mi Myint Mon
Phone: 09425268841

Genius People's Services
Khain Maung Yin: 09776159534
Lwin Myo: 09770752194

Environment Natural Resource Lovers Federation (ENRLF)
U Thaung Win: 09260026526
Daw Shwe Zin Thein: 09967809677

Care Myanmar
Zaw Zaw Aung: 09794228049

RAKHINE STATE

Legal Clinic Myanmar
Contact: Daw Mya Thuzar
Phone: 09421764128

People for People
Contact: U Pray Thein
Phone: 09254033017

Rakhine Women Network
Contact: Daw Wai Wai Tun
Phone: 09254096153

Rakhine Women Union
Contact: Daw Saw Mya Yazar Lin
Phone: 09254066936

Thazin Justice and Legal Aid
Contact: U Nyein Chan
Phone: 09421746228

SHAN STATE

Namati
Htoo Htoo Thaw: 095212336, 09765212336

International Bridges to Justice
Hnin Wai Wai Khine: 09420222347

Mercy Corps
Thaung Myint Oo: 09976180360

Mongpang Youth
Nang Shinning: 09792672906

IDEA
Mar Mar Maw: 09428312940
Women’s Rights Organisations

**Mon Women’s Organisation**
Director: Mi Kun Chan Non
Email: mkcn66@gmail.com, monwomenorg@yahoo.com
Phone: +959425299601, (office) +9598611546

**Shan Women’s Action Network**
Website: www.shanwomen.org
Facebook page: www.facebook.com/swan.shanwomen

**Kachin Women’s Association**
Facebook page: www.facebook.com/Kachin-Womens-Association-Thailand-
KWAT-402160469898131

**Karen Women’s Organisation**
Website: karenwomen.org
Facebook page: www.facebook.com/karenwomenorganization

**Karen National Women’s Organisation**
Branch Office, Loikaw, Kayah State
Website: karenni-women.org
Email: knwoloikaw@gmail.com

**Women’s League of Burma**
Website: womenofburma.org

**Palaung Women’s Organisation**
Website: en.palaungwomen.com
Email: pwotaang@gmail.com

**Rakhine Women Union**
Contact: Daw Saw Mya Yazar Lin
Phone: 09254066936

Justice Centres

**Yangon Justice Centre (YJC)**
No. 93, 1st Floor, Seikkanthar Street,
Between Maharbandula Road & Merchant Road, Kyaktada Township, Yangon.
Phone: +95943068891, +959250920901, +95931034679

**YJC – East District Satellite Office**
No. 93, 2nd Floor, Seikkanthar Street,
Between Maharbandula Road & Merchant Road, Kyaktada Township, Yangon.
Phone: +959255605799

**YJC - Hlaingtaryar Satellite Office**
No. 1259/A, Kyan Sittar Road, Ward (16), Hlaing Tharyar Township, Yangon.
Phone: +959252630813

**YJC - Khayan Satellite Office**
No. 128, Pyitawthar Road, Ward (2), Khayan, Yangon
Phone: +959250313953

**Mawlamyaing Justice Centre**
No. 501, Lower Main Road, Pabedan Ward, Mawlamyaing Township
Phone: +959796078190

**MJC - Thaton Satellite Office**
No. (209), Shwe Chaung Street, Thein Kone Ward, Thaton, Mon State
Phone: +959777454500

**Taunggyi Justice Centre**
YMCA Building, Room No 6, Thit Taw Ward, Bogyoake Aung San Road, Taunggyi, Shan State
Phone: +959449884488, +959425769369

**Kalaw Justice Centre**
No1/8 Ward (1), PyiTaungSu Road, Kalaw.
Phone: +959450880555

**Mandalay Justice Centre**
Bet 62x 63 Street, Bet 28 x 29 Street,
Mya Sandar lane, Aung Taw Mu Pagoda (front), Mandalay
Phone: +959427590798

**Hpa-An Justice Centre**
No (6/174), Lotethar Street, No (6) Quarter, Hpa-An Township, Kayin State
Phone: +959766635656

**Taungoo Justice Centre**
No.9/39, Yangon-Mandalay Main Road,
Ward-9 Oat Kyut Tann, Taungoo, Bago Region
Phone: +9505423630

**NayPyiTaw Justice Centre (Taungoo Branch)**
No. 82, Aung Thu Kha Village, Ward 9, PopBaThiRi Township, NayPyiTaw
Phone: +959897182002
ANNEX II – MAIN LAND REGISTRATION FORMS.

Form 1. Application for land use.
Form 105. Map.
Form 7. Land Use Certificate.