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LAND STAKEHOLDER ANALYSIS: GOVERNANCE STRUCTURES AND ACTORS IN BURMA

TENURE AND GLOBAL CLIMATE CHANGE (TGCC)
PROGRAM



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Cover Photo: Government stakeholders attend the USAID-supported Agricultural Smallholders Workshop in Nay Pyi Taw to learn about the National Land Use Policy

Prepared by: Tetra Tech
159 Bank Street, Suite 300
Burlington, VT 05401

Principal Contacts: Matt Sommerville, Chief of Party
Matt.Sommerville@tetrattech.com

Cristina Alvarez, Project Manager
Cristina.Alvarez@tetrattech.com

Megan Huth, Deputy Project Manager
Megan.Huth@tetrattech.com

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MAY 2017

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ACRONYMS AND ABBREVIATIONS

ASEAN	Association of Southeast Asian Nations
CESD	Centre for Economic and Social Development
CFI	Community Forestry Instructions
CSO	Civil Society Organization
DDG	Deputy Director General
DG	Director General
DoALMS	Department of Agricultural Land Management and Statistics
DZGD	Dry Zone Greening Department
EPLNR	Ethnic Peoples Land and Natural Resources
ESIA	Environmental and Social Impact Assessment
FD	Forest Department
GAD	General Administration Department
GEN	Gender Equality Network
INGO	International Non-Governmental Organization
LCG	Land Core Group
LIOH	Land in Our Hands
LUC	Land Use Certificate
MADB	Myanmar Agriculture Development Bank
MDI	Myanmar Development Institute
MFP	Ministry of Finance and Planning
MIC	Myanmar Investment Commission
MoALI	Ministry of Agriculture, Livestock and Irrigation
MOD	Ministry of Defense
MOECAF	Ministry of Environment, Conservation and Forestry
MOFA	Ministry of Foreign Affairs
MOHA	Ministry of Home Affairs

MONREC	Ministry of Natural Resources, Environment and Conservation
MTE	Myanmar Timber Enterprise
NLD	National League for Democracy
NLUP	National Land Use Policy
NSA	Non-State Actor
OMM	OneMap Myanmar
PS	Permanent Secretary
SEZ	Special Economic Zone
UAGO	Union Attorney General's Office
USAID	U.S. Agency for International Development
VFV	Vacant, Fallow and Virgin
YCDC	Yangon City Development Committee

I.0 INTRODUCTION

In Burma, due to a multiplicity of laws and regulations relating to land, a wide-ranging set of government institutions are engaged in land administration and management. These institutions have been evolving since the National League for Democracy (NLD)-led administration began in April 2016. It will be necessary to understand these structures carefully in the early sequencing of land governance reforms, and to adapt to changes made by the administration. While the administrative structures at the state level and below are changing, in general the executive branch plays the leading role in land governance. The separate powers in Burma include the executive branch, which is made up of the President, two Vice Presidents, and the Cabinet; the legislative branch, which is made up of the Parliament or the Pyidaungsu Hluttaw; and, the judicial branch, which includes ordinary courts that culminate in a Supreme Court. A fourth important power in Burma is the Armed Forces or Tatmadaw, which has significant influence on land governance through the Ministry of Home Affairs which it controls and on lawmaking through its constitutional guarantee of 25% of the seats in Parliament.

In the executive branch, the Ministry of Agriculture, Livestock and Irrigation (MoALI) and the Ministry of Home Affairs (MOHA), through its General Administration Department (GAD), play a paramount role at all levels in the case of non-reserved or public protected forest land areas. The Ministry of Natural Resources, Environment and Conservation (MONREC) assumes primary responsibility in areas classified as reserved forests, public protected forests, and protected areas, and some community forest designated areas of “unclassified” public forests. The executive branch offices of the State Counsellor and the President, each of whom provide directives to the ministries, also play a critical role in the government. In Parliament, the key committees of the Upper and Lower Houses play a central role in lawmaking, and in the judiciary the Office of the Union Attorney General has a role in legislative matters. Other union-level committees will also play a significant part in land governance, as will major urban development councils and quasi-governmental organs such as think tanks and party committees. Each of these offices is described in this land governance stakeholder analysis.

This analysis focuses more broadly on governance structures, delegated authority, and specific roles in relation to land governance in Burma. The report covers some structures, such as union-level branches of government and leadership offices of key ministries, broadly, and covers other structures, such as GAD, MoALI’s Department of Agricultural Land Management and Statistics (DoALMS), and committees governing the return and reallocation of land, in greater depth. While the structures and the related processes are complicated, and may entail a number of challenges for the government, it is likely that the new administration will use many of the existing land administration structures to the maximum extent feasible in order to roll out land governance reform programs early in its tenure, while studying shortcomings, monitoring these offices, and recommending structural revisions.

2.0 UNION GOVERNMENT EXECUTIVE OFFICES

2.1 OFFICE OF THE STATE COUNSELLOR

Since 6 April 2016, the State Counsellor position has been at the head of the government of Burma, above the President. Similar to the position of Prime Minister, the office allows the holder to work across the executive and legislative branches over a five-year term. The Office is represented in the President's Cabinet. The State Counsellor holds great sway over key social and economic matters in Burma, with an agenda-setting role enhanced by the combined duties of the Minister of the President's Office and the Minister of Foreign Affairs – both of which are also held by the current State Counsellor. The office is seen as important in land governance issues, as many executive branch committee decisions are reviewed at this level, especially national security land-related decisions. Public access to the State Counsellor's office includes an internet portal where comments can be submitted and a Facebook page.

2.2 MINISTRY OF PRESIDENT'S OFFICE

Elected by Members of Parliament, the President leads the executive branch and heads the Cabinet, which includes MoALI and MONREC, whose ministers are appointed by the President.

The President's Cabinet plays an important governance role. It is influenced by both the State Counsellor (who is also the Minister of the Office of the President) and the President himself. The Cabinet includes the two Vice Presidents, and each minister, including the State Counsellor who also serves as Minister of Foreign Affairs. While the Cabinet meets regularly, the President also convenes a quarterly meeting of Chief Ministers from the states and regions, which the State Counsellor – as Minister of the Office of the President – attends. At both of these regular meetings (Cabinet and Chief Ministers) key policy and governance priorities are coordinated, including land governance. It is likely that a future Land Policy Council or Land Commission would be established within the President's Cabinet. The President's authority also includes the issuance of presidential notifications, such as those notifications that led to the terms of reference for land committees described later in this analysis.

2.3 VICE PRESIDENTS

The role of Vice President is second to President in the executive branch, and the position includes service as chair of union-level subject matter committees. At present, Vice President 1 serves as chair of committees on climate change and disaster management, and Vice President 2 serves as Chair of the Central Committee for Reinspection of Farm Land and Other Land Acquisition. The role of the Reinspection Committee is described at length later in this analysis. The Chair leads decisions in the largest and most intractable cases which are sent up from lower committees as well as in significant cases where the committee has deemed it should exercise original jurisdiction.

2.4 MINISTRY OF FOREIGN AFFAIRS

The Ministry of Foreign Affairs (MOFA) is responsible for the country's foreign policy and relations with other nations, including, importantly, responsibility for interactions with other Association of Southeast Asian Nations (ASEAN) members and international economic issues. The Ministry does not have a

direct role in land administration but has significant influence on land governance issues. For example, the Ministry has oversight over certain types of foreign direct investment and donor-funded assistance programs, especially projects involving international finance that need to be endorsed by MOFA, including any large land governance projects. As the State Counsellor also holds the position of Minister of Foreign Affairs under the current administration, the Minister's role is especially important currently and should be seen as an executive-level ministry. During the Minister's 2016 visit to the United Kingdom and the United States, for example, while the Ministry was responsible for organizing the program, the Minister was introduced as the State Counsellor of the Republic of the Union of Myanmar at events such as the United Nations General Assembly.

