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Effects of Farmland Registration in Kachin State

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‘Now is the era of Form 7’

*(Farmer, Nam War Village)*



**EMReF**  
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# Abstract

This report examines the process of farmland registration in Kachin State, asking whether getting Form 7 improves farmers' lives by enabling agricultural productivity and securing land rights, as advocates of land titling might predict. We find it does not, both because Form 7 is hard to get, and because having the document does not appear to substantially improve smallholders' ability to invest in agriculture or defend their land from external threats.

Drawing on data collected in 2015 and 2019, we examine the larger context of land governance in Kachin, highlighting particular challenges to property formalization in this upland ethnic minority state. We examine registration rates in eight study villages, showing that they range widely and are substantially lower than rates reported nationally and in the lowlands, especially when taking into account non-residents with Form 7 and lands not officially classified as 'farmland,' but used for farming. We find that government agriculture loans are a key impetus

for smallholders to register their farmland, but that these same loans were accessible previously with a tax receipt or village head recommendation; for those without Form 7, the loss of an opportunity for this loan was experienced as a restriction of opportunities, rather than as an expansion of rights. In addition, we find that smallholders believe that Form 7 confers some security for their land, but this appears to be true primarily in local disputes, rather than when defending smallholder land from external threats. Finally, we suggest that because farmland registration does confer some benefits, and because registration is easier and faster for well-connected individuals, the registration process may be widening inequality at a village level while privileging lowland Divisions over ethnic States. This evidence suggests that, to help smallholders, amendments to the Farmland Law and broader land reforms in should expand their support for agriculture and tenure, while recognizing and mitigating inequalities in both land administration procedures and their outcomes.

## ကောက်နုတ်ချက်

ဤအစီရင်ခံစာသည် ကချင်ပြည်နယ်ရှိ လယ်ယာမြေမှတ်ပုံတင်ခြင်းလုပ်ငန်းစဉ်ကို လေ့လာဖော်ပြထားပါသည်။ မြေယာအမျိုးအမည်တပ်ခြင်းကို ထောက်ခံအားပေးသူများ မှန်းဆခဲ့သည့်အတိုင်း ပုံစံ (၇) ရရှိခြင်းသည် စိုက်ပျိုးထုတ်လုပ်နိုင်စွမ်းကို ထောက်ပံ့ပေးခြင်း၊ မြေယာအခွင့်အရေးများကို ကာကွယ်ပေးခြင်းဖြင့် တောင်သူလယ်သမားများ၏ဘဝကို မြှင့်တင်ပေးနိုင်သလားဆိုသည်ကို မေးမြန်းလေ့လာထားပါသည်။ ပုံစံ (၇)ရရှိခြင်းဖြင့် တောင်သူလယ်သမားများ၏ဘဝကို ထိုသို့မြှင့်တင်ပေးနိုင်ကြောင်း လေ့လာတွေ့ရှိရပါသည်။ အဘယ်ကြောင့်ဆိုသော် ပုံစံ (၇) ရရှိရန် ခက်ခဲသည့်အပြင် ပုံစံ (၇) ရရှိခြင်းသည် လယ်ယာမြေအနည်းငယ်သာ ပိုင်ဆိုင်သော တောင်သူများ (လယ်သမားငယ်) အဖို့ လယ်ယာစိုက်ပျိုးရေးတွင် ၎င်းတို့၏ ရင်းနှီးမြှုပ်နှံနိုင်စွမ်း သို့မဟုတ် ၎င်းတို့၏မြေယာကို ပြင်ပအန္တရာယ်များမှ ကာကွယ်နိုင်စွမ်းကို စဉ်ဆက်မပြတ် မမြှင့်တင်ပေးနိုင်သောကြောင့် ဖြစ်သည်။

၂၀၁၅ ခုနှစ်နှင့် ၂၀၁၉ ခုနှစ်တွင် ကောက်ယူခဲ့သော အချက်အလက်များပေါ်အခြေခံ၍ ကချင်ပြည်နယ်၏ မြေယာအုပ်ချုပ်မှုပုံစံကို ပို၍ကျယ်ကျယ်ပြန့်ပြန့် လေ့လာထားပါသည်။ အထူးသဖြင့် တောင်ပေါ်လူနည်းစုတိုင်းရင်းသားများ၏ ပြည်နယ်တွင် ပိုင်ဆိုင်မှုများကို တရားဝင်သတ်မှတ်ခြင်းအတွက် စိန်ခေါ်မှုများကို အသားပေးလေ့လာထားပါသည်။ မြေယာမှတ်ပုံတင်နှုန်းကို ရွာ ၈ ရွာတွင် လေ့လာခဲ့ကာ ၎င်းမှာကွာဟချက်အလွန်များကြောင်း၊ မြေနိမ့်ပိုင်းဒေသများနှင့် တစ်နိုင်ငံလုံးအတိုင်းအတာအရ တင်ပြထားသည့်နှုန်းများထက် သိသိသာသာနည်းပါးနေကြောင်း၊ အထူးသဖြင့် ပုံစံ (၇) ရရှိထားသော ဒေသခံမဟုတ်သူများနှင့် "လယ်ယာမြေ"ဟု တရားဝင်သတ်မှတ်ထားခြင်းမရှိဘဲ လယ်ယာစိုက်ပျိုးရေးအဖြစ် အသုံးပြုနေသော မြေများကို ထည့်သွင်းစဉ်းစားလျှင် ဒေသခံများ၏ မြေယာမှတ်ပုံတင်နှုန်းနည်းပါးနေကြောင်း လေ့လာတွေ့ရှိရပါသည်။ အစိုးရ၏

