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The politics of legal pluralism in the shaping of spatial power in Myanmar's land governance

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ABSTRACT
Following the National League for Democracy's landslide victory in the 2015 national election, Myanmar embarked on a series of legal and political transitions. This paper highlights parallel processes alongside such transitions. Linking land governance with the ongoing peace processes, and taking Karen state as a case study, it brings to light how both processes are in fact closely interlinked. Building on legal pluralism research, we argue that in the context of ethnic states, farmers' strategies to strengthen their land rights resemble the very notion of state transformation.

KEYWORDS
Dual authority; land use rights; state transformation processes; ethnic states; Myanmar

1. Introduction

Over the past decade, Myanmar has undergone a rapid period of political reform as it has transitioned away from a military junta towards a civilian and democratically elected government. This period has witnessed a series of land governance reforms, being pulled into various directions by Myanmar's pluralistic society and land use and tenure practices, resulting in overlapping and conflicting policies and legal frameworks in land governance. Struggles over control and access to land and territory are one of the most pressing political issues facing the new National League for Democracy (NLD) government, which won a historical victory in the 2015 general elections under the leadership of Daw Aung San Suu Kyi. Maintaining its broad base support and legitimacy largely hinges on the government's ability to tackle pressing land governance issues, while dealing with various democratic, ethnic, and developmental crises that plague the country (Callahan 2003; Ferguson 2014; Grundy-Warr and Yin 2002; Willis 2013). The military and its cronies have engaged in a long history of land grabbing that has sparked protests and civil strife (Aung 2015; Gee 2005; Jones 2014a; Woods 2011). Ongoing discussion on peace processes between ethnic armed organizations and the central government and military are in large part concerned with territorial boundaries of ethnic states and authority within them (Einzenberger 2016; Hong 2017; Kramer 2015). Insecure peasant access to and unclear ownership over land, due to the central government's lack of recognition of customary land tenure systems, has hampered prospects of rural economic development throughout the country (Boutry et al. 2017; Huard 2016).

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This paper looks at how farmers and state actors shape and reshape legal pluralism within the context of dual authority, where both the Myanmar central government and the Karen National Union[1] (KNU), the latter being the leading political organization representing the Karen's struggle for political self-determination, are responsible for land management in their respective, albeit overlapping, territories. It illustrates the ongoing power struggle centered on the central government's and the KNU's interests and strategies to increase the land area under their respective administration, and how this corresponds with customary tenure systems and farmers' views on land tenure security and strategies to ensure their land rights. Two village case studies in Karen State are used to illustrate how farmers shape their strategies to secure their land rights while navigating through the blurred boundaries of competing legal systems and spaces, embedded in the context of dual authority.

The paper looks at state spatiality as complex processes and practices of socio-spatial regulation across scales shaping and reshaping state-society relations. Placing dual authority as one of the building blocks for state transformation, it illustrates how political authority produces rights, and vice versa (Lund and Rahman 2018), within the context of legal and institutional pluralism. It shows how these processes and practices are rooted in the production of political space, centering on farmers' strategies to strengthen their land rights, and how these are entangled in the central government-farmers-KNU power relations. In particular, it looks at: (1) the conflicting legal frameworks pertaining to land governance in the country; (2) how these legal frameworks are negotiated and appropriated at the village level through various means and institutional set up, including how they interact with customary land rights; and (3) how it reflects back on and influences farmers' land tenure security. Building on legal pluralism research (von Benda-Beckmann, von Benda-Beckmann, and Spiertz 1996; Moore 1986; Van der Linden 1989), we argue that while inconsistent policies and legal frameworks leave the door wide open for land expropriation, as powerful actors shop for suitable and applicable laws to serve their interests, it also serves as an entry point for less powerful actors to increase their room to maneuver and reclaim their rights. Here, rather than portraying inconsistent, conflicting legal frameworks as merely a sign of a weak legal system in Myanmar's land governance, we position it as an entry point for farmers and local communities to fight for their land rights.

Building on Mann's definition of states as merely [consisting of] 'some degree of authoritative rule making and some organized political force' (Brenner et al. 2003, 125), we view states as both sets of institutions and an expression of social power relations. As stated by Jones (2014b, 146): '*States are seen as being produced, transformed and constrained by conflicts between social forces, … as they struggle for power and control over resources*'.[2] Building on Brenner et al.'s (2003, 11) definition of states as '*dynamically evolving spatial entities that continually mold and reshape the geographies of the very social relations they aspire to regulate, control and/or restructure*', we view state transformation processes as

[1]Established in early 1949, the KNU strives for a federal system, centered on the central government's full recognition of an autonomous Karen territory and Karen people's aspiration to decide their own political destiny. Operating in an area experiencing one of the worlds' longest ongoing civil wars, the KNU is equipped with an armed wing, the Karen National Liberation Army (KNLA).

[2]In this paper we present the central government and the KNU as state actors. Both have some degree of authoritative rule making and some organized political force, thus comprise of sets of institutions and social power relations, albeit in different scope.

the creation of new political space and institutional emergence shaped by ongoing power struggles and contestation between and within political actors across scales. Or, as stated by Lefebvre (2003, 99): 'State space hinders the transformation that would lead to the production of a differential space'. Here, state transformation is not limited to formal state actors, but also includes other actors and institutions with statutory capacity. Or, as stated by Lund and Rachman (2016, 1201): '*The mutual constitution of rights and authority takes place in many institutional settings … Government institutions are not the only source of state effects*'.

The paper contributes to the wider literature on legal pluralism and state transformation processes in two ways. First, it brings to light the blurred boundary between the different forms of (legal) ordering (e.g. state law, customary law, religious law), and thus between legal systems and spaces. It argues that while legal scholars tend to view legal pluralism as the conception of different, yet interlinked legal systems and spaces, they are in fact more than just a compilation of different legal orders. On the contrary, it illustrates the messy realities where boundaries between the different forms of ordering are at best blurred, as actors and institutions transcend the different legal systems and spaces in pursuit of their interests, reconfiguring the boundaries of those spaces in the process.

Second, it presents the concept of dual authority as a theoretical underpinning to unpack the politics of legal pluralism, centering on the question of 'who makes the law'. Current discourse on legal pluralism has highlighted the importance of power analysis surrounding the politics of inclusion and exclusion in the overall shaping of law-society relations (Boelens, Bustamante, and de Vos 2007). However, it lacks a theoretical concept to unpack the political power shaping and reshaping the plurality of legal practices (Barzilai 2008). Legal pluralism entails that different institutions can assume jurisdiction, depending on how they view and cope with the conflict situation emerging from overlapping policies and legal frameworks. As stated by von Benda-Beckmann (1981, 145): '*While actors in a dispute shop for various institutions of dispute settlement, institutions also shop for dispute. Depending on which aspect of the dispute is emphasized, a different institution can assume jurisdiction*'. The case studies examined in this paper show how jurisdiction itself is blurred by plural legal systems and state spaces of dual authority that interpenetrate one another. As such, political authority and rights that emanate from different power domains are in a constant state of flux. Rights can emerge and submerge, depending on what legal system is referred to as well as what authority and legitimacy actors attribute it in a particular place and time. It highlights the centrality of political space and institutional emergence in state transformation processes through the illustration of how 'state space is represented and imagined both in geopolitical struggles and in everyday life' (Brenner et al. 2003, 7). Additionally, it raises the question as to what 'state law' and 'non-state law' is and where the boundaries lie in the context of multiple political spaces and institutions competing for authority (Sikor and Lund 2009), as manifested in the context of dual authority (Huard 2016).