3.0 UNION GOVERNMENT MINISTRIES

The President determines both the number and subject matter of ministries and is authorized to appoint and dismiss ministers from their posts; Parliament delegates specific land governance authority to specific ministries through legislation. All union-level bodies can submit bills to the Pyidaungsu Hluttaw relating to matters which they administer. Each sponsor of these bills is entitled to initiate and discuss at one of the bodies of Parliament.

The four ministries with the most direct impact on land issues are MoALI; the Ministry of Finance and Planning (MFP); MONREC; and, MOHA. While other union-level offices – such as the executive offices in central planning, as well as the Union Attorney General’s Office (UAGO) in legislative affairs – hold significant influence, these four ministries have been identified by the executive offices as the key union-level ministries. Each ministry has an executive committee structure for collective decision making purposes, and each ministerial department has a departmental executive committee decision-making body, which includes the Director General and all division directors.

3.1 MINISTRY OF AGRICULTURE, LIVESTOCK, AND IRRIGATION

MoALI is the main government body responsible for land administration and agricultural policy. The Minister serves as the Vice Chair of the Central Committee for Reinspection of Farm Land and Other Land Acquisition, and Chair of the Central Committee for the Management of Vacant, Fallow and Virgin Lands. The Ministry is responsible for many land resource-related issues, including agricultural policy, land use planning, water resources, irrigation, mechanization, livestock, fisheries (especially land-based aquaculture), and land administration. The Minister, Permanent Secretaries (PS), Directors General, and Department Directors who are cognizant on land issues are all aware of the National Land Use Policy (NLUP) endorsed by the outgoing President in January 2016.

MoALI continues to work in relation to other ministries on land issues. Most significantly, the administration of non-forested areas considered as land at the disposal of the union government is governed by GAD, which also exercises authority over areas of unclassified forest land (also referred to as public forest or virgin land). GAD, which has branches at the village tract, township, district, and state/region levels, acts as the representative of the central government at those levels. MoALI also works with the Forest Department of MONREC regarding the degazetting of areas of the permanent forest estate prior to re-classification as farmland. DoALMS under MoALI is responsible for maintaining land registry and cadastral maps, and has branches at the state/region, district, and township levels. At the township level, each township is divided into a number of circles, each headed by a land inspector (assistant staff officer) who is responsible for, among other things, validating land records.

3.1.1 Organizational Structure of MOALI on Land Governance

In the area of land issues, the top three echelons of MoALI most directly related are the Minister, then the Deputy Minister, and the Permanent Secretary for Agriculture. There are two other PSs; one is assigned to Livestock, Fisheries and Rural Development, and the other to Cooperatives. Under the Permanent Secretary for Agriculture, there are several departments with significant impact on farmers’ and communities’ land tenure rights. Various departments are involved in land governance and interact

with one another through the PSs, who coordinate between the departments. As MoALI is a combination of ministries, there are several PSs. Land governance is a cross-cutting issue in the departments of MoALI, as indicated in the following relevant departments.

Department of Planning: This department serves as the secretary of all sector departments and also oversees the new Agriculture Policy Unit. The Department of Planning is critical to implementation of land governance reforms, including work planning on national land return and land access programs, and oversight of major related projects.

Department of Mechanization: The Department of Mechanization leads on land consolidation and regularization initiatives, and is important in support programs for land access and livelihood programs. For example, as MoALI carries out the new Agricultural Development Strategy and related projects, the ministry has prioritized that activities focused on agricultural support services for smallholders include contributions from the Department of Mechanization.

Department of Rural Development: Infrastructure projects implemented by this department would have an impact on land tenure, making coordination through the PS especially important to ensure that land tenure security programs, such as registration efforts, are mainstreamed through infrastructure projects.

Departments of Livestock, Irrigation, and Fisheries: Projects implemented by all of these departments likely have an impact on land tenure rights or allocation of rights. For example, tenders for natural fish ponds affect traditional users of land resources, some land access programs involve agricultural supports in the form of livestock, and the Department of Fisheries at the township level maintains its own separate registry of land under their delegated authority. How these departments classify land also impacts rights of access, use and alienation under existing legislation.

In addition to the departments above, two especially relevant departments impacting land governance are the Department of Agriculture and DoALMS.

3.1.2 Department of Agriculture

The Department of Agriculture is a key driver of land governance reforms at the union, state, and regional levels. In the culture of MoALI, land governance reform is associated with agricultural productivity. The Ministry is founded on the principle of advancing farmers' agricultural production, and reforms targeting smallholder land tenure security – whether land access, land classification, crop choice, or fallowing rights – find traction in the Ministry when they can demonstrate links to agricultural productivity. This area is the domain of the Department of Agriculture; thus, partnerships with this department are essential to advancing other land reforms. For example, the Ministry's Global Agriculture and Food Security Program has important land governance elements, and land access is the lead activity area. Nonetheless, that activity is housed under the component for Raising Agricultural Productivity. Especially vital for land governance reforms at the state and regional levels, the Department of Agriculture provides lead inputs to land governance planning by Agriculture Ministers and Chief Ministers, and has a seat at the table of executive committee decision-making. At the union level, the Reinspection Committees feature Agriculture Department representatives at the state/regional, district, and township levels. The Management of Vacant, Fallow and Virgin Lands Committees includes the Department from the union level down.

The MoALI Department of Agriculture is headed at the union level by a Director General (DG). The DG is supported by four Deputy Director Generals (DDG): one for states and regions, one for technical, one for administration and finance, and one for extension. Under these four DDGs, there are several branches and divisions governing the department's work, each with sub-offices going down to

the state and region, district, and township levels (the DG of States and Regions also governs offices at the township level).

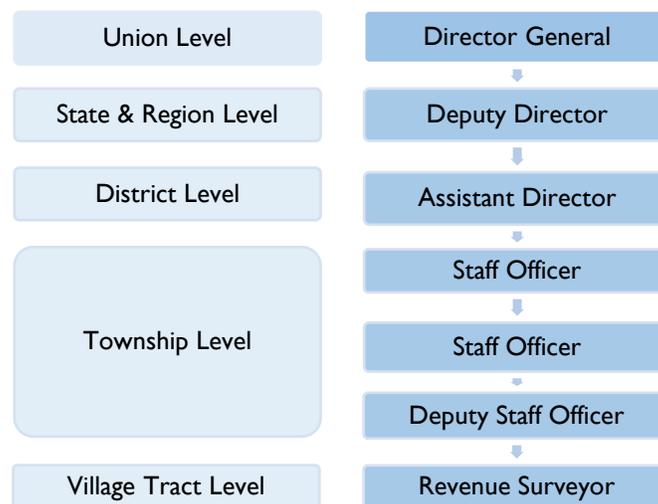
3.1.3 Department of Agricultural Land Management and Statistics

At the union level, DoALMS is headed by a DG and is supported by one DDG, who oversees seven directors, each of whom heads a division. The seven divisions are as follows:

- The Settlement and Planning Division, whose role is connected to revenue rates, as parcels are measured to determine revenue;
- The Survey, Mapping and Printing Division, which deals with the documentation basis for registration and mutation of land holdings including monitoring land preparation for cropping and carrying out periodic crop surveys;
- The Land Administration Division, which authorizes land use rights whether by private citizens, investors, or state enterprises, and defers to township-level decisions for smallholders and central-level bodies for large areas, and services as an administrative appellate body for disputes;
- The Administration Division, which handles internal processes including personnel and operations;
- The Statistics Division, which is concerned with collection of agricultural statistics including compiling farmer and farm data, conducting annual inventories of agricultural equipment, and developing crop reports on issues such as yield and rainfall;
- The Budget Division, which coordinates with the Settlement and Planning Division on revenue activities; and,
- The Division for the Central Land Records Development Center.

As the role of the PS is to coordinate among departments, this role should be especially important in the area of DoALMS as land data is relevant to various departments across MoALI, as well as other related ministries.

The DoALMS structures at the state and regional level are as follows, with greater detail provided at the village tract level, as much of the significant land administration to carry out union-level policies ultimately occurs at these lower levels of oversight and implementation.