စိုက်ပျိုးစရိတ်ချေးငွေသည် လယ်သမားငယ်အတွက် ၎င်းတို့၏ လယ်ယာမြေများကို မှတ်ပုံတင်လာစေရန် အဓိကတွန်းအား တစ်ရပ်ဖြစ်ကြောင်း သိရှိရပါသည်။ သို့သော် တောင်သူများ သည် ပြေစာအခွန်ဖြင့်သော်လည်းကောင်း ကျေးရွာအုပ်ချုပ် ရေးမှူး၏ထောက်ခံချက်ဖြင့် သော်လည်းကောင်း ထိုချေးငွေကို ယခင်ကတည်းက ထုတ်ယူခွင့်ရှိခဲ့သည်။ ယခုအချိန်တွင် ပုံစံ (၇) မရှိသည့်သူများသည် ချေးငွေရရှိမှုဆုံးရှုံးသွားသဖြင့် ပုံစံ (၇) သည် အခွင့်အရေး ပိုမိုများပြားစေခြင်းထက် အခွင့်အလမ်း ကန့်သတ်မှုများ ပိုမိုဖြစ်ပေါ်စေကြောင်း တွေ့ရှိရသည်။ ထို့ အပြင် လယ်သမားငယ်များသည် ပုံစံ (၇) မှာ ၎င်းတို့၏မြေယာ များကို လုံခြုံမှုတစ်စုံတစ်ရာပေးနိုင်သည်ဟု ယုံကြည်ကြကြောင်း၊ သို့သော် ၎င်းတို့မှာ တောင်သူများ၏မြေယာများကို ပြင်ပအန္တရာယ် များမှ ကာကွယ်ပေးနိုင်ခြင်းထက် ဒေသတွင်းဖြစ်သည့် အငြင်းပွား မှု များတွင်သာ အဓိကအားဖြင့် ကာကွယ်ပေးနိုင်ကြောင်း သိရှိ

ရပါသည်။ နောက်ဆုံးအနေဖြင့် လယ်ယာမြေမှတ်ပုံတင်ခြင်း သည် အကျိုးကျေးဇူး တစ်စုံတစ်ရာရရှိစေသောကြောင့်လည်း ကောင်း၊ အဆက်အသွယ်အချိတ်အဆက် ပိုရှိသည့်သူများသည် ပို၍လွယ်ကူမြန်ဆန်စွာ လျှောက်နိုင်သောကြောင့်လည်းကောင်း၊ မြေနိမ့်ပိုင်းရှိ တိုင်းဒေသကြီးများသည် တိုင်းရင်းသားပြည်နယ် များထက် တစ်ပန်းသာနေသည့်အနေအထားတွင် မှတ်ပုံတင် ခြင်းလုပ်ငန်းစဉ်သည် ကျေးရွာအဆင့်တွင် မမျှတမှုများ ပိုမို ဖြစ်ပေါ်စေနိုင်ကြောင်း တင်ပြအပ်ပါသည်။ မြေယာစီမံခန့်ခွဲမှု လုပ်ငန်းစဉ်နှင့်ရလဒ်များတွင် မမျှတမှုများကို ဖော်ထုတ်လျှော့ချ ရာမှာ လယ်ယာမြေဥပဒေ ပြင်ဆင်ချက်နှင့် ပိုမိုကျယ်ပြန့်သော မြေယာပြုပြင်ပြောင်းလဲမှုများသည် လယ်သမားငယ်များ အတွက် စိုက်ပျိုးရေးနှင့်လုပ်ပိုင်ခွင့်ကို ပိုမိုထောက်ပံ့ပေးရန် လေ့လာတွေ့ရှိသော အထောက်အထားများအရ အကြံပြုအပ် ပါသည်။

