

Highland cultivation in Bilin, Kayin State.

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LAND CONFISCATION, GENDER AND JUSTICE IN SOUTHEAST MYANMAR

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BACKGROUND

The two semi-fictional stories presented here are to highlight the key issues from Saferworld's research, funded by Oxfam Novib – in a way that is accessible and engaging to the public, and sparks further conversation about the issues. While these particular families described are fictitious, the quotes, issues, and themes presented were not and are supported by our report, '**Gendered experiences of land confiscation in Myanmar: Insights from eastern Bago Region and Kayin State**', February 2018.

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LOST LAND, LOST WORTH

LAND CONFISCATION, GENDER AND JUSTICE IN SOUTHEAST MYANMAR

A routine disrupted

The year is 2008 and the Myanmar military is in power. The Tatmadaw has been accused of confiscating land across the country for security and business-related advantage, including in areas like eastern Bago and Kayin state. The constitution proclaims that the State is the ultimate owner of all land, but many families have been customary users of land for generations.

A family in eastern Bago on the outskirts of Hpa-an Township earns its livelihood through agriculture, like more than 70 per cent of the population in Myanmar. The woman, Daw Khin Hta, is 37 years old and the man, U Hla Shwe, is 39. They have three children; the youngest is 11 and the oldest is 16. On this day, the sun has not yet risen, and Daw Khin Hta has already worshipped, and fed the livestock. By 6am she is halfway through preparing breakfast and lunch for the family when her husband awakens. After breakfast, U Hla Shwe spends the next five hours on the farm doing heavy labour, such as reaping the paddy and cultivating the land while Daw Khin Hta works to clear weeds, grow sesame and corn, and manage the workers.

They take a rest for lunch that the wife prepared at mid-day, then continue to work. Daw Khin Hta leaves mid-afternoon to head back to their home to prepare dinner and feed the livestock. Sometimes U Hla Shwe joins her, but usually he continues to work for another hour before coming home to bathe before dinner. By 6pm everyone gathers for dinner, enjoys each other's company, and makes plans for the next day. Afterwards, U Hla Shwe relaxes and watches TV, while Daw Khin Hta spends time with the children before bed.

The following day begins the same at 5am. However, by the end of this day, events occurred that had lasting effects on the family, local communities and future generations. U Hla Shwe arrives on his farmland to see a sign saying "no trespassing". Confused, he goes to speak with a local leader. Once there, he is met by military officers and police who have documents prepared for him. They tell him he must 'donate' all of his land to the government and sign the form in front of him. Their voices are stern and the officers are armed. U Hla Shwe refuses and they threaten him with violence and imprisonment. Reluctantly, he signs the documents and returns home knowing he has to share the news with his family: that they are now landless.

"Men think that growing crops is their only duty, but after land grabs they feel they have no more duties. So the men just get drunk and then come back home and cause trouble".

"When you experience emotional distress, you cannot happily speak with and enjoy each other in the family. You show less love".

Physical and emotional labour

On that day their lives lost any sense of routine. Everyone in the family was affected. U Hla Shwe, Daw Khin Hta and their children had to start working as daily wage-labourers.

"It was difficult in our area to earn an income after our land was taken. Women became closer to god, but men became much more violent than before. Men think that growing crops is their only duty, and after losing our land they feel they have no more duties. So the men just get drunk and then come home and cause trouble. When land-grabbing happens, men and women have to separate. The men have to work further away and the women stay near the home so it makes their relationship more difficult".

Daw Khin Hta now earns an independent wage for the first time, doing the same work as U Hla Shwe – although she earns less at 3,000 kyat (US\$2) per day as a daily labourer, compared to her husband's earnings of 5,000 kyat (US\$4) per day. The work takes its toll on her and others facing similar circumstances.

"We get more tired than before. We sleep less. We have to work by ourselves without our families and husband nearby and we have to work outside for longer hours under the hot sun. It's more difficult. We rely on the daily income. Even if we are sick we still need to work. If we are sick and don't work, then we have to go into debt in order to have enough food for the day".

Understandably the family becomes stressed after experiencing land loss. The earnings from daily wage work made it more difficult for U Hla Shwe to secure his role as a 'provider' (as he'd done previously by owning and working his own land). U Hla Shwe cannot contribute to the family as much as before and as a result he is upset and feels more disconnected from his family.

"When you experience emotional distress, you cannot happily speak with and enjoy each other in the family. You show less love".

Daw Khin Hta and U Hla Shwe both worry about earning enough to survive; they work further away from each other, and spend less time together. This all contributes to more arguments at home.