The village tract revenue surveyor is the lowest level land official present in the system. Sometimes this official looks after only one village when there is one village constituting a village tract; there are also cases where the revenue surveyor looks after 10 or more villages, which together constitute a tract. Depending on the size of the tract geography (number of villages), the revenue surveyor's seniority is either Grade IV or Grade V.

All land-related records, including basic information such as maps, various registers, and land use certificate (LUC) copies, are maintained at the township level. The revenue surveyor functions as Secretary of the Farmland Administrative Body (committee) at the village tract level, and maintains the kwin maps and the important registers. There are several registers, but the most commonly used are the following:

- Register IA – also known as the fee register, maintained for agricultural lands only, contains the names of farmers (LUC holders).
- Register IB – also known as the holding register, maintained for each kwin map, contains details of all landholdings, such as holding number and area of holding situated within the map boundary. A kwin map covers areas disaggregated by natural boundaries or human made territorial features, and the map area could vary from 500 to 800 acres.
- LR Form 46 (commonly known as Register 2) – sometimes also called the crop register, this form contains all details related to farmland with the name of farmer, holding number, plot number, area of holding, land classification, types of crop cultivated during the year and harvested, and land revenue paid by the farmer. Land revenue is based on basis factors such as land classification and soil type, and determined by the Finance Department based on the settlement report.

3.2 MINISTRY OF NATURAL RESOURCES, ENVIRONMENT AND CONSERVATION

The Ministry of Natural Resources, Environment and Conservation (MONREC) assumes primary responsibility in areas classified as reserved forests and protected public forests, often referred to as the permanent forest estate. MONREC also has some responsibility in areas classified as public forests in cases where it is agreed to establish community forests for management of any timber resources in these areas, and if the union government decides to change the classification of these forests to the permanent forest estate or a protected area. For areas of public forest (also commonly referred to as unclassified forest, virgin lands, or lands at the disposal of the union government), MONREC has overlapping authority with MoALI and GAD, primarily over the forest resources as opposed to the land itself.

The Minister of MONREC has significant roles in several multi-ministerial committees involved in land governance, including as a member of the Central Committee for Reinspection of Farm Land and Other Land Acquisition which addresses claims by citizens who have lost land in past land confiscations. Below the Central Committee, MONREC is represented at the regional, district, township, and village tract committees by a representative of the Forestry Department. MONREC is also represented on the Central Committee for the Management of Vacant, Fallow and Virgin Lands by the MONREC DG of Forestry and Mines, but not by the Minister. In addition to the decision-making role in these committees, MONREC holds other significant authorities in land governance, such as the power to degazette forestlands from the permanent forest estate, implement the Community Forestry

Instructions (CFI) and conduct review and approval of environmental impact assessments. MONREC authorities are described in the following in relation to the Ministry's departments and divisions.

The former Ministry of Environment, Conservation and Forestry (MOECAF) was recently combined with the Ministry of Mines to form MONREC. The ministry now includes two sets of departments organized under two PSs: one for the environment, conservation, and forest sector, and one for the mining sector. The respective departments are as follows.

The environment, conservation and forest sector departments are the Minister's Office, the Forest Department, the Environmental Conservation Department, the Survey Department, the OneMap Myanmar Unit; the Dry Zone Greening Department (DZGD); and, the Myanmar Timber Enterprise (MTE).

Forest Department: The Forest Department (FD) is led by one DG, with two DDGs each responsible for a set of divisions. The DDG of Administration leads the Divisions of Administration Finance; Inspection; Zoological Gardens; Extension; and, Training and Research and Development. The DDG of Policy and Planning leads the Divisions of Planning and Statistics; Natural Forest and Plantation; Natural Wildlife Conservation; Watershed Management; and, the Forest Research Institute. The DG also supervises the Forest Department's States and Region's Directors' Offices and the Nay Pyi Taw Director's Office.

The FD is responsible for community forestry, as indicated by the CFI. A Community Forestry Unit has been established under the Extension Division, which has authority related to community forestry, including the allocation of land to forest user groups, the approval and monitoring of management plans, and the revocation of allocated forestlands for prohibited acts. With the replacement of the 1995 CFI with the new 2016 CFI, there has been a reduction in the scope of prohibited acts, such as shifting cultivation and gardening, which are no longer listed as prohibited.

The FD has broad decision-making authority over the permanent forest estate (reserve forest and protected public forest), with authority falling under the Natural Forest and Plantation Division. The FD also has some involvement over forest resources in unclassified forest – also known as public forest or virgin lands under the Vacant, Fallow and Virgin (VFV) Lands Management Act (2012) – though MoALI maintains that all VFV matters fall under the authority of DoALMS.

Environmental Conservation Department: The Environmental Conservation Department has authority over protected areas, and, with other ministries, has a role in the environmental and social impact assessment (ESIA) process. The Department's involvement in ESIAs includes project proposal screening; initial environmental examination review, investigations, final review, and approval; environmental management plan review and approval; the ESIA scoping, investigations, review, and approval; and appeals.

Survey Department: The Survey Department is responsible for producing all official land maps in Burma, such as topographical maps. This department, while under MONREC, reports directly to the Chief Commander of the Tatmadaw within the Ministry of Defense.

OneMap Myanmar Unit: The OneMap Myanmar (OMM) Unit is a government initiative located in MONREC, which is the focal point of a multi-ministerial OMM Central Committee. OneMap works across 25 government agencies to develop an open access spatial data portal to share standardized, accurate and verifiable land-related information. The goal of OneMap is to allowing transparent analysis of the accurate data in the portal, and related knowledge products, thereby supporting accountable land governance and development planning by government and citizens. OneMap data supports land governance reforms in a variety of ways, including providing the basis for several elements of the NLUP such as Part 2 Chapter 3 on land information management, and in support of some regional

governments in areas such as the resumption of land from economic land concessions under the VFV Law to improve land access for rural communities.

Dry Zone Greening Department: DZGD includes three regions, 12 districts, and 54 townships, covering 20.17 million acres of dry land forests that are essential for local wood supply and watershed protection in Mandalay, Magwe and Sagaing regions¹.

Myanmar Timber Enterprise: The MTE is responsible for the production and marketing of commercial timber products in the country².

The mining sector affects land governance in many areas, especially through allocation of lands at the disposal of the union government under the VFV Law, many of which are for mines that have adversely affected the customary tenure rights of rural communities. Potential mine projects must submit ESIA proposals vetted by MONREC, and the mining sector also affects salt mining on Burma's coasts. GAD has been delegated authority over mining of stone products related to concrete production for purposes such as road construction. The departments of the MONREC Mining Sector are as follows:

- Department of Planning and Inspection;
- Department of Geological Survey and Mineral Exploration;
- Department of Mines;
- No 1. Mining Enterprise;
- No 2. Mining Enterprise;
- Myanmar Gems Enterprise; and,
- Myanmar Pearl Enterprise.

3.3 MINISTRY OF HOME AFFAIRS

MOHA is one of the three ministries controlled by the military. The Minister is appointed by the Commander-in-Chief, not the President. MOHA decides, among other things, what is classified as monastery land (not subject to land taxes), and formal recognition of village or town settlement lands. MOHA's GAD continues to have a significant role in land issues; although MoALI has taken over some of these former duties, GAD maintains a major role in almost every land decision in the country. The Minister also serves as Vice Chair of the Central Committee for Reinspection of Farm Land and Other Land Acquisition, and the Deputy Minister serves as Secretary of the Central Committee for Reinspection of Farm Land and Other Land Acquisition.

GAD was established as part of broader administrative reforms under the military government in 1989, with the new GAD officers placed at local levels in all states and divisions and responsible for town and village administration, development affairs, press controls, land and excise administration, and revenue collection. GAD's continuing role in land governance occurs at many levels today, from the union level through membership in the two key Central Committees on Reinspection of Land Acquisitions, and on Vacant, Fallow and Virgin Lands, down to the village tract through GAD positions and village-level staff. Payments for VFV land leases are made to the GAD township office rather than to MoALI/DoALMS, and

¹ <http://www.dryzonegreening.gov.mm/eng/?q=node/8>

² <http://www.myanmar-timber.com.mm/index.php/en/about/about-mte>

all land considered at the disposal of the union government is technically under GAD. Also, the recognition of settlement lands in villages is under GAD jurisdiction³.