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# Introduction

The 2012 Farmland Law changed the nature of legal land use rights in Myanmar. Breaking from decades of policy limiting individual property rights, this law established legal rights to use, sell, mortgage, lease, and exchange land for farmers who successfully applied for and received a Land User Certificate, commonly known as Form 7. In the wake of the passage of the Farmland Law and the Vacant, Fallow and Virgin Land Laws (VFV) in March 2012, officials in the Thein Sein government, parliamentarians and NLD party members frequently claimed that establishing rule of law was key to addressing land conflicts and ending land grabbing.<sup>1</sup> Both politicians and CSOs have framed farmland registration as a desirable process that can bolster farmers' tenure security, and rural development. A 2018 report states that 9.6 million farmers have received Form 7 and 90% of eligible land has been titled (Ingalls et. al 2018, 128). Research has demonstrated that lowland farmers are more likely than farmers in Kachin State to get Form 7, in part because upland areas are rarely zoned as 'farmland,' lack cadastral maps, and can be sites of ongoing conflict (Faxon 2015; Boutry et. al. 2017). Yet few studies to date have addressed the on-the-ground impacts of farmland registration efforts. If, as the farmer above proclaims, now is the era of Form 7, what does this mean for smallholders and their land rights?

Advocates of land titling argue that property rights secure land tenure, and by doing so facilitate greater investment into agriculture that ultimately makes farmers more productive and profitable. Development institutions often see land registration as a critical step to creating a transparent and efficient land market, where property can be bought and sold for public development or private gain. In Myanmar, the Farmland Law is one of a suite of recent policies, including the Vacant Fallow and Virgin Land Law and the Foreign Investment Law, aimed at liberalizing the land sector and facilitating foreign investment to

spur economic growth. But these policies have been greeted with significant push-back from civil society actors contending that they favor big business, disregard legacies of land grabbing and armed conflict, and are impossible to implement. These charges are important in the light of global scholarship arguing that land titling initiatives often fail, in practice, to secure land rights or support farmers, and can create new inequalities and conflicts. In Kachin State and other upland ethnic States where farmers have suffered decades of armed conflict, dispossession, and displacement, questions of property and land rights are central to political futures as well as rural livelihoods.

This report builds on a qualitative study of farmland registration in seven villages in Kachin State conducted in early 2015 (Faxon 2015), and a follow-up study conducted in the same villages in early 2019. The original study built on a local CSO, Spectrum's, four years of work on land rights in Kachin and included 13 focus groups with men and women in these villages, and 20 key informant interviews with village heads, government administrators, and land rights activists and professionals. The study found that registration rates were low overall, and that they varied across and within communities due to a variety of social factors that either hindered or accelerated successful registration. The analysis demonstrated how histories of conflict, large-scale land acquisitions, discriminatory policy and planning at multiple administrative levels, local micropolitics, and implementation challenges blocked registration efforts. Successful registration was enabled by leadership, facilitation, and awareness-raising carried out by farmers, village heads, and NGOs. While this study provided one of the first assessments of the 2012 Farmland Law registration process, one of its key limitations was a lack of data about the efficacy of Form 7. In other words, the 2015 study assessed who got Form 7 and how, but not whether Form 7 actually worked to enable agricultural productivity or protect smallholders' land rights.

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1. See for example, Lawi Weng, 'Rule of Law' Will End Land Grabs in Ethnic Areas, Official Tells Activists,' The Irrawaddy, 12 May 2013 <https://www.irrawaddy.com/news/burma/rule-of-law-will-end-land-grabs-in-ethnic-areas-officials-tells-activists.html>

Given the findings and limitations of the original study, the 2019 follow-up research presented here had two goals: First, we assessed how the registration process and total number of registered households has changed in the study villages over the last four years, as well as evaluating broader changes in land governance in Kachin State. In doing so, we extended the initial study, asking: how has the process of farmland registration continued to roll out in Kachin State? Second, we analyzed how the registration document is working in practice now that it has been widely distributed. By doing so, we addressed a second research question: what are the effects of farmland registration on smallholder farmers and their land rights? We evaluated the effects of Form 7 across several dimensions of possible outcomes discussed in the literature, including investment, security, land price, inequality, conflicts, government relations and land use change to evaluate if and how form 7 in Kachin State is delivering on promises to make farmers more productive and to secure their land rights. We find that significant barriers to farmland registration

remain in Kachin State. Form 7 does not appear to substantially improve farmers' ability to produce on their land or secure their land rights from outsiders. Our evidence suggests that patterns of registration that privilege farmers or outsiders who can pay fees or have good relations to government may be widening inequality at a village level and between accessible (lowland) and remote (upland) areas.

This report continues by giving a background of land governance in Kachin State before briefly outlining the logic of land titling advocates, and of their critics. We then describe the study's methodology before turning to research findings on land governance, including other forms of land formalization such as community forests, and on the registration process. Next, we assess whether or not Form 7 is supporting smallholders to become productive farmers with secure land rights. We conclude with a discussion of what these findings mean for Form 7 and other contemporary efforts and land reform, especially for ethnic States.