Taking two neighboring villages in mixed government-KNU controlled areas in Karen state as a case study, the paper shows the localized dynamics that shape the creation of new political spaces, manifested in states actors' strategies to increase political authority and farmers' strategies to strengthen their land rights, and how the two are intertwined within the established, yet ever changing geography of state regulation.

2. Linking legal pluralism with (co)production of political power

Legal pluralism highlights the role of law as a discourse and as a process and element of social change (Moore 1986) rather than an unchanging, or nearly unchanging set of rules monopolized by the state that can be adjudicated in court. Emerging in response to the legal centralist conception of law, which claimed that law and order exist only within state bodies, legal frameworks and public administration, legal pluralism shows that in reality the state's law and order coexists with other legal forms (e.g. customary rights, religious law), thus highlighting the fact that there are often overlapping sets of rules. As stated by Griffiths (1986): '*Legal pluralism is a fact. Legal centralism is a myth, an ideal, a claim, an illusion*'. Or as stated by Van der Linden (1989, 153): '*Pluralism is a condition, a way of being, of existing*'.

As a central theme in the reconceptualization of the law-society relation (Merry 1988), legal pluralism has evolved as a concept that focuses initially on the effect of law on society to include complex and interactive relationship between official and unofficial forms of ordering (von Benda-Beckmann, von Benda-Beckmann, and Spiertz 1996), as well as the conception of different legal spaces mixed and interpenetrated in our minds and actions (Berman 2009; de Sousa Santos 2006). While legal pluralism is generally defined as a situation in which two or more legal systems (formal state law, customary law, religious law) coexist in the same social field (Griffiths 1986; Moore 1986), it also presents this legal fragmentation as the 'natural' order of things (von Benda-Beckmann 1981) instead of an aberrant situation that should be rectified through legal reform and policy change. Building on legal pluralism research, we position the rule of law and government jurisdictions merely as legal means, which can be used by different actors and institutions to achieve their objectives.

In the context of Karen state and with regard to mixed government-KNU controlled areas in particular, legal pluralism implies the central government's legal centralistic approach and to a certain extent its neglect of farmers' de facto customary land rights and tenure systems. The latter is manifested in various local institutional arrangements and plural institutional landscapes. Nonetheless, it brings to light how local communities and society at large can navigate their strategies through 'forum shopping' (von Benda-Beckmann 1981). It shows how farmers make the best out of competing states laws, embedded in the central government-KNU relationships and their respective laws and policies. It also brings to focus the prevalence of customary land rights and tenure systems, as the latter forms the centerpiece of KNU Land Policy. As stated by Fitzpatrick (1983, 50): '*Power is not simply based on prohibition but also on the positive formation of norms and shaping of individuals to fit these norms*'. Here, law is viewed not simply as a set of rules to exercise coercive power, but also as a system of thought, which allows the different social groups to examine ways of determining truth and justice, based on how they perceive the existing ordering, disputes situation and social relationships. Similarly, current critical thinking about political power tries to deal with questions of domination and subordination, from both the perspective of negative power, or the ability to control, dominate, co-opt, and positive power, or the capacity to act, resist, cooperate and assent (Agnew 1999; Allen 1999; Bevir 1999).

Scholars have also brought to light the importance of understanding the spatial context in which power operates – beyond the rigid conception of territorial states (Agnew 1999) –

and how multiple spatio-temporalities (Hong 2017) are shaped and reshaped by power relationships which manifest in territorial struggles and/or establishment of power networks and alliances over time (Held et al. 1999; Massey 1999). Here, political and territorial authorities are not taken as given, or as 'settled facts, but rather as facts to settle'.[3] As stated by Brenner et al. (2003, 7):

> Precisely because there are no 'natural' political territories, the spatial zones successfully claimed by and/or allotted to any given state are always delineated through historically specific social practices that constitute, impose, and naturalize particular forms of knowledge, and, therefore, power, over space, scale and territory.

Brenner et al. (2003) highlight the spatiality of state power, and how such power is produced and transformed through political struggles embedded in complex processes and practices of socio-spatial regulation across scales. Lefebvre (2003, 95) presents the regulatory character of political space, focusing on how space 'regulates and perpetuates the relations of domination'. In the context of Myanmar, this is most apparent from how ongoing socio-political struggles over access to land and territory create and establish new spaces as (alternative) sites of state regulatory activity and political contestation, and vice versa.

Building on Lefebvre's conception of regulatory character of political space, the paper shows how farmers' views and strategies could serve as emerging political space to connect the ongoing discussion on peace processes with land governance reform processes. '*Constituting state space as an imagined (rather than natural or pre-given) geopolitical entity*' (Brenner et al. 2003, 7), we argue that while rights could in principle 'flow' from authority, and vice versa, this occurs mainly through power struggles occurring at the continuum of established, ruptured, and newly emerging political spaces. As stated by Lund and Rachman (2016, 1207–1208): '*Rights are not simply there, bestowed on people by a benevolent higher body; they are wrested from power*'. Here, the rise of new political spaces reveals not only political actors' strategies to reconfigure inherited forms of state power, it also brings to light the '*different aspects of contemporary struggles to transform state space*' (Brenner et al. 2003, 16). The paper unpacks these power struggles and places farmers' strategies to reclaim and strengthen their land rights as central in the overall shaping of the state's political power. In the next section, we describe and discuss our research methodology.

3. Research methodology

We conducted an in-depth case study research (Burawoy 1991; Yin 1994) from March to December 2017, looking at power dynamics shaping and reshaping Myanmar's land governance. We focus on two elements: (1) how state actors shape their claims and exercise authority in overlapping, multi-level policy and legal spheres; and (2) how farmers shape the localized dynamics of spatial control, while negotiating their claims over land within the context of legal and institutional pluralism.

To understand how various key stakeholders at the national and ethnic state level perceive the current legal spheres and institutional landscapes in land governance, we

[3]See also Rasmussen and Lund (2018) on how authority can emerge through control over space and the people in it, embedded in the processes of territorialization.

conducted a series of in-depth semi-structured interviews with 11 government officials (including 3 officials in charge of land management from KNU), 8 representatives from civil society groups, and 12 representatives from international organizations (including donor agencies). We complemented these interviews with a policy review and institutional analysis, looking at key rationales behind the different land laws and policies developed respectively by the central government and KNU, how these rationales derived from the government's and KNU's internally diverse and often times contradicting political interests, and their implications for farmers' land rights.

To understand how farmers shape and reshape their strategies to secure land tenure, we conducted a series of focus group discussions with farmers in two neighboring villages in Karen state. Alongside this we conducted key informant interviews with 7 farmers who had lost their land and tried to reclaim it back, village heads from both villages, as well as Karen Agriculture Department (KAD) officials working in these villages. We gathered information on how farmers perceive the various legal frameworks, their strengths and weaknesses in relation to their overall objective to secure land rights, and how these influence farmers' strategies to achieve the latter. Linking farmers' strategies with how they view the power relationship between the central government and the KNU, we reveal the ongoing socio-political struggles, and how these manifested in the emergence of new political space surrounding land governance in the mixed government-KNU controlled area. Moreover, we examine how these struggles reflect the need for better recognition of customary land rights and its central position as one of the key building blocks in the country's land governance. As part of this field research, the second author attended the Kawthoolei Land Seminar arranged by the KAD in November 2017, in which he had the opportunity to meet KNU officials, civil society groups working on land issues and local communities from various districts in Karen state.