In the area of unclassified or public forest land (virgin land), for example, GAD has significant control of agro-industrial developments, issues of recognition of customary community use of public forestlands, and encroachment on these lands due to weak or no tenure security of forest users and traditional users of upland areas. In the area of vacant and fallow lands, GAD also has control in areas of agro-industrial developments and community land use, including grazing land and other transitional uses. In the area of farmland, GAD continues this control throughout land governance, including existing applications for and records of land use rights, new registration of LUCs, and the ability to rescind land use rights or acquire land for other public and non-public purposes. GAD is a member of the Central Administration Body of the Farmland Administration at the national level, and lower level Farmland Administration Bodies all the way down to the village tract.

3.4 MINISTRY OF FINANCE AND PLANNING

MFP plays an important role in agricultural policy development and implementation, and therefore land policy. The overall planning of economic policy imperatives in the rural development sector, with agriculture as a subset, and land as a further subset, broadly takes place through joint planning between MFP and MoALI. This shared planning occurs at both the union level and at the state and region level. The two ministries are still under a transition both in the joint working structures for this planning, and in the development of common economic policies.

MFP is a large ministry, with 19 departments. The key departments bearing on land governance are as follows:

Minister's Office and Budget Department

Planning Department: The National Planning Departments at the state and regional levels have input into the land-use planning process.

Project Appraisal and Progress Reporting Department: This department assesses implementation of land concessions under the VFV Law for compliance with the terms of the concession, and considers resumption of land for non-compliance.

National Archives Department: The National Archives Department has responsibility for maintaining all land data which is reported from relevant ministry departments, such as DoALMS in MoALI or the Forest Department in MONREC.

Investment and Company Administration Department: The Investment and Company Administration Department is responsible, through its Directorate, for coordinating with the Myanmar Investment Commission (MIC), which is chaired by the Minister of Finance and Planning. Investments in land leasing for various economic purposes are a significant part of the investment portfolio moving through MIC, so land governance issues are implicated. The new Investment Law rules and guidelines describe the delegated authority regarding permits.

Myanmar Agricultural Development Bank: The Myanmar Agriculture Development Bank (MADB) is in the process of moving to MFP. The MADB is an important source of revenue for farmers through

³ For an in-depth analysis of GAD, see the 2014 report *Administering the State in Myanmar* by The Asia Foundation: <http://asiafoundation.org/resources/pdfs/GADEnglish.pdf>

agricultural credit, and has an important role due to preferential loan practices with one issue especially pertinent to land governance being that default on loans can result in LUCs being rescinded.

Of these departments, the Minister's Office, the Planning Department, and the Budget Department are most critical in the land sector. While matters such as land registration and mapping are in the domain of MoALI, many elements of land development and governance require coordination with the Planning Department and the Budget Department. For example, the government programs of land return and social land concessions involve significant coordination with these two departments to ensure effective land development, infrastructure improvements, and agricultural inputs. Authority over providing inputs to land return and allocation is held by the Minister of Finance and Planning through his role as Vice Chair of the Central Committee for Management of Vacant, Fallow and Virgin Lands.

3.5 OTHER COGNIZANT MINISTRIES

While many union government ministries have work that affects land issues, the following ministries have the most significant current impact in this area:

- **Industry:** The Minister also serves as a member of the Central Committee for Reinspection of Farm Land and Other Land Acquisition;
- **Construction:** The Minister also serves as a member of the Central Committee for Reinspection of Farm Land and Other Land Acquisition;
- **Defense:** The Minister also serves as a member of the Central Committee for Reinspection of Farm Land and Other Land Acquisition; self-administered zones and areas under joint control with non-state actors (NSAs) report to the Ministry of Defense (MOD);
- **Border Affairs:** This ministry is responsible for the development of border areas and national races;
- **Office of the Union Attorney General:** This office is responsible for reviewing proposed laws and regulations for technical accuracy and constitutional compliance, including proposed laws or regulations relating to land governance;
- **Hotels and Tourism:** The ministry is responsible for development of the country's tourism sector, and is often involved in the establishment of hotel zones and other developments that can potentially negatively impact local land tenure and property rights of smallholder farmers and communities;
- **Social Welfare, Relief and Resettlement:** This ministry administers the country's social welfare, relief and resettlement affairs;
- **Electricity and Energy:** This ministry is responsible for siting of various power generation and transmission projects, which could have an impact on land tenure and property rights of smallholder farmers, communities, and other vulnerable groups; and,
- **Transport and Communication:** This ministry is responsible for the siting and permitting of various infrastructure projects such as roads, bridges, and telecommunications towers, all of which could have a negative impact on the land tenure and property rights of smallholder farmers, communities, and other vulnerable groups.

4.0 UNION MULTI-MINISTERIAL AND OTHER COMMITTEES

Union-level multi-ministerial central committees are established through a presidential notification or through an act of Parliament, and their roles are typically defined in accompanying terms of reference for the committee. In some cases where the committee is multi-ministerial in structure, such as the Farmland Administrative Bodies, an act of Parliament establishes the committee and its authority. In this section, several union-level committees bearing on land governance are described.

4.1 CENTRAL COMMITTEE FOR REINSPECTION OF FARMLAND AND OTHER LAND ACQUISITION

The Central Committee for Reinspection of Farmland and Other Land Acquisition was created by a presidential instruction to resolve historic land confiscation claims. The committee is chaired by Vice President 2 and is distinct from existing parliamentary commissions or committees addressing similar issues. Its mandate is to monitor state/regional governments' handling of historic land disputes and enabling land to be returned to dispossessed farmers. The committee adopted a policy that dispossessed farmers should be compensated for their loss either through return of land or other just compensation. This committee was meant to settle all land disputes within the first six months of the NLD-led government, but has continued its work through the first year.

The Central Committee has original jurisdiction for special or old cases, meaning cases that have an unusual significance because of high value, a large number of affected citizens, or other reason for their unique need to be addressed, or cases that were filed years ago, but have not yet been resolved. Such claims can be submitted directly to the Union Assembly Legal Affairs Advisory Committee, chaired by U Shwe Mann, who has authority to call chief ministers, ministers, and others to address these cases as part of the work of the Central Committee.

Ordinary cases go from the village tract to the township to the district levels; they proceed to the regional level if not resolved at the district level, and finally to the Union level for ultimate resolution, if not resolved at the regional level. The Union Assembly Legal Affairs Advisory Committee may send an observer, if needed.

The structure of the subcommittees varies in the states and regions at the township level, village tract level, and even up to the district level. The number and variety of actors differs in order to represent leading actors in a particular jurisdiction, including communities and civil society organizations, as part of the reform structure.