# Land Governance in Kachin State



Land governance in Myanmar is shaped by the nation's varied geography and ethnic diversity, as well as by a history of colonial, socialist, and military rule. Today's land administration systems are anchored in colonial institutions that aimed to extract taxes and crops from an illiterate and manageable population. After independence and through the socialist era, the de-facto policy was for smallholder farmers to hold use rights to land, while the State maintained ultimate ownership (Obendorf 2012). Today, a complex and often contradictory legal framework governs Myanmar's land on paper, while in practice various Government ministries control different types of land – forest, agricultural, urban – creating a patchwork of overlapping rules (Mark 2016). While according to the 2008 Constitution the State still owns all resources, in recent years, the Government has prioritized land reform. At the same time, legal ambiguity, armed conflict, and a new push for foreign investment create major challenges to land rights for millions of small farmers (Scurrah et al. 2015).

In 2012 the Myanmar Government passed the Farmland Law and the Vacant, Fallow, and Virgin Land Law as part of a transition to market

liberalization and a push for investment. These laws expanded opportunities for registration of individual use rights, though ultimate ownership of land remains with the State. The Farmland Law allows farmers to register for Land User Certificates (LUC), commonly known as Form 7, for areas classified as farmland, a category that legally includes paddy rice (leh) and some dry cropping (ya), hillside cultivation (taungya), and garden and alluvial land. However, as explored below, land used for orchards and gardens, shifting or hillside cultivation and land zoned as forest – common landscapes in Kachin and other ethnic States —are rarely registered in practice. Form 7 confers various property rights over the farmland, including the rights of possession, use, benefit, sale, mortgage, lease, exchange, inheritance and gift (Farmland Law, 2012; 8-9). Increasingly, Form 7 is also as collateral for formal and informal loans. The State retains ultimate ownership of land, and the ability to fine, evict, or demolish structures if the farmer disobeys the terms and conditions of registration. Government stakeholders are currently amending the 2012 Farmland Law; this makes understanding the Law's effects to date particularly important and timely.



*Box 1: Farmland Law Chapter IV – Terms and Conditions to be Complied by the Person who has the Right to Use the Farmland*

*12. The person who has the right to use the farmland:*

- (a) shall carry out the farmland as prescribed in this Law;*
- (b) shall pay land revenue and other taxes levied by the Ministry relating to the farmland;*
- (c) shall register in the relevant Township Department by paying the stamp duty and registration fees for the contract stipulated by the Department in carrying out sale, mortgage, lease, exchange and gift of the right to use the farmland;*
- (d) shall register in the relevant Township Department in accord with the stipulations when the right to use the farmland is obtained by inheritance in accord with the existing law;*
- (e) shall have the right to mortgage the right to use the farmland only for the purpose of investment for cultivation and shall mortgage it in the Government bank or the Bank recognized by the Government;*
- (f) shall not trespass without permission from the relevant Farmland Administrative Body;*
- (g) shall not use the farmland by other means without permission;*
- (h) shall not change the originally cultivated crop with other kind of crop, without permission;*
- (i) shall not be fallow the farmland without sufficient reason;*
- (j) shall not sell, mortgage, lease, exchange or gift the farmland during the period before having the right to use the farmland or during the period the dispute arises relating to the right to use the farmland;*

*13. If the dispute relating to the right to use the farmland arises after this Law has come into force, it shall have the right to settle legally only after registration in the Department.*

*14. The person who has the right to use the farmland shall not sell, mortgage, lease, exchange or gift on the whole or part of the right to use the farmland without permission of the Government to any foreigner or any organization in which the foreigner is included.*

GRET's research on land formalization in the Dry Zone and Delta found that despite high farmland registration rates, getting Form 7 did little to change on-the-ground land tenure dynamics (Boutry et al. 2017). In these areas, informal land markets and norms of individual property were well established; Form 7 did little to change how farmers bought, sold or used land. The majority of landowners in the study had received Form 7: 71% of landowners in the Delta and almost 80% of those in the Dry Zone had Form 7 in 2014, just two years after its enactment. The report notes that lowland farmers do not lack for documentary evidence – tax receipts, form 105/6, informal contracts, and other papers have long functioned as proof of ownership in the lowlands – but that Form 7 provides stronger evidence of landholding rights. In some cases, formalization brought new conflicts, for example related to dividing inheritance, and legal restrictions were poorly matched to farmers' needs. The report highlights the limitations of farmland registration for securing land rights and rural livelihoods, and calls for more-targeted support for smallholder farmers, rural finance mechanisms, state-led irrigation investment.

While we might expect many of the findings in the GRET report to apply elsewhere, ethnic States and upland areas present different and particularly difficult cases for land administration. Kachin State has a variety of forests, biodiversity and natural resources that are ill-matched to management strategies developed in the lowlands, and many cultivated lands that are not recognized as 'farmland.' While 30-year community forest certificates and new clauses in the 2016 National Land Use Policy offer some protection for customary tenure and forest cultivation, these are currently extremely limited. Kachin State has the most land classified as Vacant, Fallow and Virgin of any State or Region: almost 9.5 million acres of the 22 million acres of total state land area (San Thein et al. 2018). As of October 2016, almost 1.4 million acres had been granted as concessions (ibid). These lands are governed by the recently-amended and highly-controversial Vacant Fallow and Virgin Land Law.

