




Land Governance Lecture Series

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Department of Law, University of Yangon 23 August, 2017

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USAID Myanmar Land Tenure Project

- Project funded by United States Government
- Support the development of land related policy and legal frameworks and participatory mapping

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Topics of Land Governance Lecture

- Land Tenure Terms and Concepts
- Types of Land Ownership
- Land Governance
- Land Classification and Administration in Myanmar
- Land Stakeholders in Myanmar
- Laws governing Land in Myanmar
- Common Land Governance Issues in Myanmar
- Activities Supported by USAID Land Tenure Project

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Land Tenure

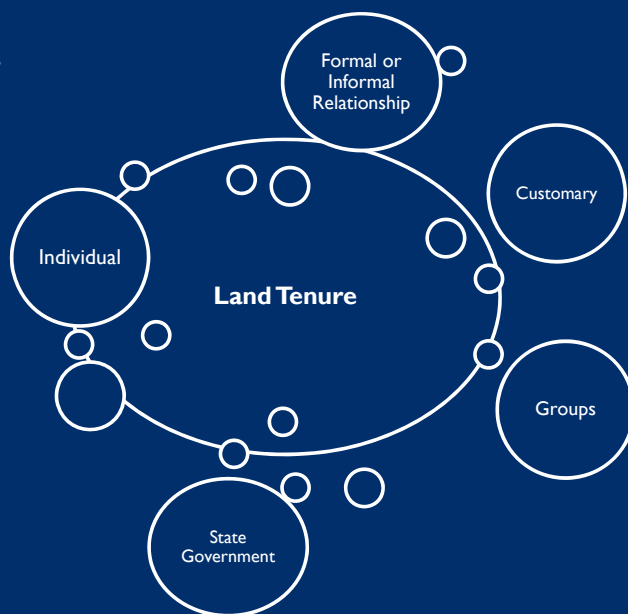
Relationship among people with respect to land

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— Key Terms



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Different Types of Tenure

1. Private (individual, group)

e.g. own house, condominium, freehold

2. Communal Tenure

A group of people who have rights to use, extract, manage and benefit from resources together

Allow outsiders to lease but can't sell outside the community

e.g. community forest, pasture land

Provides a social security net for societies

Generally considered public land

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Different Types of Tenure

3. State Tenure

Different levels of government: federal, state local

In the developing world more land is held by the State than in the developed world

State is the ultimate title holder and leases land, or issues use rights, on a short-term or long-term basis

Land is a sector where relationships among people with regard to a natural asset may change over time

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— Why would tenure change over time?



Example: communal common lands change toward individual ownership in rural areas



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Types of Land Ownership

1. Freehold ownership or fee simple ownership

- Full set of rights over a particular parcel or piece of land
- Rights to access, control, use, transfer, sell, lease, mortgage
- Private property – government may take land for public purposes such as infrastructure or economic development projects

2. Leasehold rights

- Right to use land or real property for a defined period of time

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Rights: Formal or Informal?

- Formal rights - defined by the State according to laws, rules and policies
- Informal rights - customary practices with traditional leaders

Example: Privately owned land that is formally registered, land leased for several years, signing a formal contract that can be enforced by law

Tip: None of these rights is superior to others, they are beneficial in different situations

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— Land Governance

The structure of rules, process and institutions that are involved in decision making about:

how to allocate land

how to transfer rights to land

how to enforce these rights

how to sanction and impose penalties on people who violate rules

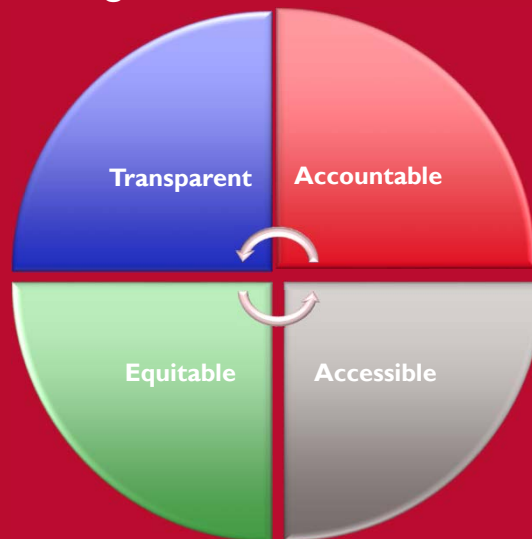


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— The systems that govern use of land resources