Based on the 1 August 2016 Order from the Central Committee, the following is the composition of the concerned committees:

Central Committee – 10 Members

Chair Vice-President 2

Vice Chair Union Minister for Home Affairs

Vice Chair Union Minister for Agriculture, Livestock and Irrigation

Members Union Minister for Defense

Union Minister for Natural Resources and Environmental Conservation

Union Minister for Industry

Union Minister for Construction

Chairman of Nay Pyi Taw Council

Minister for Home Affairs

Deputy Minister for Home Affairs

Regional Committee – 12 Members

Chair Chief Minister

Members MoALI, Minister of Agriculture

Chair, Hluttaw Committee on Agriculture & Livestock Affairs

MOHA, DG of GAD

MONREC, Director Forestry Department

MoALI, Agriculture Department

Military Intelligence, Divisional Staff Officer

Farmers affairs and social organization (farmers union), secretary

Farmers affairs and social organization (farmers union), representative

Farmers affairs and social organization (farmers union), representative

Community representative

Regional Director, Farmland Management & Statistics Department (DoALMS)

District Committee – 12 Members

Chair MOHA GAD District Administration Official

Members District Regional Hluttaw Representative

MoALI District Manager Agriculture Department

MONREC District Manager Forestry Department

MoALI DoALMS District Staff Officer

Eight farmers affairs and social organization (farmers union) representatives

Township Committee – 13 Members

Chair MOHA GAD District Administration Official

Secretary Chair of Development and Support Committee

Joint Secretary MOHA GAD Deputy Township Officer

Members Three farmers affairs and social organization (farmers union) representatives

Township Development Committee Chair

MoALI DoALMS Staff Officer

MFP Planning Department Staff Officer

MONREC Forestry Department Staff Officer

MoALI Livestock, Breeding and Veterinary Department Staff Officer

MoALI Agriculture Department Staff Officer

Regional Hluttaw Representative

Village Tract / Ward Committee – 9 Members

Chair Local GAD Staff

Members Village cooperative association member

MONREC Forestry Department appointee (government or non-government)

MOALI Land Surveyor

Town Elder

Four farmers affairs and social organization (farmers union) representatives

4.2 CENTRAL COMMITTEE FOR MANAGEMENT OF VACANT, FALLOW AND VIRGIN LANDS

Established by Presidential Instruction as required by provisions found in the VFV Lands Management Law of 2012 and chaired by the Minister of Agriculture, this committee is responsible for approving requests for land use rights regarding VFV land. Its duties include receiving various ministry and lower-level government recommendations for the use of VFV land; receiving land use applications from individuals, private investors, government entities, and non-governmental organizations; rescinding or modifying VFV land use rights; classifying land; helping right-holders obtain technical assistance, inputs, and loans; and, resolving disputes related to VFV land use in coordination with other government entities. In accordance with the VFV Law, the Central Committee, under MoALI leadership, is required to recognize legitimate customary tenure claims within VFV lands; the Central Committee has begun asking townships to survey all VFV allocations to ensure there are no customary tenure claims, or to identify them, and has been coordinating with the OMM Unit of MONREC in this process.

The final order for the new committee structures has not been issued as of May 2017, but the tentative positions at the central and regional committee levels are as follows.

Central Committee – 18 Members

Chair Minister of MoALI

Vice Chair Deputy Minister of MoALI

Vice Chair	Deputy Minister of Planning and Finance
Members	MoALI Permanent Secretary
	MOD Joint Quartermaster - Second in Command
	President's Office DG
	MOHA DG of General Administration
	MoALI DG of Agriculture
	MoALI DG of Irrigation and Water Usage Management
	MoALI Managing Director of Myanmar Agriculture Development Bank (MADB)
	MoALI DG of Livestock & Veterinary
	MoALI DG of Fisheries
	Ministry of Religion and Culture DG of Archeology & National Museum
	MONREC DG of Forestry
	MONREC DG of Mines
	MFP DG of Inland Revenue
	Ministry of Hotels and Tourism DG of Hotel and Tours
	MoALI DG of DoALMS

Regional Committee – 13 Members (These working committees are established on an as-needed basis at the state and regional level, and lower levels.)

Chair	Chief Minister
Members	MoALI, Minister of Agriculture
	MOD Representative
	MOHA General Administration Department
	MoALI Department of Agriculture
	MoALI Department of Fisheries
	MoALI Livestock, Breeding and Veterinary
	MONREC Forestry
	MFP Revenue Department
	MFP Planning Department
	MoALI MADB Representative
	MONREC Mining Department Representative
	MoALI DoALMS Representative

The order for the district, township, and village tract levels has not yet been issued.

4.2 OTHER COMMITTEES

Additional union-level multi-ministerial central committees that have a significant involvement in land governance include:

- The Central Administrative Body of the Farmland, which includes the subsidiary Farmland Administrative Bodies down to the village tract level. These committees play an important role in the issuance of Form 7 LUCs.
- The Climate Change and Disaster Management Committee, which is chaired by the first Vice President, and has authority over restitution and resettlement after floods and other natural disasters in coordination with relevant ministerial departments and divisions.
- The Special Economic Zone (SEZ) Committees for the three SEZs in Dawei, Kyauk Phyu, and Thilawa⁴.

⁴ For more information on these see the International Council on Jurists report on SEZs: <https://www.icj.org/wp-content/uploads/2017/02/Myanmar-SEZ-assessment-Publications-Reports-Thematic-reports-2017-ENG.pdf>

5.0 LEGISLATIVE BRANCH

The Union Parliament is made up of the Upper and Lower Houses, which typically meet separately, but can be co-convened for a full Union Assembly. Bills approved by both houses go to the President for signature. If the President does not sign within seven days, the bill becomes law by default. The Union Assembly also has the power to make resolutions on matters relating to ratifying, annulling, and revoking treaties and may confer the authority to the President to conclude, annul, and revoke agreements.

5.1 UPPER HOUSE

The Upper House, or Amyotha Hluttaw, has 75 percent of its seats determined through elections and 25 percent of its seats reserved for representatives from the military. The NLD currently holds 60 percent of the seats. There are 12 committees in the Upper House, with several having a bearing on land governance: the Farmers' Affairs Committee; the Environmental Conservation Committee; the Ethnic Organizations Relations Committee; the Women's Affairs Committee; the Legal Affairs Committee; the Economic Committee; and, the Labour Affairs Committee.

Of these Upper House committees, the key bodies for land are the Farmers' Affairs Committee, the Environmental Conservation Committee, the Ethnic Organizations Relations Committee, and the Women's Affairs Committee. The Farmers' Affairs Committee is the body responsible for guiding many legislative matters relevant to land law development, and the Environmental Conservation Committee is also of importance in land governance. The Ethnic Organizations Relations Committee and the Women's Affairs Committee are also positioned to influence the land law development process, and the Labor Affairs Committee has responsibility for agricultural laborers who make up a significant proportion of farming communities.

In addition to these permanent committees, ad hoc committees, standing committees, and special commissions have roles in legislative processes. For example, when bills leave their sponsoring committee they are evaluated by three standing committees: the Legislative Drafting Standing Committee, the Upper House Joint Committee for Legislative Drafting, and the Lower House Joint Committee for Legislative Drafting. These committees review drafts and harmonize differences in drafts.

The Legal Affairs Advisory Committee, headed by former Parliament Speaker U Shwe Mann, carries an advisory role in legislative drafting. The Committee was created by the Office of the State Counsellor, and U Shwe Mann was appointed Chair. The Committee provides advice and guidance on legislation facing review. Action on the advice is not required, as the Committee is just one of several bodies offering recommendations on legislation, including the relevant committee in non-sponsoring house, and the line ministry responsible for the subject matter.

Diagrams of the legislative deliberation and approval processes can be found in Annexes 1 and 2.

5.1.1 Legislative Drafting Process in the Upper House

The Upper House Farmer's Affairs Committee is one of the committees with primary responsibility for drafting legislation and amending legislation in the land sector. The drafted or amended legislation is then submitted to the Legal Drafting Committee of the Upper House for further review, and is then sent to the UAGO Legal Advisory Committee, then to GAD and MoALI for their comments on each provision. Then a workshop in the Upper House is held to discuss the comments on the draft or draft

amendments for all concerned stakeholders. After approvals during the Upper House workshop, the drafted law or amendments then undergo public consultation processes, followed by further drafting by the government.

5.2 LOWER HOUSE

The Lower House, or Pyithu Hluttaw, has the same election structure as the Upper House. Following the November 2015 election, 58 percent of the seats are held by the NLD.

In the Lower House, four main committees come to bear on land and agriculture policy:

- The Agriculture, Livestock Breeding, and Rural Development Committee, which aligns with MoALI and has a close interest in land policy development;
- The Farmers' and Workers' Affairs Committee, which acts as the sister committee of the Upper House Farmers Affairs Committee and was recently restructured as it had previously also included youth affairs;
- The Resources and Environmental Conservation Committee, which corresponds to MONREC; and,
- The Economic and Financial Development Committee, which has influence as agriculture and land policy is seen by the current government as a subset of economic policy.