"We fought because we did not have enough income... mainly because we couldn't use money on our children's education. As a mother, I wanted to do this... but my husband said 'no', so I didn't have any money for the children's tuition fees".

Daw Khin Hta has a new role as an economic provider, but this means that she has less time and fewer resources to contribute to the family and is sleeping less to get all the household work done. They can no longer afford school fees and the youngest child has to stop attending school and take up daily wage work.

Hoping for justice

Due to fear and a lack of knowledge about their rights, families only began trying to reclaim their land after 2011 when the Myanmar government announced that it would start returning land that had been confiscated, and when the democratic transition began.

It is now 2014. The family is still struggling to secure its livelihood with daily wage work. The children are now grown-up and Daw Khin Hta and U Hla Shwe discuss whether they should try to reclaim their land.

Fighting the legal and administrative battle to get their land back is very expensive. They cannot write and fill out the official paperwork to contend the land case effectively, so they have to pay someone 50,000 kyats (US\$37) to write the letter, and then 30,000 (US\$22) to send it to various government offices in the hope of getting a response.

“You never know if you will ever get [the money or your land] back. So it leads to arguments about what to do and if it’s worth trying”.

“I have seen arguments between a husband and wife because they heard from the government that they will eventually get their land back, but they have to wait. Then because they spent money to get the land, they feel it is wasted because you never know if you will ever get it back. So it leads to arguments about what to do and if it’s worth trying”.

Fortunately, for this family, by the time they decide to fight for their land, Daw Khin Hta’s and U Hla Shwe’s children are adults – which gives them more time and financial resources to put towards reclaiming their land.

Given Taungoo’s relative accessibility by road and its location in the lowlands, soon non-governmental organisations (NGOs), community based organisations (CBOs), and lawyers start offering training in the family’s village. Daw Khin Hta is eager to learn new skills and to explore any opportunities that present themselves.

“In 2012, I went to a workshop about land rights and empowerment. Men were invited but they were not interested, so it was just women who went. After that, I worked with Geographic Information Systems (GIS) experts, CBOs, and even travelled to Hpa-An to talk to the Forestry Department about our land... My self-confidence to speak in front of people increased because I had to stand and speak to assert my rights and fight”.

Daw Khin Hta gained confidence, negotiation skills, and legal knowledge that enabled her to become a community leader on land, and then for other issues. However that was not enough.

When Daw Khin Hta approached the village administrator for assistance, she was told that she must talk to the Karen National Union (KNU), an Ethnic Armed Organisation, that has governing oversight alongside the Myanmar government in the area, to resolve this issue. The KNU told her that it is under the government’s authority to resolve. Daw Khin Hta is discouraged because she knows that when her neighbours asked the government to come to measure their land to

obtain land registration documents, known as Form 7, the KNU prevented the staff from measuring the land. She is not sure who has the real authority in the mixed controlled area.

While Daw Khin Hta continues to fight for the return of her land and her community’s land, U Hla Shwe seeks other work. The town is bustling, and he is hopeful to find work outside of agriculture – so that he can escape the tough manual labour and conditions of working for a daily wage on other people’s farmlands.

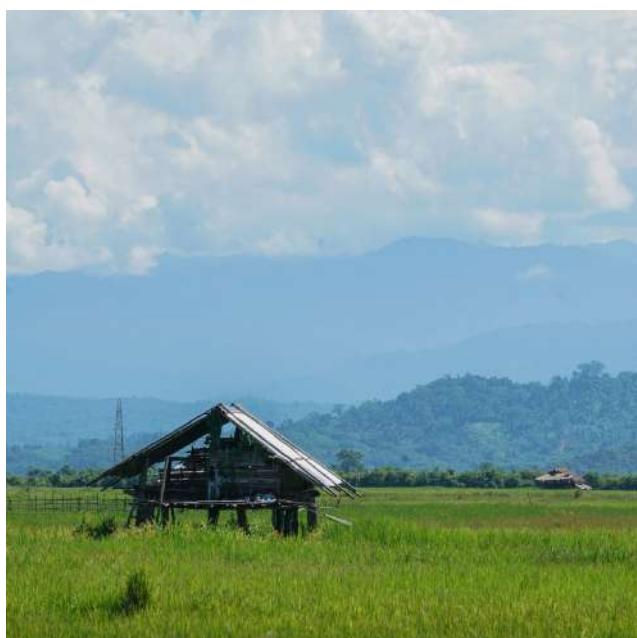
When the NGOs and CBOs enter the area, U Hla Shwe is not interested in the legal training, but he is drawn instead to a workshop on motorcycle repairs. After the workshop, U Hla Shwe learns how to perform mechanical repairs and he begins to set money aside to open up a repair shop.