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- Formal land governance system is the State system
- The government allocates land, manages land, oversees the transfer of land and provides sanctioning mechanisms where needed
- Land administration offices
- Formal rules written into constitutions, statutes, regulations that govern tenure relations and property relations among people



Non-State Arrangements

- Customary or informal
- Religious institutions
- Rules are not written down but are stored by traditional authorities and passed down from one leader to another over the course of time, no support network of professionals
- Customary land tenure system





Strengthening land tenure and property rights is critical for:

- Preventing and mitigation conflict of land and resources
- Creating incentives to improve agricultural productivity, reducing hunger and poverty
- Promoting gender equality and enabling women's economic empowerment
- Enabling more responsible land-based investment
- Creating incentives to manage natural resources efficiently and sustainably
- Improving resilience to shocks and disasters

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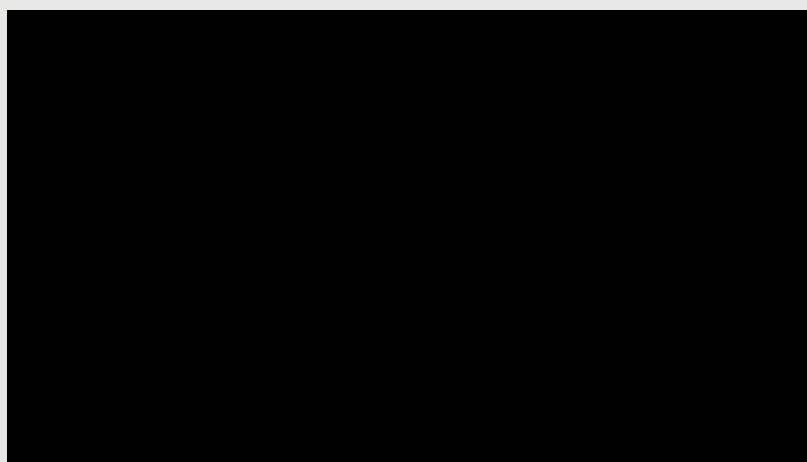
Land tenure video

Definition of key land tenure and property rights concepts

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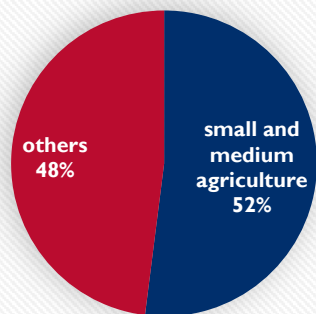
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■ small and medium agriculture ■ others

Data Source: Agricultural Census 2010



Land Classification in Myanmar

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Freehold Land

Long history of ownership

Individual or household

Transferable

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Grant Land

State owned land

Disposed by a grant or lease to any person or legal entity for a stipulated period



Agricultural Land

(လယ်ယာစိုက်ပျိုးမြေ)



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Garden Land (ဥယျာဉ်ခြံမြေ)

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Grazing Land (စားကျက်မြေ)