Kachin State's land governance is intimately tied to questions of state formation and political futures.

Rural ethnic minority populations have suffered displacement, violence, and persistent fear due to ongoing civil war and associated land grabs and agribusiness (Sadan 2016; Woods 2011). In addition to the Myanmar Government, the Kachin Independence Organization and customary law both have separate systems for land administration. Plural administrations and conflict histories mean that

residents of Kachin State tend to distrust outsiders and larger systems of governance generally, tending to prefer to settle disputes locally rather than engage officials or legal systems (UNDP 2017). These dynamics mean that questions about security and inequality associated with land titling take on particular significance in Kachin State, and in other ethnic minority States.

# Understanding Land Titling



Myanmar's cadastral maps and Department of Agricultural Land Management and Statistics (DALMS) both have their roots in colonial administration, but efforts to register land both predate and spread beyond British Burma. Debates on the effects of land registration are almost as old and far-ranging. For the purposes of this report, we focus on the key claims made by proponents of titling who emphasize the transformative power of property rights, and the main critiques that emphasize inequality, insecurity, and exclusion, while noting the relationship between land titling and larger questions of governance and state formation.

Proponents of land titling have the loudest voices in mainstream international development today. Influential actors like USAID and the World Bank adapt the basic tenants of the Peruvian theorist Hernando De Soto, who argued that formalized property rights were the key to unlocking the economic potential of the global poor (De Soto 2000). These actors argue that by providing recognizable and transferable

land rights, documentation not only enables good governance, but also facilitates an open land market, which will lead to the efficient allocation of resources. For example, the World Bank writes:

Well-functioning land markets are needed to transfer land to the most productive users and to facilitate participation in the rural nonfarm sector and migration out of agriculture. But in many countries, insecure property rights, poor contract enforcement, and stringent legal restrictions limit the performance of land markets, creating large inefficiencies in both land and labor reallocation and reinforcing existing inequalities in access to land. (World Development Report 2008: Agriculture for Development 2008, p.9)

For proponents, farmland registration is an essential step to establishing the type of property rights that can lead out of poverty, towards market-friendly rural development. Many of



these actors also argue that property rights provide security to farmers and, along with limited forms of communal or indigenous property protections, can be used to empower women and ethnic minorities who have been denied land access in the past. The picture that emerges of the expected outcomes of farmland registration is one of productive farmers with secure land rights. In Kachin State, where farmers have been denied state support and are subject to land grabs, this is an attractive, ambitious vision.

However, rather than reducing inequalities, critics argue that registration can exacerbate injustice and impose new exclusions from resources. In Myanmar, land is more than just a commodity, and attempts to attract investment at the expense of local priorities and connections to the land can have devastating consequences (Bello 2018; Franco et al. 2015). Elsewhere, such as in Cambodia, land titling has produced and legitimized a deeply unequal landscape, rather than protecting smallholders from land grabbing (Dwyer 2015). These findings have important implications because of similarities between the countries; in both Myanmar and Cambodia, only certain types of land are included in the titling process. In Cambodia this has led to economic land concessions continuing to dispossess farmers, and a history of powerful state or private actors grabbing land has been continued through formalization schemes.

