Status of Customary Land Rights in Burma (Myanmar)
### Land Utilization in Myanmar 2008-2009

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Land area (Million acres)</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net Sown Area</td>
<td>29.32</td>
<td>17.54</td>
</tr>
<tr>
<td>Fallow Land</td>
<td>0.62</td>
<td>0.37</td>
</tr>
<tr>
<td>Cultivatable waste land</td>
<td>13.98</td>
<td>8.36</td>
</tr>
<tr>
<td>Reserved Forests</td>
<td>43.29</td>
<td>25.89</td>
</tr>
<tr>
<td>Other Forests</td>
<td>39.09</td>
<td>23.38</td>
</tr>
<tr>
<td>Others</td>
<td>40.89</td>
<td>24.45</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>167.19</strong></td>
<td></td>
</tr>
</tbody>
</table>
Traditional land administration

Kachin State

Three Systems of Land Administration

- Gum Raung Gum Sar (People’s desire)
- Gum Sar (Ownership by land lords)
- Gum Lau (Overturning land lords)

(from Kachin Traditional culture handbook 1967)
Traditional land administration

Chin State

- Many ethnic groups move around to find new land
- Conduct shifting cultivation
- The first person who settles and find new land becomes the leader or *Mee Oak*
- Work on land for 2 to 10 years, find another piece of land

(from Chin traditional cultural hand book 1968)
Land Tenure System

Burmese Kings

- Royal Land
- Office Land
- Private Land
Land Tenure System

British Occupation

- The Squatter system
- The Patta system
- The Lease system
- The Grant system
- The Colony system
Outcomes of Tenure systems

- Partnership tenancy
- Shared cropping tenancy
- Fixed produce tenancy
- Fixed cash tenancy
<table>
<thead>
<tr>
<th>Year</th>
<th>Particulars</th>
</tr>
</thead>
<tbody>
<tr>
<td>1886-1947</td>
<td>Formation of land laws and regulations</td>
</tr>
<tr>
<td>1947</td>
<td>Land Tenancy rules</td>
</tr>
</tbody>
</table>
Legal framework contd

- 1948
  - The Tenancy (Amendment) Act (7)
  - The Tenancy Standard rent (Amendment) (13)
  - The Disposal of Tenancies Act
  - The Land Nationalization Act (60)
Legal Framework

- 1950 The Standard Rent Act (42)
- 1951 The Standard Rent (Amendment) Act
Legal Framework

1953
- Land Nationalization Act (2,1b,3b)

1963
- The Disposal of Tenancies Law (2,1b)
- The Farmer’s Rights Protection Law (91)
Legal Framework

1965 - The Law amending the Disposal of Tenancies Law

1988 - Ministry of Agriculture and Forestry Notification(32/88)
1991 - Prescribing duties and rights of Central Committee for management of cultivable, fallow and waste land
Rights of Central Committee

Central Committee to grant the right to cultivate land/right to utilize land by State owned Economic Organizations and Cooperative Societies, Joint ventures, other organizations and private individuals
Rights of Central Committee

- Agriculture
- Perennial crops: 5000 - 50000 acres
- Orchard: 3000 acres
- Seasonal crops: 1000 acres
Rights of Central Committee

- Livestock, Poultry, Farming and Aquaculture
  - Aquaculture: 5000 acres
  - Livestock and Poultry: 3000 acres
    1. Buffalo, cattle, horse: 5000 acres
    2. Sheep, Goat: 1000 acres
    3. Poultry, Pig: 500 acres
Problems related to access of Land in Myanmar (overall)

- Shrinking land resource by growing population
- High land competition
- Land fragmentation
- Landlessness
- Social vulnerability
Overall continued

- Many laws related to land since British rule are still in effect
- People are trying to stretch rules for their convenience
- Difficulties in transferring land titles and categories
- Political culture is important
Overall continued

- Land classification is chaotic
- No fallows for registered permanent agriculture land
- Rich farmers gain while poor farmers mortgage land and pay higher user rights
Institutional

- Land Records, Agriculture and Forest Departments are not members in decision making committees.
- Categories of Forests are poorly marked on Land Record Maps.
- Overlapping Institutional control, potential conflicts, and gaps in land management.
Institutional continued

- Different resources under many Ministries on same plot of land
- Military and non-forestry officials in Forest Management Committee
Conditions in Kachin State

- A blending of traditional and customary land laws leading to blurred, complex and dynamic situations

- Positive link between strength of customary law and ecological conservation for forests, village forests

- Increasing land seizure by agribusiness and military
  - Loss of customary practices and law in many places, direct relationship with hills political groups
Chin State

- Falam, Tiddim
  - Customary claims
  - Absent customary land owners
  - Customary upland plots shift together by households
Chin State

- Hakha, Thantahlang
  - Not customary but collective management
  - Shift upland plots together, lottery system for HH plots

- Zotung
  - All HH have same upland plots every time
  - Traditional land owners have better allotments
Ways to overcome Chin State

- Permanent Agriculture in the form of terracing
- Poor cannot afford need to devise means for them
- Little presence of the State
- No problems with agribusinesses yet
- Few registered land, less tax paid
Ways to overcome

Kachin State

- Land registration needs long processing so
- NGOs assist in 103/5/6 land user rights
- Less upland plots, more modern permanent agriculture practices
- Trainings on Forest User Groups to form Community Forestry
- Positive link between strength of customary law and ecological conservation for forests, village forests
Conclusions

- System of land laws and legal framework not relevant in some remote areas
- Due to political changes within the country, law changes
- Transferring power of disposing the tenancy to village tract land committees leads to corruption
- Officials not protecting the poor’s rights
Land is owned by the State and people need to register for user rights. Most ethnic groups do not have user rights and land is taken over whenever necessary.

Rural communities need to be given assistance in registration.

Most communities need land but are afraid of going through the process and fall prey to corrupted officials.
The farmer’s rights protection law is present which reduces power of landlords. Land Rights Committee is oriented to commercial enterprises and exploitation of resources occur, no provision for landless people or earlier settlers.
Thank you!