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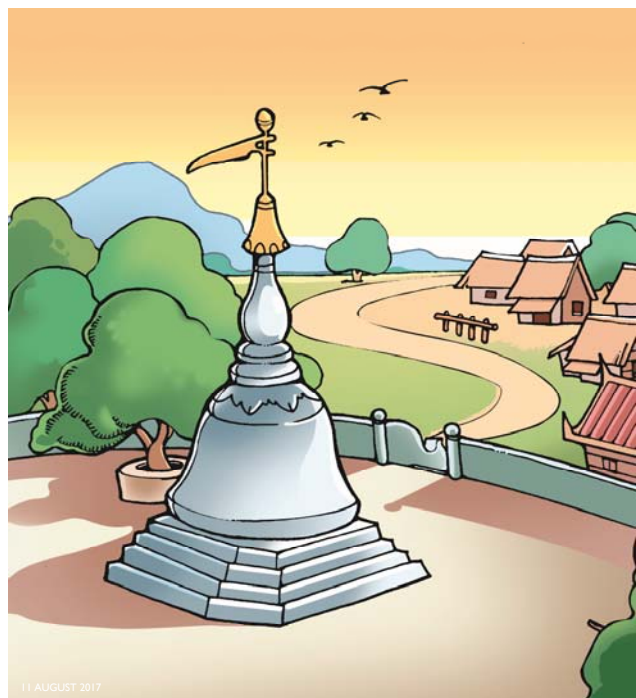
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Town Land/Village Land
(မြို့ပြ ကျေးရွာ
အချေခြနေထိုင်ရာမြေ)

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Religious Land
(သာသနာမြေ)

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Vacant, Fallow and Virgin Land (မြေလွတ်၊ မြေလပ်၊ မြေရိုင်း)

Vacant, Fallow Land (မြေလွတ်၊ မြေလပ်)

ယခင်က သီးစားခံယူလုပ်ကိုင်လာခဲ့ပြီး အကြောင်းအမျိုးမျိုးကြောင့် စွန့်လွှတ်ထားသည့် သီးစားခံယူ လုပ်ကိုင်သူမရှိသော စိုက်ပျိုးရေး (သို့) မွေးမြူရေး လုပ်ငန်းလုပ်ကိုင်သည့်မြေ

Virgin Land (မြေရိုင်း)

တစ်ကြိမ်တစ်ခါမျှစိုက်ပျိုးကိုင်ခြင်းမရှိခဲ့သော မြေရိုင်းနှင့် တောရိုင်းများ

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Current Land Stakeholders in Myanmar

What are stakeholders?

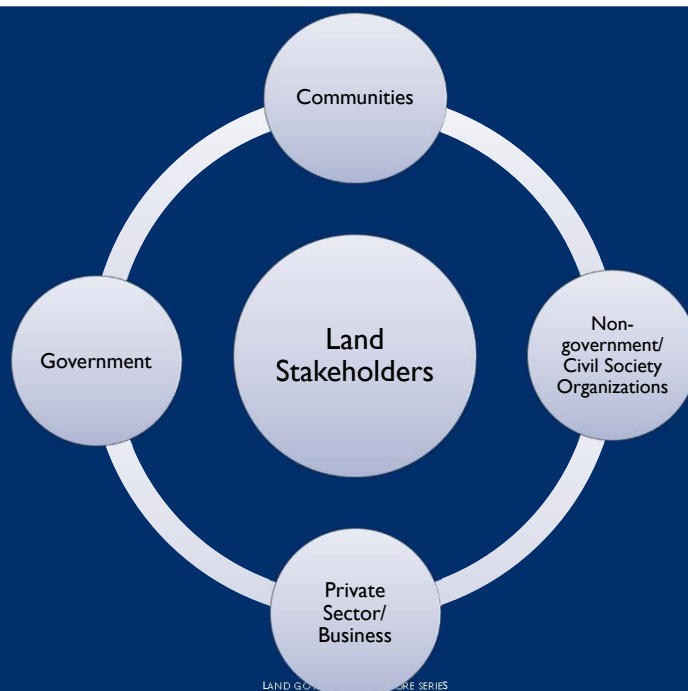
What are land stakeholders?

Who is involved?