In the following section we provide an overview and discuss current status of land governance in Myanmar, while contrasting the central government's land laws with the KNU Land Policy.

4. Land governance in Myanmar: current status and development

Land governance reforms in Myanmar cannot be discussed and analyzed in isolation from the ongoing discussion on peace processes, decades of armed conflict that has forced local communities to flee from their home and abandon their farmland, and how these have set the pretext for the previous military government to grab significant amounts of farmlands and communal forests, while furthering the scope and intensity of resource conflicts throughout the various ethnic states and regions, thus highlighting both the economic and political importance of exercising control over land in conflict areas (Kramer 2015; Linn 2015; Woods 2019, 2011).

In line with the discussion on peace processes, discussions on political transition are taking place within the framework of Nationwide Ceasefire Agreement (NCA) (Dukalskis 2017; Huang 2013). Signed by the former President Thein Sein and eight representatives of various Ethnic Armed Organizations (EAOs) including the KNU in 2015, many considered the NCA as a landmark ceasefire agreement. Yet, others have also questioned its

effectiveness in achieving long-term peace, partly because not all EAOs are signatories to the NCA (Kramer 2015, 2012; Kurlantzick 2015).[4]

While discussions on political transition are taking place involving the central government, the Burmese Army or the Tatmadaw, and ten EAOs as the formal signatories of the NCA, the review process of existing policies and legal frameworks is led merely by relevant sectoral ministries and discussed at the parliament, without any involvement from the EAOs. Similarly, negotiations on political dialogue take place without any involvement from administrative government bodies responsible for the policy review processes. This shows how the Myanmar state works through a set of closely interlinked institutions and social power relations, albeit not always reflected in the parallel institutional set-ups and formal decision-making processes.

Parallel institutional set-ups and formal decision-making processes resulted not only in a current disconnect between policy review processes and negotiations on the political dialogues, but also conflicting policies and legal frameworks. In the context of land governance, this is most apparent from how the KNU's Land Policy diverges from the central government's Farmland Law and Vacant, Fallow, and Virgin (VFV) Lands Management Law, and their later amendments. As customary land rights and tenure systems form the center piece of the KNU Land Policy, the latter contradicts not only the central government's territorialization attempts in land governance, but also serves as local communities' quasi-legal means to reclaim and strengthen their land rights.

4.1. Spatial control over land and the (re)production of state's political power

State territorialization, the idea of the state as a political organization that seeks to exert control over people and resources through 'the creation of systems of resource control, rights, authorities, jurisdictions, and their spatial representations' (Rasmussen and Lund 2018, 388) is not a new phenomenon in many developing countries in the Global South (Rasmussen and Lund 2018). Van der Geest and Peluso (1995) show how states' territorialization attempts and measures are translated into state defined policies and institutions, to justify, legitimize and enforce such control, while excluding or including people within particular geographic boundaries. The state's interest to use land as its means to achieve defined development objectives has resulted in the central positioning of land as the state's assets for both economic (Barney 2009; Kenney-Lazar, Suhardiman, and Dwyer 2018) and political (Baird and Shoemaker 2007; Evrard and Goudineau 2004) reasons. Here, spatial control over land is key to a state's aims to secure resources, generate revenue, control populations (Elden 2013; Tilly 2005), and thus (re)produce the state's political power (Lund and Rahman 2018).

In the context of Myanmar, state territorialization is most apparent from widespread land grabs, forced displacement and landlessness caused by large agribusiness corporations, mining and other large-scale infrastructure development occurring with the connivance of state agencies and under the pretext to promote the country's economic development (Jones 2014b; Woods 2011). Placing the full decision-making authority

[4]Initially, the central government invited 15 EAOs to participate in ongoing peace negotiations, but seven declined or later dropped out before the signing due to perceived unfairness. Apart from these 15 EAOs, some EAOs were never invited to the discussion in the first place. On 13 February 2018 the New Mon State Party (NMSP) and the Lahu Democratic Union (LDU) signed the NCA, increasing the total number of signatories to ten.

with regard to land management with the state, the Land Nationalization Act of 1953 gave the state legal authority to claim all land, determine the uses of land, its distribution, and transfer, including the right to confiscate all agricultural land for the state's development objectives (Henley 2014; Linn 2015). The state's positioning as the ultimate owner of all lands is also stated in the 2008 Constitution as well as the earlier Constitutions of 1975 and 1948. With the establishment of the Central Committee for the Management of Cultivable Land, Fallow Land and Waste Land in 1991, the previous military government set precedent for the formulation of Farmland Law and the Vacant, Fallow, and Virgin (VFV) Land Management Law in 2012 to promote large-scale commercial agricultural enterprises, including those established by state-owned economic organizations, cooperatives, joint-ventures and private individuals. Through its paddy procurement policy, the previous military government would confiscate farmers' farmland not meeting the defined production quota (Thawnghmung 2003).

The centrality of land in the government's approach to national economic development, and more specifically to state territorialization, is most evident in the promulgation of the Farmland Law (2012) and the VFV Land Management Law (2012) and their latter amendments. Following the country's political transition from a military regime to a quasi-civilian government in 2012, Thein Sein's government promulgated the Farmland Law and VFV Lands Management Law as the state's legal means to control land for national economic development. This is in line with the government's strong interest to attract foreign businesses to invest in Myanmar, most evident in the way it promoted large-scale agricultural plantations (e.g. rubber, palm oil) and the establishment of Special Economic Zones (SEZs) (e.g Kyaukphyu in Rakhine state, Thilawa near Yangon, and Dawei in Tanintharyi region). Here, land acquisition or the government's ability to locate certain amounts of land for investors is key for materializing the defined investment strategies. While land has become an economic asset to liaise with businesses, it has also strengthened the military's power and its economic position (Earthrights International 2011; Ford, Gillan, and Thein 2016; Steinberg 2005; Than 2007; The Irrawaddy 2013; Woods 2011). The centrality of control over and access to land to achieve the government's economic development objectives and political interests is most apparent in state-driven economic land concessions as well as global conservation projects carried out in forest frontiers under EAO's territory (Woods 2019).

With the promulgation of the Farmland Law, the Thein Sein government embarked on an ambitious land titling program to register and formalize farmers' farmland, which would allow title-holders to legally rent, mortgage, and sell their land. In practice, however, the state formalization approach has resulted in widespread land grabbing, centered on the way both the Farmland Law and VFV Lands Management Law have been used as a legal means to legitimize land expropriation. As stated in a recent report from a land rights network (LIOH 2015, 9): '*Large number of farmers in the country, including most upland ethnic communities, have suddenly become "squatters" under the* [*VFV and Farmland*] *laws*'.

Positioning land as an economic good, the Farmland Law indirectly restricts farmers' land use rights to titled lands, while retracting land use and ownership rights for any lands that are not titled (Oberndorf 2012). Similarly, while the VFV Lands Management Law deems certain forms of land use (e.g. swidden agriculture, communal grazing land, and hunting grounds) as illegitimate (Ferguson 2014; Gee 2005), regardless of their

importance for local communities' livelihoods, it also allows the state to acquire and distribute any lands that are officially categorized as vacant, fallow, or virgin land, including for various forms of investments (e.g. agricultural plantations, mining).