5.3 MINISTERIAL LEGISLATIVE PROCESS

Many bills are drafted by relevant ministries or agencies. Between April 2011 and January 2016, 232 laws were enacted by the Parliament; 179 of these were submitted by the union government.

Legislative power is vested in the Union Parliament and local parliaments (Chapter IV of the Constitution). The Union Parliament has the right to enact laws related to: 1) union defense and security; 2) foreign affairs; 3) finance and planning; 4) economy; 5) agriculture and livestock breeding; 6) energy, electricity, mining, and forestry; 7) industry; 8) transport, communication, and construction; 9) society; 10) management; and, 11) justice.

5.3.1 Legislative Drafting by Ministries

Union-level organizations formed under the Constitution, such as ministries, can submit bills to the Union Parliament in relation to matters under their jurisdiction. Ministries are granted discretion in deciding which department within the ministry drafts bills. Few legal experts staff the ministries, so legislative drafters are not always trained in the law. Some ministries receive assistance from overseas experts to help with bill drafting.

At the drafting stage, there are almost no hearings held with stakeholders or with other ministries. The process is managed in a top-down fashion. Factual research, preparation of policy guidelines based on facts, and collection of public comments on such policy guidelines are largely lacking.

5.3.2 Vetting by the Union Attorney General's Office

The Union Attorney General's Office vets bills drafted by the ministries. The UAGO is a government agency tasked with providing legal advice to various organizations of the union government. The Legislative Vetting and Advising Department of the UAGO vets each bill, comments upon it, and sends the draft back to the relevant ministry with the approval of the Deputy Attorney General and Union Attorney General.

Legislative vetting considers:

- whether the bill is consistent with the Constitution and existing laws;
- whether the content of the bill is consistent with national policies and the purpose of the bill;
- whether the bill is beneficial to the state and the protection of public interests;
- whether the bill is detrimental to the existence and security of the nation;
- whether the bill is detrimental to the safety of the assets of the people;
- whether the bill is detrimental to the integrity of the nation;
- whether the bill affects the customs of each ethnic group;
- whether the bill causes confusion to the jurisdictional matters of each ministry;
- whether the bill maintains sovereignty and is consistent with international treaties; and,
- whether the bill contains important issues in relation to the subject matter.

The UAGO also checks procedural aspects of the bill, such as whether the purposes of the legislation are provided, whether the effective date of the law is provided, whether there are any overlapping provisions or grammatical mistakes, and whether the provisions are clear. Only paper-based vetting is possible due to the limits of computer software related to the Bamar language.

The ministries have the ultimate control over the content of the bill; there is no legal obligation to accept the comments provided by the UAGO. However, bills are generally re-drafted based on the UAGO's comments.

5.3.3 Vetting by the Office of President

Once the bill has been modified to accommodate UAGO comments, the bill is submitted to the Office of President to be vetted by presidential legal advisors. This vetting checks for consistency between the bill and the Constitution, existing laws, and international law. After any necessary modifications, the bill is then submitted by the ministry to the Cabinet.

5.3.4 Submission to the Union Assembly

Upon Cabinet approval, the bill is submitted to the Union Assembly (Pyidaungsu Hluttaw). The Speaker of the House of the Union Parliament decides which house will deliberate the bill first – there is no established hierarchy for the consideration of bills. When a bill is forwarded to the first house, the Bill Committee of that House examines the bill, vetting it for:

- whether it is compatible with the Constitution and existing laws as well as Burma's international obligations;
- whether it aligns with national priorities;
- whether it serves the interest of the nation and the people;
- whether it could pose a risk to national security;
- whether it is consistent with current realities; and,
- whether its provisions can be implemented in practice.

The Bill Committee deliberates bills, produces reports on proposed revisions of bills, and submits these reports to plenary meetings of the first house. When the Bill Committee is overwhelmed, it may entrust relevant committees or stakeholders with review of a bill and drafting of a report thereon under the advisement of at least one member of the Bill Committee. Reports drafted by other committees must be approved by the Bill Committee before submission to the plenary session of the house.

In the plenary session, a majority of votes of the Parliament members present and voting is required for a bill to pass. However, bills only go to a vote if a member registers an objection to the proposal of the Bill Committee when the Speaker calls for such. If no objection is raised, the bill (with any modification by the Bill Committee) is considered to have passed. If an objection is raised, the Committee is convened for further discussion along with any objecting members. If the objectors are convinced of the Committee's proposal or a compromise is reached to revise the original proposal, the plenary session confirms a consensus and the revised proposal is considered to have passed through the house. If no compromise is reached, the bill is brought to a vote at the plenary session.

Bills are passed in the same manner by the second house. The second house may pass, reject, or pass upon amendment the bill passed through the first house. If amendment is required, the bill is sent back to the first house. If the first house passes the revised proposal, it is deemed to have been passed. All bills that have passed both houses go to the President for signature. In cases of disagreement between the two houses, the Union Assembly is called to determine the outcome by a majority of votes of attending members.

Bills are enacted with the President's signature, but if the President has not exercised a veto within seven days, the bill is enacted without signature. The President can veto a bill by sending it back to the Union Assembly with comments. Upon this remand, a Joint Bill Committee meets to review the bill and produce a report on the review. The Union Assembly deliberates the bill again and votes on proposals made by the Joint Bill Committee. The Union Assembly can take the President's comments into account or approve the original bill without changes. The President cannot re-veto a bill sent back to him upon re-resolution by the Union Assembly, and the bill becomes law once the President signs the bill or seven days have passed.

6.0 JUDICIARY

The role of the Burma judiciary in land governance has been limited in the area of addressing the constitutionality of land legislation as the judicial review powers of the Constitutional Tribunal have been curtailed in recent years. The most evident role of the judiciary in land matters in recent years has been through well-publicized lower court penal proceedings involving farmers involved in land disputes. Several legal and policy instruments in the land sector carry provisions that invoke the courts as a mechanism for dispute resolution. The Farmland Law (2012), for example, in Chapter XII, carries criminal penalties for several breaches of the law. The law also allows the administrative bodies generally charged with ensuring compliance to direct complaints to the courts if unsatisfied with farmers' actions (Sec. 20), including farmer's responses to orders from these bodies in cases of such misuses of land as fallowing (Sec. 12i) and changing crops without authorization (Sec. 12h). The MONREC Environmental Impact Assessment Procedure (2015), administered by MONREC, contains several provisions that carry criminal penalties for non-compliance.

In some sectors of land governance, while there has been evidence of recent evolution away from penalties for certain violations of land policy, the recourse of judicial proceedings remains in place for other violations. For example, the CFI of 1995 provided for legal action in case of violations of the Instruction (Sec. 34), including areas similar to the Farmland Law, namely punishments for shifting cultivation and gardening (Sec. 19e). While the new CFI of 2016 has removed these acts as violations worthy of legal action, it still describes punishments in accordance with the Forest Law (1992), a land governance instrument that relies on courts and criminal penalties.

7.0 MUNICIPAL DEVELOPMENT COUNCILS

Development councils in the major cities have powers enabling them to reclassify the designation assigned to land parcels, acquire land and buildings, and transfer titles of ownership. In the case of urban areas and the three large cities (Yangon, Mandalay, and Nay Pyi Taw), all land use and ownership-related activities are managed by the respective development committees which serve as a separate and distinct delegated land administration authority. These committees enjoy a broad range of authority in the reclassification of use designated to parcels, acquisition of land and buildings, and transfer of titles of “ownership.” In urban areas the Land Revenue Department is also involved in validating the transfer of title and other types of deeds. As statutory bodies established under the municipal law, these municipal councils bypass other laws. The chairs of these councils carry a status akin to ministers, and are known as Municipal Ministers⁵.

7.1 NAY PYI TAW DEVELOPMENT COUNCIL

The capital city’s municipal authority or administrative body, the Nay Pyi Taw Development Council, was established by the State Peace and Development Council in late 2009. It consists of five to nine members; the Chair acts as Mayor and a Vice Chair acts as Vice Mayor.