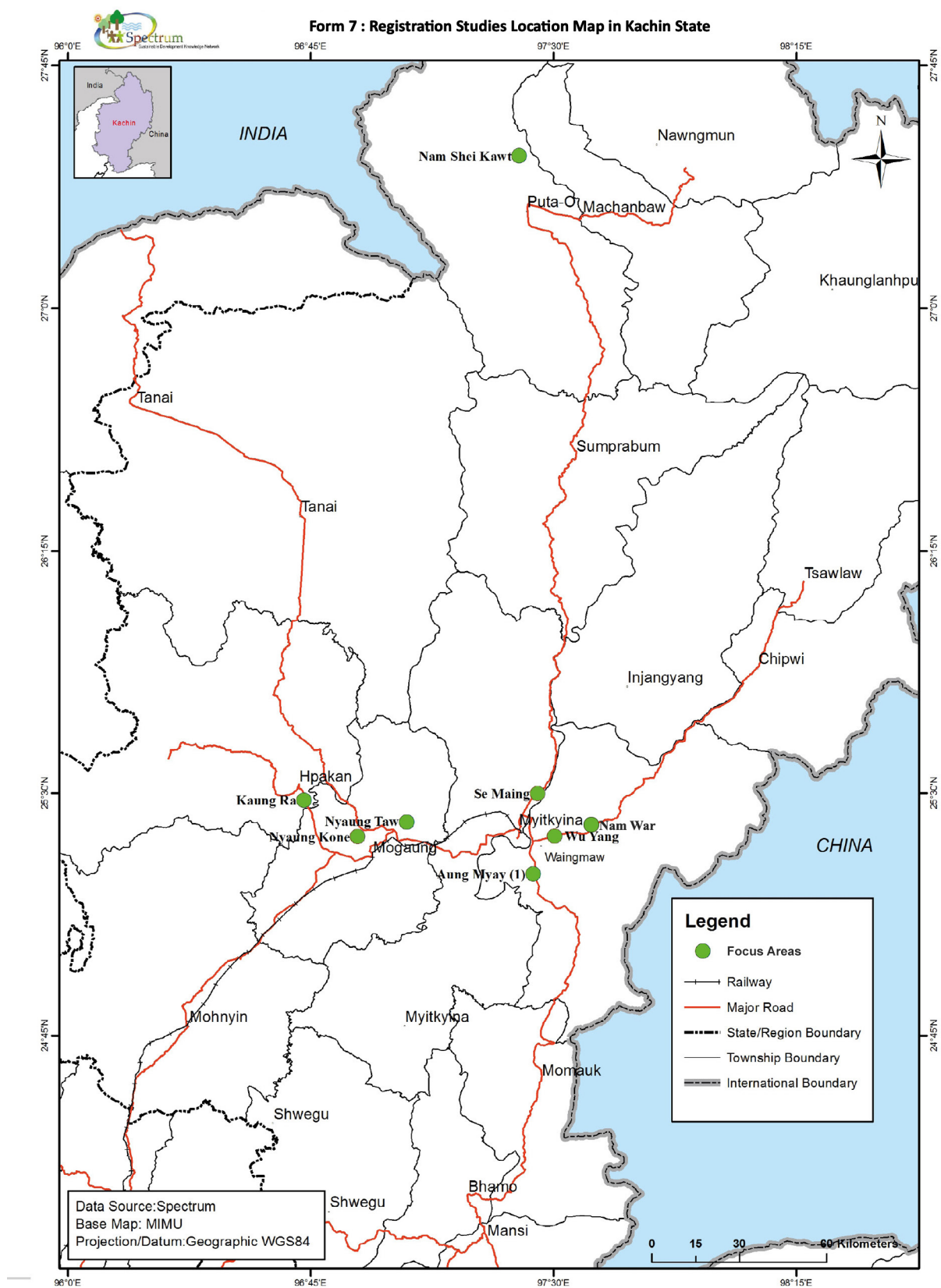
Titling is not just about recognizing existing patterns of land control, but also about establishing new rules of the game, of which local elites are often well-positioned to take advantage. Titling can legalize dubious claims and make land easier to transfer, facilitating concentration and dispossession (Hall et al. 2011). Titling can also create new forms of inequality, whether between those with registration and those without, or between citizens with certain types of property rights (e.g. Form 7 for paddy land) and those with others (e.g. community forest registration) that come with different timeframes, benefits and contingencies (ibid). In Kachin State, where violence, ceasefire capitalism and ethnic exclusion have long shaped the landscape, questions of equality and justice permeate land rights and are intimately tied to state formation. Sikor and Lund (2009) point out that processes of making, defending and negotiating land

claims, whether through paperwork or by force, inherently put claimants in a subordinate relation to those who ultimately adjudicate rights – by asking for the government to recognize a right to farm, a smallholder is acknowledging the government's right to decide who can use land. Similarly, when identifying and protecting lands under categories such as 'customary tenure' or 'indigenous land rights,' the state is providing claimants with a broader recognition of their ethnic identities and associated resource claims. In a more banal sense, by interacting with government surveyors, farmers may be building ties with local officials. Kregg Hetherington, for example, describes how farmers in Paraguay greet surveyors with hope, seeing them as heralds of progress and state support (Hetherington 2014). In Myanmar, where Ethnic Armed Organizations such as the KIO and the Karen National Union have their own land policies and administrations, the question of who has the authority to administer land is not academic, but critical for the NLD government and land governance going forward. In Kachin State, examining how the registration process changes relationships with government staff and ability to access state support highlights the critical role of land registration in the political future of Myanmar's ethnic States.

In this study, we considered the potential effects of farmland registration across seven different dimensions drawn from the literature discussed above, including investment, security, land price, inequality, conflict, government relations, and land use change. These dimensions are all deeply interconnected, and often have different interpretations within various theoretical schools. The table below describes the potential effects we studied, and provides examples of how we asked farmers, village heads, and CSOs about them, using agree/disagree statements to start conversations about different impacts and experiences of registration. While these dimensions encapsulate a range of empirical questions, in the subsequent sections we synthesize key findings and organize our discussion around our central research questions: how is registration rolling out, and what are its effects? Specifically, we look to evaluate whether land titles in Kachin State are supporting productive farmers to secure their land rights, in light of the criticisms raised above.