The marriage of the Farmland Law and VFV Lands Management Law enables the military and well-connected crony businesses to expropriate unregistered lands from rural people, while presenting this as a legitimized state claim to promote the country's development (FIDH 2017; Linn 2015; Wily 2012). According to these laws, all unregistered farmlands technically become VFV land, because from the legal perspective these lands are categorized as unused land. Consequently, VFV land belongs to the state and is considered government property, which the government could use for the implementation of infrastructure projects or other types of projects supposedly required for the country's development. Complementing these laws that allowed the military government to legally expropriate farmers' farmland, laws to attract foreign and domestic investment into the land and resources sectors (1988, 2016) enabled investors to access officially categorized VFV land and/or unregistered farmland oftentimes through leases and concessions, resulting in widespread land grabbing and land conflicts throughout the country (Global Witness 2009; McCarthy 2000; Tarkapaw et al. 2016).

In the context of ethnic states, both laws served as entry points for the military and quasi-civilian government to expand into ethnic minority-controlled territories, amidst more than seven decades of unresolved armed conflicts (Gravers 2015; TNI 2013). Recent developments also show the emergence of 'green grabbing', where International Non- Governmental Organizations have collaborated with the previous Thein Sein government to establish national parks in ethnic state areas, thus creating a pretext for the central government to legally incorporate areas previously under the control of ethnic groups into fully government-controlled territory (Woods 2019; presentations from Kawthoolei land seminar, November 2017).

In response to widespread land conflicts throughout the country, the Thein Sein government formulated the National Land Use Policy (NLUP) in 2016. The NLUP formulation process included the participation of various civil society groups and reflected their aspirations to promote policy reform in the land sector in line with international donors' development agenda, and the government's interest to show compliance with international standards of good governance. One of the highlights of the NLUP was the recognition of customary tenure and ethnic land rights. Additionally, a Parliamentary Land Investigation Commission (PLIC) was established to investigate cases of land grabbing and return land unjustly expropriated to its rightful owners. Clearly, the Thein Sein government embarked on a contradictory path of reform that both legitimized and facilitated further land grabbing, while also creating policy processes to address past land injustices. Shortly after the NLD came to power in April 2016, the new government established a commission with the same objective as the PLIC, under a different name, the Central Reinvestigation Committee for Confiscated Farmlands and Other Lands. In early 2017 the parliamentary commission[5] in charge of reviewing all legal frameworks released a letter calling for the

[5]The commission is colloquially referred to as the Shwe Mann Commission considering the powerful role that he plays in it. Shwe Mann is a former general and protégé of senior general Than Shwe who was powerful within the State Peace and Development Council and then later was the head of the Union Solidarity and Development Party. Due to reported tensions with Thein Sein, Shwe Mann was removed from the party and began to develop closer connections with Aung San Suu Kyi, despite their seemingly oppositional political positions.

removal of key articles in NLUP, including those that referred to the recognition and protection of customary land rights. In January 2018, however, the NLD government formed the National Land Use Council to support NLUP implementation. At time of writing, it is unclear as to how the Council will function in practice, especially given its mixed membership composition comprising genuine reformers and those with close ties to the military.

In line with the NLD government's approach to review all existing policies and legal frameworks produced by the previous government, the amendment process of both the Farmland Law and VFV Lands Management Law has also started. At time of writing, proposed amendments to both laws do not recognize customary land rights and/or mention the need to address past land grabbing problems by the military and businesses and return farmers' farmland (interview with CSO representatives, October 2017).

4.2. KNU land policy and the central positioning of customary land tenure

Karen National Union's (KNU) first land policy was ratified at its ninth congressional meeting in 1974 as a response to the military government's land confiscation and nationalization following General Ne Win's rise to power in the early 1960s.[6] Based on the slogan of 'land must be in our hand' (KNU 2015), the policy highlights the central positioning of land governance as a key strategic point in the Karen struggle towards political self-determination. Following its formation in 1949, the KNU established several departments, including those responsible for forestry and agricultural development. The Karen Agriculture Department (KAD) is, at time of writing, responsible for scrutinizing land claims and granting of land titles under the 2015 KNU Land Policy.

Expropriation of farmers' farmland by the military government began in the early 1960s and continued to gain significant traction through various government programs (e.g. the Four Cuts Campaign) (Einzenberger 2016; Global Witness 2016), resulting in an increasing number of farmers losing their lands. Throughout the years, land expropriation continued through resource concession and military territorialization. As stated by Woods (2011, 754):

> With local resources being nationalized and militarized, resource concessions had become new forms of territory and policed property, where land concessions provided the military government with a revenue stream, which served as an asset to leverage and redistribute power. Ceasefire concessions thus represent a particular spatialized form of ceasefire capitalism

With ceasefire capitalism, state administration further weakened customary institutions and practices, forcing upland ethnic communities to give up their land to concessions, flee to a safer area, or be resettled into lowland military surveillance villages (Woods 2011). In Karen state, land dispossession is closely linked with violent armed conflicts. These conflicts are mainly about access and control of valuable resources (e.g. mining, hydropower development). Nonetheless, they have forced many villagers to leave their land and live as internally displaced peoples within the country or as refugees in Thailand until today (Grundy-Warr and Yin 2002; Tangseefa 2006). Unlike in other countries in mainland Southeast Asia, the emphasis on turning battlefields into market places in Myanmar

[6]Prompted by mounting challenges from ethnic armed struggle in border areas, General Ne Win stage a military coup against the democratically elected government in 1962.

serves more than just a development slogan. On the contrary, it is built on the state's economic and political objectives, and how access to natural resources and markets became key means in achieving these objectives, including through exercising political control in conflict areas (Barbesgaard 2019; Woods 2019).

To reinforce the KNU's policy position to protect farmers' farmland, P'doh Thu Thay Kor, then head of the KAD, introduced a new slogan: 'land to the native people' (KNU 2015). This was incorporated into the revised policy, which was approved by the KNU's Executive Committee during its 14th Congress on 6 May 2009. In response to widespread land grabbing in Karen state, including through military-led infrastructure development (e.g. the construction of Burmese military bases, roads and dams), which started around 2010 and intensified in 2012 after Thein Sein came to power, the KNU started the policy revision process once again. In 2015, the policy incorporated another slogan: 'people are owner of the land', or land belongs to the people. It placed the people at the center of land governance and linked it with the KNU's overarching policy to promote social progress, security and justice. The KNU land policy aims to ensure that: (1) ethnic people have the right to own and make use of the land; (2) ownership and usage of land must be based on human security and development of society; (3) forest, environment and cultural heritage in ethnic areas must be preserved and protected; (4) in extracting natural resources the people must be part of the decision-making process, ensuring future development to be fair and equal (Shan Herald Agency for News, 21 November 2017).

Local communities and Karen civil society organizations (CSOs) were involved and played a key role in ensuring that the KNU Land Policy (2015) reflects existing customary land rights and tenure practices on the ground. Through strong representation of Karen CSOs in the membership composition of the KNU Central Land Committee (CLC), and through a series of consultations held at the grassroots level, Karen CSOs and the KNU ensured that villagers' inputs and suggestions form an integral part of the KNU Land Policy, thus setting the policy apart from the central government's Farmland Law and VFV Lands Management Law in terms of political legitimacy. Unlike the Farmland Law and VFV Lands Management Law formulation processes which include CSOs only in the consultation processes, the CLC comprised of three Working Groups (WGs), with each WG head selected by CSO representatives. These WGs look into specific topics such as: (1) land administration; (2) land survey, documentation and registration; and (3) land dispute resolution (Kawthoolei Land Policy Briefer 2014). Similarly, to ensure that the KNU Land Policy is relevant at ground level, regular meetings and workshops involving local communities and Karen CSOs were organized. This included a three-day meeting held at Law Khee Lah, Hpa-an district, from 29 September to 1 October 2014, attended by 65 participants from the local community, Karen CSOs and representatives from the KNU (Kawthoolei Land Policy Briefer 2014).