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Myanmar's Land Administration

Myanmar's land administration is a combination of past institutional agencies and various government institutions that harness political and economic benefits of land

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Key Government Bodies in Land Administration

- Ministry of Agriculture, Livestock and Irrigation (MOALI)
စိုက်ပျိုးရေး၊ မွေးမြူရေးနှင့် ဆည်မြောင်းဝန်ကြီးဌာန
- Ministry of Home Affairs (MOHA) – General Administration Department (GAD)
ပြည်ထဲရေး ဝန်ကြီးဌာန - အထွေထွေအုပ်ချုပ်ရေး ဦးစီးဌာန
- Ministry of Natural Resources and Environmental Conservation (MONREC)
သယံဇာတနှင့် သဘာဝပတ်ဝန်းကျင် ထိန်းသိမ်းရေးဝန်ကြီးဌာန

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MOA – Department of Agricultural
Land Management and Statistics
(DALMS)

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လယ်မြေ(farmland) ယာမြေ (YaLand) မြေနုကျန်းမြေ
(alluvial land)



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တောင်ယာမြေ (taungya land) / ခနီခြံ (nipa palm land)



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ဥယျာဉ်ခြံမြေ (Garden Land) / နှစ်ရှည်သီးနှံစိုက်ပျိုးသောမြေ (Perennial Crop Land)



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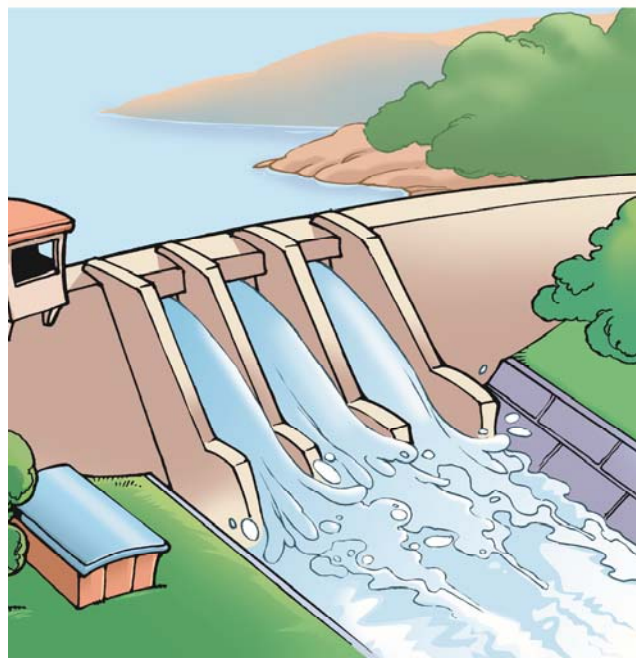
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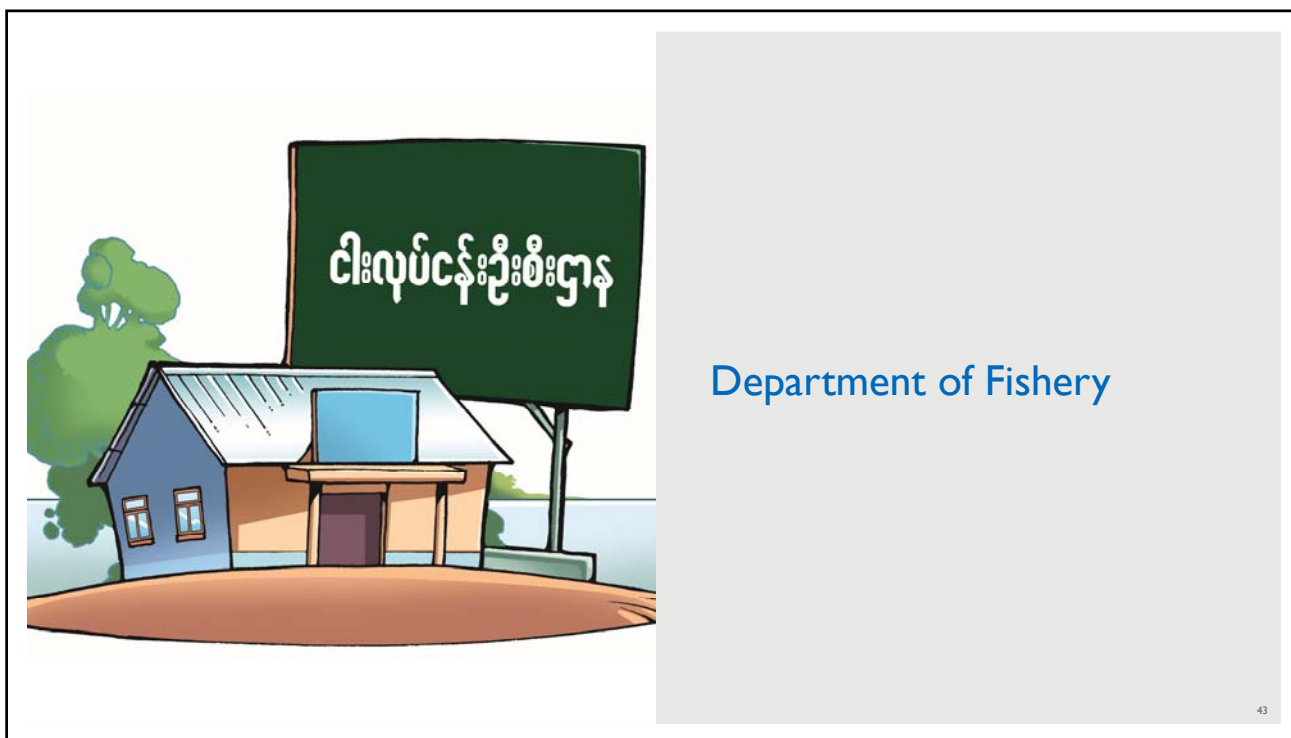
Irrigation Department