**Table 1. Potential Effects of Land Registration**

Dimension	Description	Sample FGD questions
Investment	Information about access to bank loans, credit, purchase of equipment, seeds or inputs for land, spending money on land or farming.	Having Form 7 helps farmers invest in their land. (agree/disagree)
Security	Feelings of security, safety, or trust in the government or others to protect land. Or lack of trust, lack of security, fear that land will be taken.	Having Form 7 makes farmers' land more secure. (agree/disagree)
Price	Land sale, land price.	The price of land goes up once farmers got Form 7. (agree/disagree)
Inequality	Differences between social groups in terms of ability to get Form 7, access land, be successful farmers, meet government etc.	Only powerful/rich/well-connected people get Form 7. (agree/disagree)
Conflict	Disagreements over land, registration, inheritance, boundary demarcation, tax, etc.	Getting Form 7 increases conflict among families, and neighbors. (agree/disagree)
Government Relations	Relationship, communication, and contact with any level of government staff	Having Form 7 makes farmers closer to the government. (agree/disagree)
Land use change	Change in what crops are grown or how land is used e.g. conversion to paddy, construction of roads or irrigation canals.	To get Form 7, farmers are changing land use. (agree/disagree)





# Methods

This research focuses on the registration process and effects of Form 7 in eight Kachin State villages, seven of which were included in the initial 2015 research.<sup>2</sup> The villages were initially selected because Spectrum, the local civil society organization that commissioned the original study, had worked in these sites on farmland registration issues since 2011. As these villages are in government-controlled areas with high CSO activity and substantial farmland, they should not be taken as representative of villages in Kachin State. However, they do highlight a range of village types that illustrate the dynamics of registration in ethnic minority regions. Table 2 summarizes the key characteristics of study villages; detailed case studies on each village are provided in the 2015 report.

Data was collected by Spectrum Myitkyina staff and partners between February and May 2019. The research team included the authors of this report - an international researcher, who also led the 2015 study, and a local researcher - and five members of the research team from Spectrum. In February, the authors organized a one-week research training with the research team which included research together in the first study village. After that, the Spectrum team collected data in the other seven villages over the next month. The data collection tools used in this research are: participatory mapping of land use, registration and conflicts in and around the village; focus group discussions (FGDs) including questions on the seven dimensions of land titling effects described above; and key informant (KIIs) and in-depth interviews with local authorities, and farmers knowledgeable about relevant case studies. The research team conducted one participatory mapping exercise, two FGDs, plus one or two KIIs and case study interviews in each village. The two FGDs were divided into one group who had Form 7 and one group of those who did not have Form 7. The exception to this research methodology was Sei



Maing village, where the authors did a KII with the Village Tract Administrator, but no additional data was collected due to coordination difficulties. There were altogether 91 respondents (63 men and 28 women) in the FGDs. Of these, 48 respondents had Form 7, and 43 respondents did not. In addition, the team conducted seven KIIs with the village heads (all of whom were men) and three KIIs and one FGD with CSOs in Myitkyina and Putao.

The team took care to distinguish their role as researchers interested in the villagers' actual experiences with Form 7, rather than trainers returning to test villagers' memories of previous land law trainings, or CSO workers bringing aid. However, responses may be colored by the informants' own understanding and assumptions about the intentions of the team, since they were working for a CSO that previously facilitated Form 7 applications. The Spectrum team collected data in Jingpaw, Shan, and Burmese languages. Conducting interviews in informants' preferred and most-used languages is important for the quality of data collection, but presented translation challenges when later comparing and analyzing data. Clarification, discussion and preliminary analysis was conducted in Burmese with the research team and both authors in Myitkyina; after returning to Yangon, the authors coded and analyzed the data in Burmese and English, focusing on the possible effects of Form 7 outlined above.

2. It was difficult to collect complete data in all of the original villages. One new village, which Spectrum was currently working in and which was highly accessible to researchers, was added in 2019 to provide additional information on registration challenges

**Table 2. Backgrounds of the Villages Studied**

Village	Township	Ethnicity	Distance from township offices	Livelihoods	Land types*
Aung Myay 1 (Ward 5)	Waing Maw	Kachin, Shan, Bama, Chinese	8 miles	Agriculture, Livestock, Gold mining	Leh, Ya, CF, Orchard
Wu Yan	Waing Maw	Kachin, Shan, Bama, Chinese	15 miles	Agriculture, Day labors	Leh, Orchard
Nam Shei Kawt	Putao	Lisu, Kachin, Shan, Bama	8-10 miles	Agriculture, Seasonal mining	Leh, Taungya
Nyaung Kone	Mogaung	Shan, Bama, Rakhine	8 miles	Agriculture, Day labor, Shop-keeping, Contract farming, Seasonal mining of gold, amber and jade	Leh, Ya, Orchard, Alluvial
Nyaung Taw	Mogaung	Shan	11 miles	Agriculture, Mining	Leh, Ya, CF
Kaung Ra	Kamaing	Kachin	76 miles from Myitkyina and 25 miles from Mogaung	Agriculture, Fishing, Day labor, Gold and jade mining	Leh, Ya, Taungya, Orchard
Nam Wa	Waing Maw				Leh, Ya, Orchard
Se Maing	Myitkyina	Kachin	10 miles	Agriculture, Seasonal labor, Gold mining	Leh, Orchard