Unlike the Land Nationalization Act, Farmland Law, and VFV Lands Management Law, the KNU Land Policy recognizes and protects customary land rights and tenure practices. Centering on rights-based approaches to land governance as its political foundation, the policy emphasizes the need to ensure for socially-legitimate land use rights. As stated in the policy:

> First, it [the policy] must make socially-legitimate [land] use rights, as they are currently held and practiced [as] the point of departure for both their recognition in law and for the design of institutional frameworks for mediating competing claims … Second, [it] must also recognize [the fact] that many Karen people, against their will, have been alienated from their homelands and deprived of their customary occupation and use rights as a result of past and current conflict, and thus the land policy must serve to redress this situation. (KNU 2015, 3)

Within KNU fully controlled territory, which covers in total seven districts in Karen state, the KNU is entitled to issue individual land titles to farmers' farmland, and communal titles for forest, agricultural, and grazing land, as well as both communal and individual titles within the buffer zone areas of wildlife sanctuaries. Figure 1 gives an overview of KNU-defined Karen state and district boundaries incorporating these seven districts, corresponding with government-defined administrative boundaries. These districts are: (1) Taw Oo District, corresponding roughly to Toungoo District in northern Kayin State on central government maps, and containing parts of Nay Pyi Daw Union Territory; (2) Kler Lwee Htoo District, corresponding roughly to Nyaunglebin District in eastern Bago Region on central government maps; (3) Mutraw District, corresponding to Hpapun District in northeastern Kayin State on central government maps; (4) Doo Tha Htoo District, corresponding roughly to Thaton District in northern Mon State on central government maps; (5) Hpa-an District corresponding to Hpa-an District on central government maps; (6) Dooplaya District, which overlaps multiple central government defined districts; and (7) Mergui-Tavoy District, which corresponds to the central government's Tanintharyi Region. At present, the KNU has established the Salween Peace Park in Mutraw district (under Brigade 5) which contains three wildlife sanctuaries, 27 community forests covering an area of approximately 33,400 acres, and 132 customary lands (including both individual and communal) covering an area of approximately 624,000 acres.

While the KNU can also issue land titles in mixed government-KNU controlled areas, this is limited to individual titles for farmers' farmland, and has not yet extended to communal titles for forest, grazing land and wildlife sanctuaries. Issuing the latter would require KNU officials to ensure greater coordination, involving local community, local authorities, and state government, which can be quite challenging and prone to conflicts. At present, the interim agreements on the KNU's role in land titling within mixed government-KNU controlled areas are vague at best. While the issue has been discussed in various working groups under the official peace process negotiations, no clear decision has been taken. In the next section we illustrate and discuss how farmers in two villages in Karen State took center stage in strengthening their land rights through linking and delinking the KNU Land Policy with the central government's land laws.

5. The flows of power: emergence and submergence of farmers' land use rights

5.1. Farmers' strategies to reclaim their land rights in Mukaplow village: from unsuccessful court case to KNU land titles

Mukaplow[7] is a Karen village located by the Salween River and situated about 17 km north of Hpa-an. The area was under full control of the KNU until the late 1980s. During the

[7]Names and locations of villages and other actors involved in the paper have been changed.

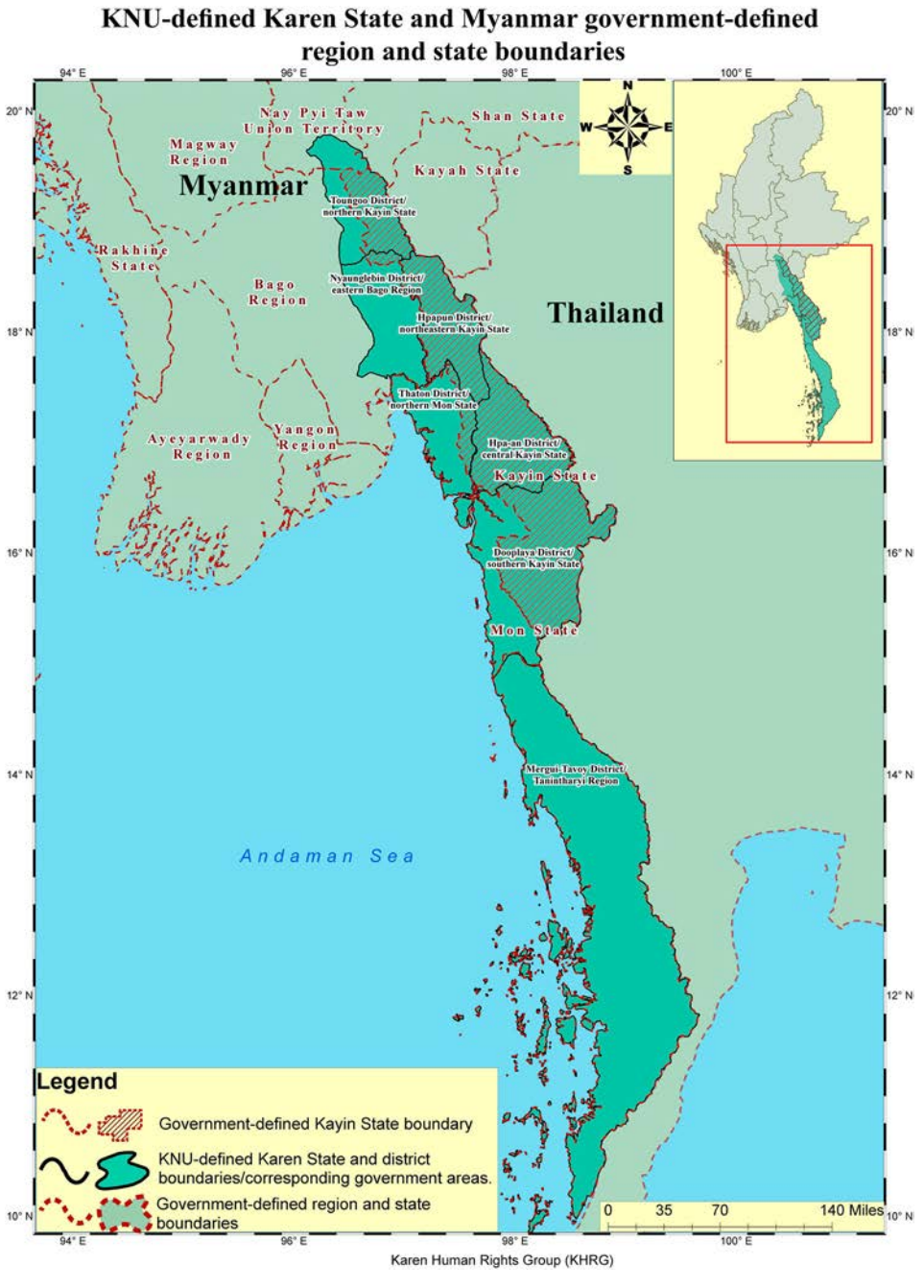

Figure 1. Overview of KNU-defined Karen State and district boundaries corresponding with central government's administrative boundaries. Source: Karen Human Rights Group.