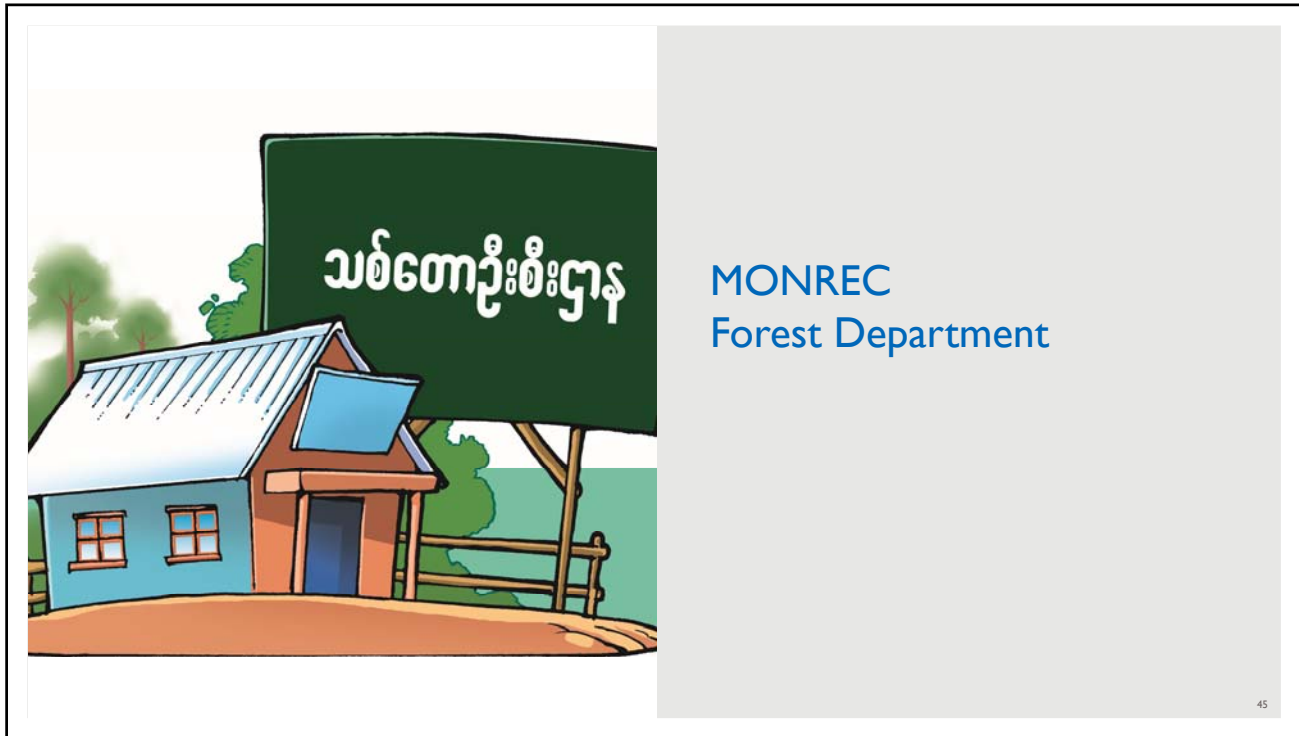
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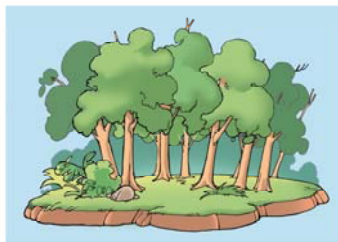
ဆည်မြောင်းတာဝန်
တည်ဆောက်သောမြေ
(Irrigation canal)