An uphill battle

Three years later, the community continues to look up to Daw Khin Hta as a leader and U Hla Shwe is able to open up a motorcycle repair shop. The family is no longer dependent upon daily wage agricultural work, but they continue to fight for their land.

Since their land was taken by the military government, it has been transferred to a private company and now all parties involved avoid taking responsibility by directing Daw Khin Hta, U Hla Shwe, their family, and their village to liaise with other authorities. The case is still ongoing and they have little hope of having their land returned or receiving compensation.

“My self-confidence to speak in front of people increased because I had... to assert my rights and fight”.



Low land paddy fields in Myanmar.
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AT WHAT COST? LIVELIHOOD AND EMOTIONAL STRIFE IN THE HIGHLANDS

A couple lives in a village in the highlands of Kayin state. Villagers have suffered intensely from the civil war. In 2000, the military burned the village, and many people fled to Thailand. The husband, Saw Htoo Wah, and wife, Naw Paw Eh, hid and stayed nearby hoping the situation would improve. They were eventually able to return to their land, but conditions in the village were traumatic. Landmines were prevalent, people were regularly forced to work as labourers, and everyone had to wear arm-bands indicating their village membership. They had to obtain permission if they wanted to leave to go to a nearby town. Despite all of this, the couple still managed to work on their farmland, albeit inconsistently, as dangers still remained from landmines and the ever-present threat of fighting breaking out again.

In 2003, a Myanmar company with the help of armed actors took nine acres of Saw Htoo Wah and Naw Paw Eh's land for an electricity project. They were told that they had to relocate. No exemptions were given. The whole village had to move. Within weeks all the fields were flooded by the dam. No one knew what to do.

Saw Htoo Wah was angry and confused. He felt the situation was hopeless as no one would support his village in getting the land back. He withdrew away from his family, friends and community because of the guilt and anger he felt inside him. Saw Htoo Wah felt ashamed, knowing he had lost the land that had been in his family for generations.

"When my land was taken, at first I was depressed. My sisters also lost their employment as it was my family's land that they worked on".

"After the land was taken, I became braver than before. I am a man, so I have to be brave".



Highland cultivation in Thaundaungyi, Kayin State.
© Saw Lin Chel/Saferworld

Along with most of his neighbours, Saw Htoo Wah had no choice but to become a daily-wage labourer, walking nearly two hours to work each day to work on other people's farms for a meager 4,000 kyat (US\$3) per day. He was the main economic provider in his family. Naw Paw Eh was unwell and was not able to meet the physical demands of working as a day-labourer. Even though she was ill, Naw Paw Eh still tried to earn some money by selling thatch-roofs that she crafted from the vegetation around their home. She also carried out domestic tasks and she looked after their two children, who were one and three years old.

"Having your land grabbed does not kill you, but it's like it indirectly kills you... the land grab had a much bigger impact than any other type of conflict because at the time of the land grab we were already married and had a family to take care of. Those of us living in the hilly areas also have no opportunities to change our livelihood".

The village was remote with poor roads. Even motorbikes, which were common in other areas, were rarely seen. Agriculture was the only option for food and income for all of the villagers.

Regardless of these efforts, life for the family and all the people in this village was difficult. They worked demanding jobs, had little economic opportunities and the village's location cut them off from trade, education and medical supplies that were more readily available in the lowlands.

Hope for justice

In 2011 when the government announced it would begin to hear land claims and return confiscated lands, Naw Paw Eh and Saw Htoo Wah agreed they would start to fight for their land. Their children were still young at the ages of 11 and 12 and getting their land back would help provide some financial and employment security for their children in the future.

Since many people were affected by the confiscation and flooding, the villagers met to discuss potential actions they could take to reclaim their land or receive compensation. Sixty villagers attended the meeting. The community was divided: some people still feared the consequences of fighting to reclaim their land because many people continued to receive threats from the military, armed actors, and other powerful individuals in the area.

Saw Htoo Wah had previously felt helpless, but now was more optimistic because the government had announced it would start hearing peoples' land claims. Saw Htoo Wah wanted to seize the opportunity to prove himself as a community leader and provider for his family, and to make up for time lost after his land was taken.

"Having your land grabbed does not kill you, but it's like it indirectly kills you... the land grab had a much bigger impact than any other type of conflict".

At the meeting, the villagers decided to form a land committee to pursue the land cases. Saw Htoo Wah became the committee leader. “After the land was taken, I became braver than before. I am a man, so I have to be brave”.