A separate body, the Nay Pyi Taw Council, reports directly to the President, who must nominate both civilian and military members for the council. The Council shares offices with GAD. The Nay Pyi Taw Council Chair also serves as a Member of the Central Committee for Reinspection of Farm Land and Other Land Acquisition. The Secretary of the Nay Pyi Taw Council also serves as the DG of GAD.

7.2 YANGON DEVELOPMENT COUNCIL

The Yangon City Development Committee (YCDC) is the administrative body of Yangon. It consists of 20 departments, with the Chair serving as Mayor. The YCDC is responsible for duties stipulated in legislation, city planning, land administration, tax collection, and development. It is an independent body and raises revenue through tax collection, fees, and licensing.

7.3 MANDALAY DEVELOPMENT COUNCIL

The Mandalay City Development Committee was established in 1992 and consists of 14 departments involved in revenue collection, land administration, and city planning and urban development. The Chairman serves as Mayor.

⁵ To better understand the roles of competing permits from different authorities relating to land, and how cadastral information from these councils is managed and integrated into national level information systems, and other governance questions, see reports by The Asia Foundation: http://asiafoundation.org/wp-content/uploads/2016/09/Municipal-Governance-in-Myanmar_Policy-Series_ENG.pdf

8.0 THINK TANKS

In Burma, the range of research institutions, or think tanks, is quite broad, and it is difficult to capture all such institutions influencing land governance decision-making, or to make firm distinctions between think tanks that are more aligned with business interests, government policy, or civil society research and advocacy. Some ministries have their own think tanks, for example, and institutions such as the Myanmar Economic Forum operate as think tanks. Under the previous government, there were nine primary advisors serving the government and each drew upon the resources of an exclusive think tank.

Each example described below is provided as an illustration of the types of these institutions operating in Burma. Of the three included as illustrations, each performs a quasi-independent role, though each also has origins or close ties to the Union Solidarity and Development Party and former government, or the NLD and current government.

8.1 RENAISSANCE INSTITUTE

Formed in 2012 as the Capacity Development Center and registered in 2016 as the Renaissance Institute, this organization has high level influence on current economic policy. With Chair U Myo Myint and Secretary U Soe Win leading the organization, and with offices in Yangon, the think tank played a key role in forming the NLD's economic manifesto in 2015. It organized an economic forum with the US Agency for International Development (USAID) in 2016 and a Smallholder Agriculture Conference with USAID and Landesa in 2016. The Renaissance Institute has been working on infrastructure needs in Yangon, and on broader economic, agriculture, and land policy issues in the country.

8.2 MYANMAR DEVELOPMENT INSTITUTE

The Myanmar Development Institute (MDI) is a recently created national think tank. The structure is in transition; it is connected to MFP and the Renaissance Institute. U Ye Min Paing, formerly with the World Bank, is connected to the organization. MDI works in partnership with the Korea Development Institute. MDI's new structure will be launched in 2017, and learning from the economic growth of its Korean neighbors will be part of its portfolio.

8.3 MYANMAR DEVELOPMENT RESOURCE INSTITUTE

The Myanmar Development Resource Institute is a think tank and economic policy research organization based in Yangon since 2012. It has three branches: the Centre for Economic and Social Development (CESD), the Centre for Strategic and International Studies, and the Centre for Legal Affairs. CESD undertakes participatory policy research studies related to poverty reduction and economic reform.

9.0 STATE AND REGIONAL-LEVEL STRUCTURES

9.1 CHIEF MINISTERS

Chief ministers are drawn from members of the state and regional assemblies (Hluttaw) and confirmed by that body after nomination by the President. All 14 chief ministers are NLD members. The Chief Minister serves as the chief executive of the state or regional government and is responsible for forming the state and regional governments and signing and promulgating bills approved by the Hluttaw. Many chief ministers have a strong land focus. Just as union-level ministries have an executive committee structure for collective decision making purposes, each state and regional government has a similar structure with executive committees made up of the equivalent of directors general and division directors.

Ethnic Armed Groups

In addition to the land governance structures of the union and state and regional authorities, land governance also operates in relation to the several ethnic armed groups in Burma. While in Burma ethnic national governance is nominally mandated by the Constitution, dozens of ethnic armed groups operate separate systems of administration at the subnational level in and across the seven ethnic states, in other regions, and in self-administered areas in Burma. Many of these administrations have formal structures of land governance which vary in practice, including: formulation and public presentation of land policies for their ethnic national areas; land registration and administration efforts; support for community documentation efforts; research and demarcation of boundaries sometimes including coordinates; and, training and public education on land documentation. In these non-state actor (NSA) administered areas, there arise questions of who to register interests in land with. In these areas, households and communities often need registration certificates from both Burma government authorities and NSAs.

9.2 AGRICULTURE AND FINANCE AND PLANNING MINISTERS

Appointed by the chief minister and usually chosen from among the Regional Hluttaw, the state and region cabinet ministers manage, direct, control, and inspect the state or regional departments. The state and regional Minister of Agriculture coordinates with both MoALI and the state and regional departments. The Planning and Finance Minister oversees the state and regional budgets, disbursement of loans, and municipal taxes, which often relate to land.

9.3 ASSEMBLY CHAIRS AND MEMBERS

The role of the Regional Hluttaw in land governance reform is essential. The Hluttaw Chair (or Speaker) holds significant influence, and regional Members of Parliament do as well. For example, Regional Hluttaw representatives on the Regional Reinspection Committees hold sway, and regional acts passed or amended in the land sector also will have significant influence on land governance implementation at the state and regional level.

10.0 CIVIL SOCIETY ORGANIZATION NETWORKS

Civil society organizations (CSOs) in Burma play an important role in land governance reform efforts in the country. They are a significant voice calling for change and greater participation of local communities in decision making processes relating to land resource administration and management. CSOs played an important role in the recent public consultation process utilized to develop the National Land Use Policy.

CSO networks working in the land sector in Burma are diverse and can be divided into several groupings. The following examples of national network organizations are not exhaustive; there are many regional networks also working in the area of land governance. The following summary includes a description of four networks – Land in Our Hands (LIOH), Ethnic Peoples Land and Natural Resources (EPLNR), Gender Equality Network (GEN), and Land Core Group (LCG).