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သဘာဝထိန်းသိမ်း ကာကွယ်ရေးနယ်မြေ (Protected areas)
ကြိုးဝိုင်းတော (Reserved Forest – RF)
ကြိုးပြင်ကာကွယ်တော (Protected Public Forest – PPF)

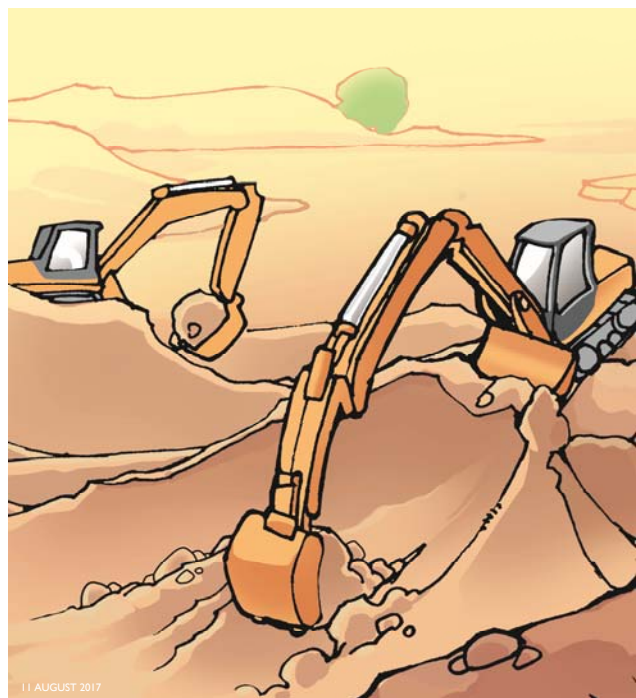




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MONREC
Ministry of Mining

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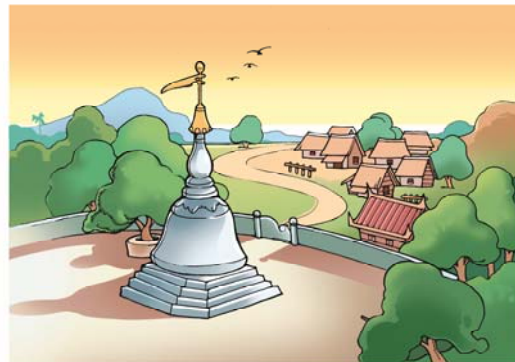
Mining Land