Saw Htoo Wah spoke with CBOs to get advice on creating a petition against the land confiscation cases. Going door to door, he gathered over 200 signatures from those affected in his own village and surrounding villages. He submitted the petition to government authorities and the KNU. Both authorities informed Saw Htoo Wah that this document would not be considered in court. The KNU assisted the committee to link up with a lawyer who could help with their case. The committee was required to submit more documentation that in theory would help them receive official land titles to prove their land ownership for the land they had owned customarily over generations.

By taking action as part of the land committee, Saw Htoo Wah learned a great deal about legal issues. He became a leader and provider for his community, and he felt braver speaking with authorities. However, the more Saw Htoo Wah supported the community with their land claims, the more distant he became with his own family.

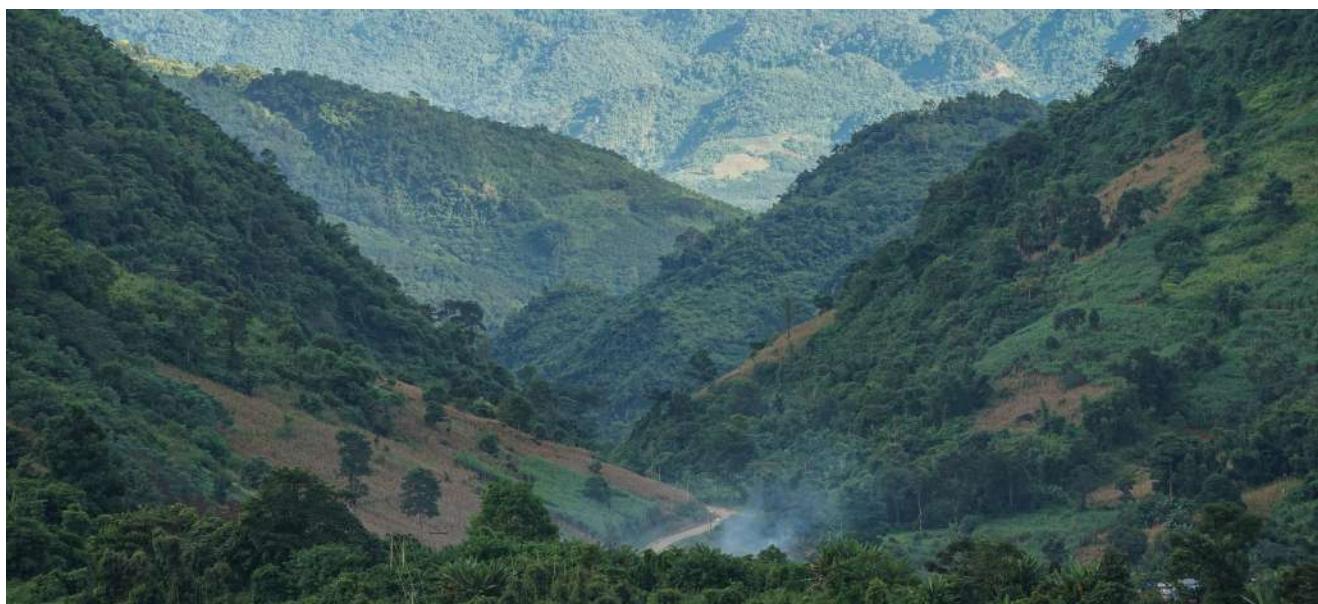
“The adults can’t sleep well during these times. The father and children’s relationship becomes cold because most of the time the father has to travel for the land case. The mother has to work for an income on behalf of the father – when she rarely had to work for an income before their land was taken. Sometimes, family members can no longer talk and speak kindly to each other because they are feeling pressured and stressed by their loss and because they face more difficulties earning an income for their family”.

Saw Htoo Wah had to hire a motorbike from another village and make frequent trips on poor-quality roads and rough terrain to visit government administration offices, KNU, and Naypyidaw, in order to speak with various authorities about his community’s land claims.

A fight at what cost?

After more than two years of applying for land titles and following up on these land cases, nothing has happened. The Saw Htoo Wah recently contacted the Agriculture and Irrigation Minister, who admitted that their letters and documents lie forgotten on his desk.

The husband and his committee continue to pressure the government to have their land returned.



About Saferworld

Saferworld is an independent international organisation working to prevent violent conflict and build safer lives. With programmes in Africa, Asia and the Middle East and North Africa, we work with people affected by conflict to improve their safety and sense of security, and conduct wider research and analysis. We use this evidence and learning to improve local, national and international policies and practices that can help build lasting peace. We believe that everyone should be able to lead peaceful, fulfilling lives, free from insecurity and violent conflict.

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To learn more about the gender dynamics of land confiscation, please read our report, *Gendered experiences of land confiscation in Myanmar: Insights from Bago and Kayin.*

Myanmar highlands.
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