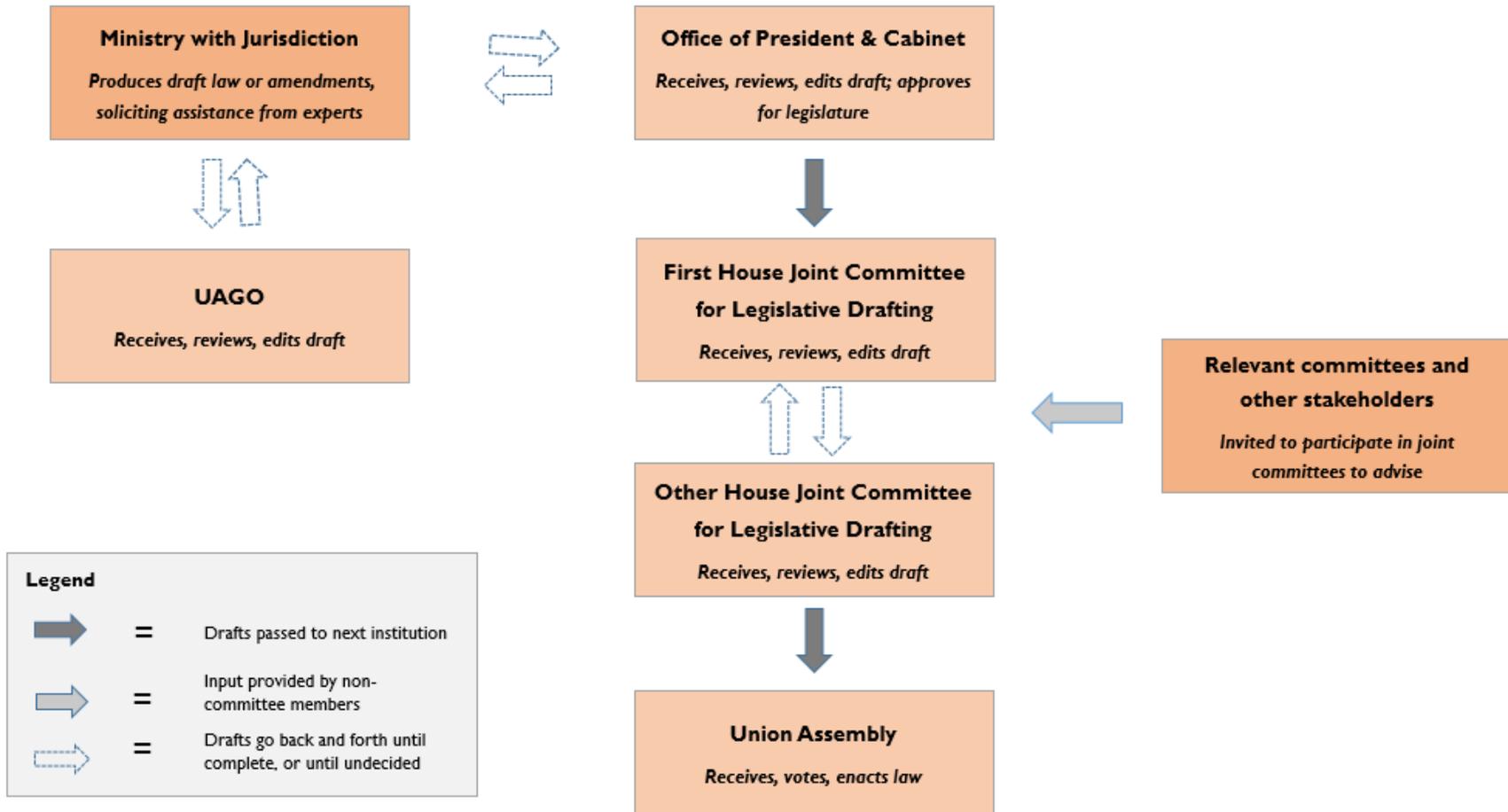
The LIOH network was founded in 2014 by local CSOs, and is a multi-ethnic network composed of more than 60 allied farmers organizations, community-based organizations, CSOs, and ethnic rights activists from across Burma's states and regions, with coordination by representatives from Kachin, Kayah, Kayin, Chin, Mon, Rakhine, southern and northern Shan States, as well as from Mandalay, Magwe, Sagaing, Yangon, Bago, Ayeyarwady, and Tanintharyi Regions.

The EPLNR network was founded in the context of the public consultation process surrounding the development and eventual endorsement of the NLUP. As the policy was being developed, some stakeholders among Burma's ethnic nationalities were concerned that the draft did not reflect and protect the land and natural resource governance needs of these communities, and some groups came together to form EPLNR. Through participation in the network, members feel that there is a safe space to discuss these issues and plan approaches to better governance of land and natural resources in ethnic areas.

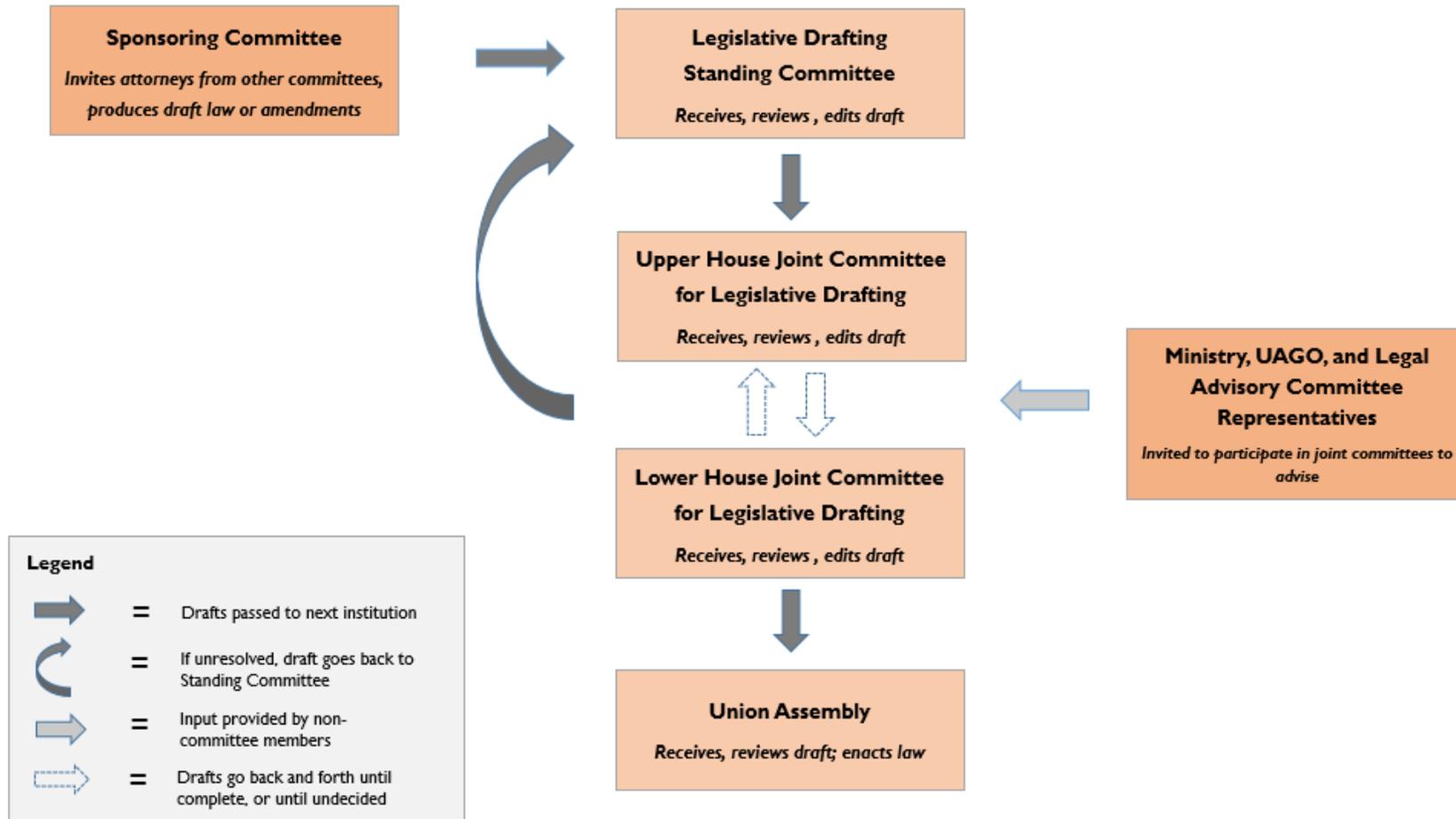
GEN was founded in 2012 by international donors, and includes more than 100 local CSOs, international non-government organizations (INGOs), and technical advisors who operate independently and work on women's rights in Burma through advocacy campaigns, research projects, and implementation, guided by working groups and are led by a Steering Committee and Coordination Unit.

LCG was formed in 2011 by international donors as part of the Food Security Working Group. Today it operates independently with a focus on Southeast Burma, and includes a network of local CSOs, INGOs, community-based organizations, and concerned individuals. LCG was involved in preparation of the NLUP, coordinates with the research resource mylaff.org and other research projects, and has the stated goal of working only with locally-led initiatives.

ANNEX I: MINISTRY LEGISLATIVE DRAFTING PROCESS



ANNEX 2: PARLIAMENT LEGISLATIVE DRAFTING PROCESS



U.S. Agency for International Development

1300 Pennsylvania Avenue, NW

Washington, D.C. 20523

Tel: (202) 712-0000

Fax: (202) 216-3524

www.usaid.gov