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MoHA
General Administration
Department - GAD

မြို့ပြကျေးရွာ အခြေချ နေထိုင်ရာမြေ (Urban/rural dwelling land), သာသနာမြေ (Religious Land)



စားကျက်မြေ (Pasture Land) ရွာသုံမြေ (Village common land)

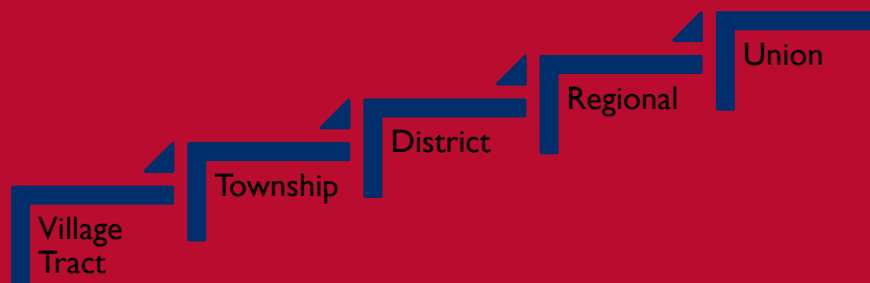


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— Governmental Structure



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Key Laws Governing Land

- 2012 Farmland Law
- 2012 Vacant, Fallow and Virgin Lands Management Law (VFV Law)
- 1992 Forest Law



Common Land Governance Issues in Myanmar

What are they?

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Lack of Consistent and Reliable Land Data

- Limited reliable and up-to-date land information, no public access
- Spatial information is managed by separate departments and is not standardized
- Agricultural land is managed by DALMS-MOALI – holds agribusiness data and other permits for land leases
- Forest land data is managed by MONREC
- Data sharing or management at the district, provincial and national level is lacking
- Results in inequitable access and dissatisfaction for the people affected

For example, agribusiness companies, such as rubber and oil-palm, get permits for large plantations, but in reality lands may be claimed by local communities. Data at township level is sometimes inaccurate.

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Concession, Acquisition, and Confiscation

- Land confiscated without due process or just compensation (potentially using force or political authority)
- Land often acquired through a faulty process
- Limited-period permits granted for use, development and production/extraction
- Development planners have conceived national projects to achieve economic benefit from natural resources without public input or consultation
- Tracts targeted by investors are often used by local communities, and can cause land conflicts
- Contradictory regulations and instructions, coupled with manipulation, coercion and confusion, are used to acquire land from farming households and allocate it to favored individuals or groups



— What are the factors that cause these issues?

- Traditional inheritance norms that subdivide land holdings over generations
- Lack of policies that support allocation of land to land-poor/landless households (social land concession)
- Difficulties in accessing high quality agriculture inputs
- Lack of access to finance
- Smallholdings are being converted to non-agricultural uses or sold in the informal land market, and farmers are being forced to look for off-farm employment opportunities (wage labor or non-agricultural occupations)
- Limited formal recognition of land rights for communities living inside forest
- Rising uncertainties for families farming land without any formal record of land tenure