1990s, the area fell under Tatmadaw control, with continued influence from the KNU and Democratic Karen Buddhist Army (DKBA).[8] The signing of a ceasefire between the Tatmadaw and DKBA in 1995, followed by the transformation of the DKBA into a Border Guard

[8]The DKBA is a Karen armed group that broke away from the KNU/KNLA in 1994.

Force (BGF)[9] under central Burmese military administration in 2009, allowed the central government to expand its administrative control in the area. Currently the area is mostly covered by farmland. Farmers in the village rely mainly on rainfed agriculture for growing upland rice (taungya) and other crops (e.g. cassava and rubber). While most farmers rely on upland rice or swidden agriculture for their home consumption, some also earn their income from working as on-farm and off-farm laborers (e.g. construction labor). At the time of writing, farmers still had to wait 2–3 more years before they could harvest their rubber. Some villagers possess official land use certificates issued by the central government. Others continue to work on their land, relying on customary land rights (Figure 2).

In 2014, San Hla, a former Burmese state minister and military official filed a court case suing seven farmers in Mukaplow village for trespassing on a 650-acre land concession area granted to his company. In 2012, following the promulgation of the Farmland Law and Vacant Fallow and Virgin (VFV) Lands Management Law, the Tatmadaw confiscated the land and San Hla was granted access to the land and claimed it as his land concession area, incorporating 200 acres of communal forest land and approximately 120 acres of farmers' farmland. San Hla's company discussed legal and procedural arrangements only with the village head, without informing the villagers. Farmers were only aware that some parts of their land had been incorporated into the land concession area in 2014, when a bulldozer came to clear the land to build an access road for the land concession area. When farmers protested and told the company that they were trespassing on farmers' land, officials from the then Settlements and Land Records Department (SLRD), now incorporated into the Department of Agricultural Land Management and Statistics (DALMS), responded that the government has full authority to claim the land for the country's economic development. Also, as farmers' farmland was never registered following the promulgation of Farmland Law in 2012, the government automatically categorized it as vacant, fallow and virgin land and transferred the ownership right to San Hla's company in 2012. In 2014 farmers were told to cut down their less than 1-year-old rubber trees, or else they would go to jail. When farmers insisted that they be allowed to continue to grow rubber trees in what they viewed as their own farmland, San Hla's company filed a court case that same year. While it is very likely that the above land acquisition is 'legal' as outlined in the 1953 Land Nationalization Act, the Farmland Law and/or VFV Lands Management Law, neither the company nor DALMS have shown farmers any formal documentation or land use certificate that states the company's rights to claim and use the land. Interestingly, despite DALMS officials' claims that farmers' farmlands are not registered, all seven farmers had been formally paying land tax to the central government for their respective pieces of land since 2005 as evidenced from their land tax payment receipts.

In response to the court filing by San Hla's company, the seven farmers from Mukaplow village decided to hire a lawyer to represent their case. During the third court session, however, the judge decided to give the land to San Hla's company. After they lost the court case, the farmers approached the Karen Agricultural Department (KAD) to register their farmland and acquire KNU land titles. The farmers knew where and how to approach

[9]Formed in 2009, Border Guard Forces are subdivisions of the Tatmadaw, consisting of some segments of Ethnic Armed Organizations including the DKBA.

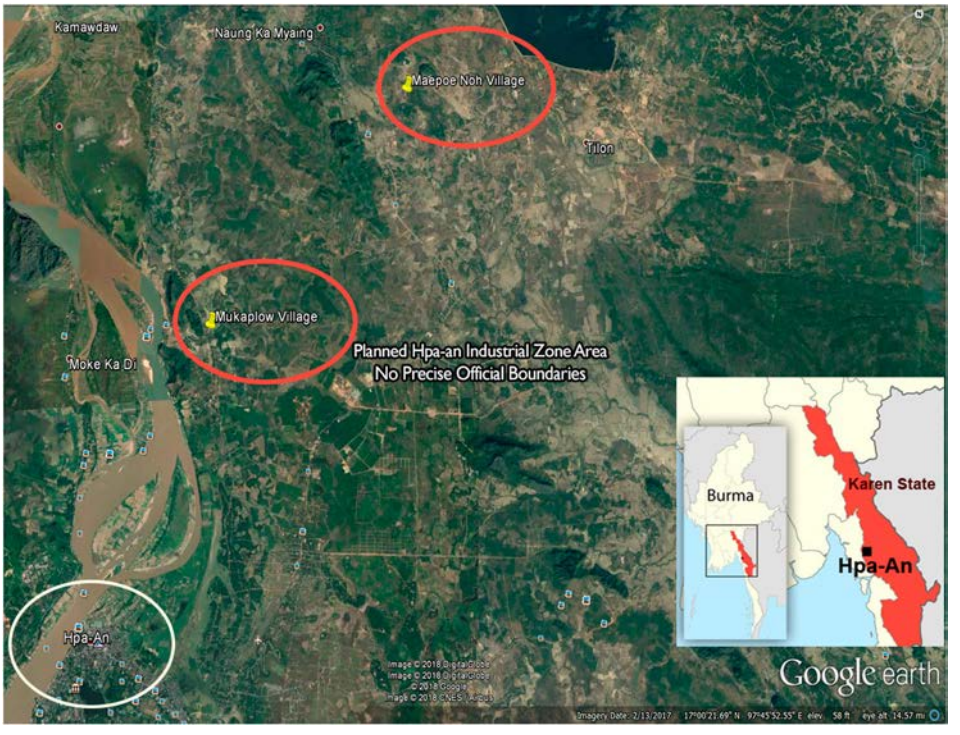

Figure 2. Location of Mukaplow and Maepo Noh Village within proximity of the planned Hpa-an Industrial Zone Area. Source: Google Earth.

KAD officials as in the mixed government-KNU controlled areas farmers are in regular contact with actors from both governing parties. Following the farmers' request, the KAD demarcated the relevant land and issued individual land titles for the respective farmers' farmland.

The farmers used these KNU land titles as a means to counteract the court's decision, presenting them as an alternative quasi-legal tool to compensate for their lack of formal land use certificates from the central government. They never went back to the court to present the KNU land titles, but rather used them as a means to defend their rights to continue accessing their farmland when San Hla's company urged them to leave or vacate the land. Here, positioning the land as belonging to the people, the KNU Land Policy not only contradicts the government's Farmland Law and VFV Lands Management Law, it also creates an alternative pathway for farmers to reclaim their expropriated land, albeit not formally recognized by the central government. As said by one of the seven farmers:

> According to DALMS, KNU land titles are useless, because it lacks any legal significance. As for me personally, I think KNU land titles provide alternative way if not the way out altogether to reclaim my land that has been grabbed by San Hla's company. (interview with farmer in Karen state, October 2017)

Farmers also view KNU land titles as a more accessible means to strengthen their land use rights as compared to the onerous nature of applying for the central government's

land use certificates (Boutry et al. 2017). Farmers can make a request to KAD staff who then measure and register their land accordingly, without having to follow trails of paper work, fulfill all formal requirements (from Form 1 to Form 7), or pay bribes, as in the case of acquiring the central government's land use certificate. As stated by another farmer we interviewed:

> Businesses and cronies could get government land use certificate easily because they give money under the table. Farmers, on the other hand, get nothing because they just follow the formal procedure. Lacking any formal land use certificate, the government could then frame farmers as criminals and trespassers when they refuse to leave the confiscated land for rubber plantation by cronies. (interview with farmer in Karen state, October 2017)

The KNU's de-facto political power in the area is most evident from its ability to renegotiate farmers' land use rights vis-à-vis powerful land expropriators. From our key informant interviews, we gathered that the KNU could use its access to monthly joint ceasefire monitoring committee meetings to negotiate and push the Tatmadaw and its allies to return farmers' farmland. As shared by our key informant:

> When we know which armed forces (e.g. Burmese Army, Border Guard Forces) confiscated the land, we can report this to the high-ranking military officials from relevant forces and make it an agenda point to be discussed during the monthly monitoring meetings. This way, the high-ranking officials could instruct their subordinates to return farmers' farmland. (interview with key informant in Karen state, October 2017)

This brings to light the close interlinkages between land governance in ethnic states and the ongoing peace process. The first could have significant influence in shaping the latter, and vice versa. Most importantly, it reveals how the practice of legal pluralism within the context of dual authority could contribute to furthering discussions on state transformation processes, especially pertaining to how Karen and other ethnic/regional states could better represent farmers' and local communities' development needs and aspirations, while also be held accountable for their policies and actions. The way farmers view KNU land titles as a means to formalize and protect their land use rights reveals how KNU land policy could serve as an alternative entry point, a new political space, where farmers could fight for their land rights, while at the same time also contributing to the overall process of state transformation. Similarly, that farmers view the application process for KNU land titles as accessible and straightforward reflects a certain degree of transparency and accountability in KNU land policy implementation.

At time of writing, some other farmers had also requested land use certificates from the central government, while referring to their possession of KNU land titles as a starting point for the request. This applies both to farmers who still have their land and those whose land was confiscated. Ideally, farmers prefer to have government land use certificates as they are aware that these have a higher legal status vis-à-vis the KNU land titles in mixed government-KNU controlled areas. Farmers know that unlike the KNU land titles, the government land use certificates are recognized nationally, and not only within Karen state. Nonetheless, as the process of applying for such certificates is rather cumbersome and non-transparent, farmers also view the KNU land titles as an acceptable mid-way to secure their land rights. We further gathered from our focus group discussions that having KNU land titles seems to ease the process to get government land use certificates. However, this applies mainly for farmers applying for titles to land that is not

incorporated into land concession areas and/or has not earlier been confiscated by the military for other reasons (e.g. rural development projects). As expressed by one of the farmers we interviewed:

> Having KNU land titles does not automatically guarantee one's land rights. However, it provides one with a more solid and stronger entry point to request for the government's land use certificates (Form 7) as compared to when one would apply for it from scratch, not to mention if the concerned land is classified as VFV land. (interview with farmer in Karen state, October 2017)

The case illustrates how farmers shape their strategies to secure and protect their land rights while navigating through the blurred boundaries of competing legal systems and spaces, embedded in the context of dual authority. This reveals how farmers encounter conflicting legal frameworks and policies as opportunities rather than barriers. Here, farmers shop for policies and legal frameworks that best represent their needs, are most accessible, and which can be held accountable.

The farmers' strategies to secure their land rights not only blur the boundaries between the different types of state laws, they also raise the question as to what 'state law' is and question the actual significance of such distinctions in the context of state transformation processes. When the first and second authors visited the village in October 2017, some of the seven farmers showed us their land that had been incorporated as part of San Hla's concession area. One farmer had also installed a signboard depicting his formal land tax payment receipt issued by the central government (Form 105), which he had enlarged in size to show that he had paid land tax to the central government since 2005. He used this as a legal strategy to defend his land use rights. As expressed by one of the farmers we interviewed:

> We can only do this because KNU's support to back us up. In the past, we could not refer to anything to counter-argue the central government's decision to confiscate our farmland. At present, however, we can refer to KNU land titles as our starting point. (interview with farmer in Karen State, October 2017)[10]

The farmers were able to contest the central government's political authority in relation to their land use rights, while relying on KNU's de-facto political power. It shows how power flows spatially, emanating not only from state actors' political authority, but also from farmers themselves. Here, farmers perceive authority to lie in relation to their land rights claims and how the latter have direct bearing on the way farmers attribute or contest the legitimacy of state power in the context of dual authority.

Farmers' strategies to strengthen their land use rights open up new political spaces with the potential to influence ongoing political struggles and transform state space. Depending on how farmers use them, both the central government's land use certificates and the KNU land titles can either be positioned as contradicting or complementary to each other. For example, while farmers attaining central government land use certificates to strengthen their land use rights could theoretically undermine the KNU Land Policy, in practice, this need not be the case. The majority of farmers would only apply for a central government land use certificate after they possessed a KNU land title. Similarly,

[10]Farmers did not pay land tax to the KNU, but they paid a one-time land registration fee to cover the cost of land measurement and registration.

while farmers attaining KNU land titles can be viewed as undermining the central government's land laws, the opposite can be said when farmers use the KNU land titles to get the central government's land use certificates. It shows how the central government, farmers, and the KNU are entangled in their struggles to (re)configure established forms of state power, within the context of legal and institutional pluralism. Moreover, it reveals the centrality of farmers' strategies to strengthen their land rights and how both KNU land titles and the central government's land use certificates serve merely as farmers' (quasi) legal tools to achieve that goal.

5.2. Farmers' strategies to reclaim their land rights in Maepoe Noh village: how to move beyond KNU individual land titles?

Maepoe Noh is a Karen village located about 30 km north of Hpa-An. Like Mukaplow village, Maepoe Noh village was under full control of the KNU until the late 1980s. During the 1990s, the area fell under government control with continuing influence from the KNU and DKBA. Farmers grow upland rice through swidden cultivation (taungya) and other crops (e.g. cassava and rubber). Like in Mukaplow, most farmers rely on farming activities for their livelihoods, while some also increase household income from on-farm and off-farm laboring. Alongside farmland, the village was mostly covered by forest and grazing land where villagers could collect timber, firewood and various NTFPs, and raise cattle. At present, however, most of the forest and grazing land has been destroyed to make way for rubber plantations owned by the military and businesses.

In line with the Land Nationalization Act, the Tatmadaw claimed 500 acres of communal forest in Maepoe Noh village in 2006. After cutting down the forest and selling the timber, the Tatmadaw left the land vacant for a number of years. In 2012, with the promulgation of the Farmland Law and VFV Lands Management Law, the Border Guard Force (BGF), a strong ally of the Tatmadaw, started to plant the area with cassava as its means to claim the land legally, fearing that if the area was left uncultivated the Department of Agricultural Land Management and Statistics (DALMS) would categorize it as vacant, fallow, and virgin land. While doing this, the BGF also confiscated some plots of farmers' farmland bordering the communal forest, thus resulting in many farmers losing their lands.

While trying to reclaim both their farmlands and communal forest land, farmers registered complaints with the state government twice in 2015 but have thus far not received any response. The village head explained that, as many powerful actors (e.g. BGF, companies) are also claiming the land, the state government does not really know what to do with the farmers' complaint. In 2017, the village head asked DALMS to clarify who actually owns the land. According to official records, no one seems to own it. This highlights just how limited the opportunities are for farmers to reclaim their land if they rely solely on existing legal frameworks.

At time of writing, a small number of farmers (less than ten) had acquired central government land use certificates and regained their individual farmland, relying on their connection with officials from both KAD (see also Htar 2018) and DALMS. As in the case of Mukaplow village, farmers would ideally prefer to obtain a central government's land use certificate directly rather than first having to get a KNU land title. Also, in this village, farmers have regular contact with both KNU and central state government

officials, as it is located in a mixed government-KNU controlled area. In mixed government-KNU controlled areas, both state officials work in parallel with each other in the implementation of their respective policies and programs.

As with the other village, obtaining KNU land titles as a first step to acquiring central government land use certificates seems to be the general strategy farmers use to reclaim their individual farmland, or to protect farmland from future land grabbing possibilities. However, farmers have different views on if and how they should reclaim their communal forest land. Some farmers have simply given up, thinking they will never win a court case to get back their communal land, which is now incorporated as part of the proposed Hpa-an industrial zone. Others have been approached by civil society organizations keen to support them to reclaim their land. So far, however, their efforts have not seen much success.

While the community as a collective has been unsuccessful in finding ways to reclaim their communal forest land, a small number of farmers (less than five) have been able to incorporate parts of the communal land (now degraded forest) as part of their individual farmland through the KNU land titling process. When issuing individual land titles, KAD officials often asked farmers if they wanted to expand the boundary of their farmland, the new expanded boundaries encapsulating areas of the confiscated communal forest land. As shared by the village head, through this method one farmer was able not only to claim some parts of the communal forest land, but also to sell it on to outsiders from another district who wanted to invest in the land. Driven by the interest to gain profits from the land (either by selling it to others or using it for business purposes, such as opening small shops), this farmer's strategy to reclaim the communal land as individual farmland conflicts with other villagers who wanted to reclaim the land back as communal land. As stated by a farmer we interviewed:

> Some farmers already have proceeded with the request to get a central government land use certificate for some part of the communal land. So, they already have different interest from the collective interest. These farmers in fact share similar interests with business cronies. (interview with farmer in Karen state, October 2017)

This brings to light the limitations of KNU Land Policy implementation in mixed government-KNU controlled areas, in particular the KNU's limitations in demarcating land without support from the district and village government. As the KNU does not entirely control this area, it is limited in initiating discussions at village level, which are essential if farmers are to come to a common agreement to reclaim their now degraded communal forest land. As KAD's ability to issue communal land titles is still very much dependent on the cooperation of the district and village government, they are unable to demarcate a piece of land as communal land without agreement from the latter, especially when the land has been incorporated as part of an industrial zone. Moreover, that the KNU officials offered villagers the opportunity to not only register individual plots within a nominally communal forest area, but also to expand the boundary of these private land claims shows how the KNU Land Policy is also being strategically implemented to increase the area of farmland registered under the KNU. This interlinks with the political dynamics surrounding the ongoing peace dialogue.

The case illustrates how the (re)production and contestation of property rights are closely interlinked with the notion of social justice (Fraser 1998; Sen 2009). In this case,

contestation resulted in institutional emergence and new political spaces as alternative sites of struggle to fight for farmers' legitimate land rights. However, these rights have been limited to individual farmland, and not recognized with regard to communal forest. It illustrates the tensions between individual titling of farmers' farmland with the struggle to reclaim communal forest land. In the past farmers used to rely on their communal forest for Non-Timber Forest Product (e.g. food, medicine) and grazing land. At present, farmers' dependency on forest products has decreased considerably, following the confiscation of communal forest land and its later transformation into cassava farms and unfinished real estate areas by the company. Confronted with this change, many farm households who used to collect food and used their forest for cattle grazing were forced to sell their livestock and adopt new livelihood strategies (e.g. opening new shops, planting cassava). Past land expropriation has not only eliminated existing social orders, property relationships and other types of social contracts, it has also undermined the local community's ability to collectively reclaim their communal forest land, following the change in their livelihood options and strategies.

Most importantly, it reveals both the central government's and KNU's internally differentiated political interests, and how these are manifested in sites of continuous struggle and contestation with contradicting aims across the different temporal scales. This is most apparent from the way the central government's land use certificates can be positioned as either a legal tool to grab farmers' farmland, as in the case of the company land concession coinciding with farmers' farmland, or a legal means to strengthen farmers' land use rights, as in the case of farmers using the latter to cement their access and claim to their land. Similarly, while KNU land titles can and have served as farmers' quasi-legal means to reclaim and strengthen their land use rights, they could also potentially hinder farmers' ability to reclaim their communal land, especially when KNU land titles unintentionally divide and disintegrate communal forest into individual farmland.

6. Conclusion

Both case studies show how various actors strategically shape and reshape their room to maneuver in such a way that farmers' land rights are in constant flux. They can emerge and submerge constantly depending on what legal frameworks are being referenced and how different actors view their actual significance in relation to the political, institutional and spatial context they are embedded in. This is most apparent from how the KNU land titles' legal meaning emerges and submerges, while also changing in its actual significance over time, depending on how power flows institutionally, politically, and spatially. Here, farmers transformed overlapping territorial boundaries and policy inconsistencies from legal impediment to an alternative means to push for both de-facto and de-jure recognition of their customary land rights. Drawing across different, albeit overlapping legal frameworks and state spaces, farmers are giving and taking away the legitimacy attributed to particular forms or spaces of state power and their related laws and institutions.

The paper brings to light farmers' and local communities' roles as grassroots forces (re)shaping the overall process of state transformation through the creation of political spaces where farmers can contest and claim their land rights. Here, farmers' strategies serve as a centerpiece in the overall shaping of socio-political-spatial alliances pertaining to land governance in Myanmar. Entangled in the central government-farmer-KNU

relations and embedded in the context of legal and institutional pluralism, farmers' strategies reveal a certain level of institutional emergence resembling bottom-up forces in state transformation processes. As stated by Brenner et al. (2003, 20): '*Spatial, territorial, scalar relations are neither automatic nor naturally necessary features of statehood but rather deeply processual and practical outcomes of strategic initiatives undertaken by a wide range of social forces*'.

By putting farmers' strategies at the center of ongoing discussions on land governance reforms and the peace process, the paper demonstrates how farmers' claims to strengthen their land rights contribute to the overall shaping and reshaping of political authorities, and vice versa (Lund and Rahman 2018). It shows how farmers are able to 'connect' central government land laws and KNU Land Policy, making the latter an integral part of state transformation processes. Here, we position the central government land laws and KNU Land Policy beyond competing legal frameworks and conflicting chess pieces in political power interplay. On the contrary, we highlight their potential complementary roles as a legal and political means to improve the country's land governance when farmers take center stage in ensuring these laws and policy correspond with farmers' development needs and aspirations. Similarly, rather than viewing the concept of dual authority as something inconsistent, conflicting with each other, we argue that the presence of dual authority in Karen state in particular provides an entry point not only to support farmers to reclaim their land, but also to create new political space to capture and convey farmers' views and perceptions while enabling them to take center stage in state transformation processes and connect ongoing discussion on peace processes with the land governance policy reform processes (Kyed and Gravers 2015; South 2017; South and Joll 2016).

We conclude that the practice of legal pluralism within the context of dual authority challenges not only rigid boundary definitions of state law and non-state law, but also underlines the need to recognize the current context of legal and institutional pluralism, as well as the centrality of customary tenure systems and practices as an integral part in Myanmar's land governance system.

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