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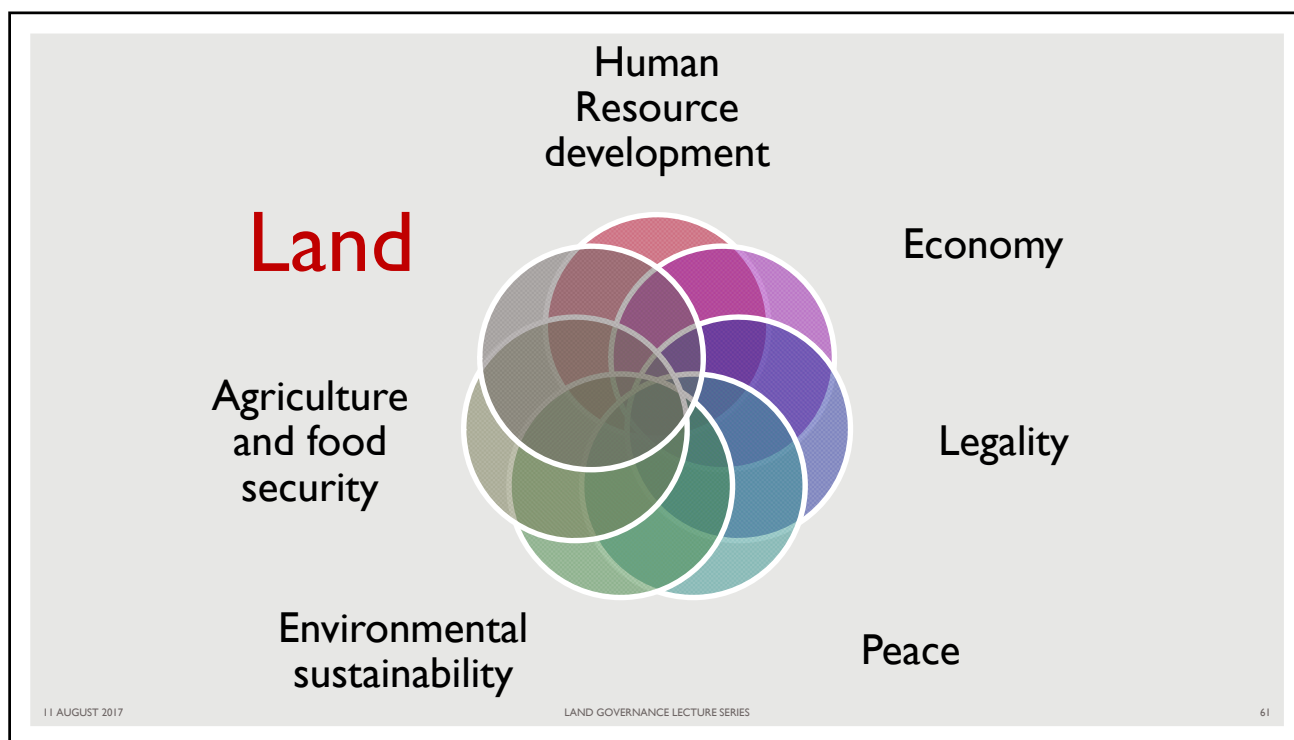
Other Related Issues

- Threats to local livelihoods
- Creates an unstable labor pool for agriculture sector
- Rapid in-migration to urban areas that are not prepared to absorb these populations – urbanization
- Internally displaced persons and returning refugees, which are directly linked to implementation of the ongoing peace process
- Registration of land tenure (land administration)

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What are we doing?

Activities Supported by USAID Land Tenure Project

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Land Tenure Project Activities:

- Support the development of policy, legal and regulatory frameworks for land governance focusing on land, forests and other natural resource tenure rights and management



Pilot Site Activities

- Testing bottom up approaches for implementation of the NLUP
- Participatory mapping of village boundaries and land uses
- Formal recognition of customary land resource tenure arrangements



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Raising public awareness and participation with educational outreach materials

Increasing constructive dialogue between local authorities and communities

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Conducting research and monitoring to inform legal and policy development and improve implementation





Why are we implementing these activities?

Program Objectives

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ပြည်ထောင်စုသမ္မတမြန်မာနိုင်ငံတော်

အမျိုးသားမြေအသုံးချမှုမူဝါဒ

၂၀၁၆ ခုနှစ်၊ ဇန်နဝါရီလ
ချေပြည်တော်

Supporting the development
of NLUP and related laws
that clarify rights and
sustainable use of land and
natural resources

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Strengthening land resource tenure and property rights of individuals, households and communities, women, ethnic minorities, smallholder farmers and other vulnerable groups

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Increasing public consultation among government, civil society and business on issues of broad public concern related to land tenure and land use

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Mapping Our Land Video

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