\*These include leh (rice paddy); ya (dryland/rainfed agriculture); taungya (hillside cultivation); orchard (long-rooted trees including rubber, banana, coconut); CF (community forest land – registered or informal); alluvial (river-side seasonally-flooded lands).

# Research Findings



## Land Governance and Land Use Change

Farmland registration is taking place within larger transformations in land governance and land use change in Kachin State. One factor that remained crucial to understanding land issues since our 2015 study was civil war; in interviews with civil society in Myitkyina, respondents emphasized the effects of ongoing armed conflict, including that large parts of the State were still in brown or black zones largely inaccessible to government authorities, as in 2015. In these areas, farmland registration would be extraordinarily difficult, as they are administered by the KIO or controlled by various border guard forces (BGFs) and militias, and could result in massive dispossession, as they are home to Internally Displaced People (cf. Woods 2016). While our study villages were not in active conflict sites, all had experienced war in the past, and several had been destroyed and re-established multiple times.

A key change since 2015 was that, in the last four years, improved transportation and infrastructure throughout Kachin State has brought new migrants, often of different ethnicities, and in some cases increased pressure on land and ethnic tensions. This influx is diverse across different townships: in Putao, respondents described rich people from Mandalay and Yangon buying large parcels; in Mogaung, where Shan have long farmed, respondents mentioned new

Rakhine and Indian-descendent landowners. In Waing Maw township, especially, large numbers of Chinese businesses are renting land for banana and watermelon plantations, in some cases using high levels of pesticides and causing substantial environmental harm across tens of thousands of acres (cf. LSECNG. 2018-2019). Environmental degradation due to increased mining, in and beyond Hpakant, was another change frequently discussed. In both cases, CSO respondents expressed worries that rentals of land for plantations and mining would leave not only lasting impacts on the landscape, but also provoke land conflicts because long-term rentals tended to exacerbate boundary conflicts.

Most farmers said that there was not much land use change due to Form 7. However, Form 7 is indirectly linked to many of the land use changes taking place in the study villages. For example, around Myitkyina, conversion from paddy land to house plots means new types of paperwork for landholders. In Waing Maw township, where many new Chinese-run banana and watermelon plantations have started, farmers in some cases rented out their land because the businessman promised to help them get Form 7. In other cases, farmers rent because they don't have Form 7 and cannot get a loan, so can't farm effectively themselves. Farmers are also pushed to rent out their lands by other factors, such as water shortages or



because all surrounding lands are rented out to plantations, which increases social pressure to also rent and causes pesticide damage to the land. The rental conditions were different between watermelon, which was grown seasonally on leh land, and banana, which was grown on orchard or forest land and is a long-term crop. While we did hear of businessmen who were able to get Form 7 for banana plantations, generally this type of land is not classified as farmland and no locals we met had Form 7 for banana plantations. These examples illustrate that Form 7 may facilitate urbanization, speculation, dispossession and conversion, even if registration is not itself a primary driver of land use change.

CSO respondents emphasized that new laws, while in some cases improved, were rarely put in practice on the ground because of staffing problems and lack of legal knowledge. More bluntly, one CSO representative stated that new laws facilitated and legitimized land grabbing, *"In the 1990s and 1980s, they grabbed the lands in one way, in a direct way. Now, after 2018, they grab the lands indirectly."* In townships outside the study area, CSOs reported locals losing their taungya, grazing, and hunting land to private companies and government projects. Respondents also qualified their statements about Form 7 granting secure tenure by explaining that under the Land Acquisition Act, the state retains the right to seize land. While we did not see evidence of use of this Act to grab land, in several study villages outsiders had been given land as part of ceasefire agreements, had received other forms of grants from State or Township authorities, or had taken land by force, coercion, or without compensation for villagers.<sup>3</sup>

A history of weak protection and uncertain benefits resulting from land formalization was evident in some of the stories we heard about community forests, which were common in the study villages. CFs had usually been started in the last 10 years with the support of religious organizations, such as the Roman Catholic Church or Kachin Baptist Church, or with support from local or international organizations, such as Metta,

Shalom or the World Food Program. Villagers frequently agreed there were benefits to participating in a community forest, but could only rarely specify what these were. Some informants noted that poorest villagers did not participate in the community forest, and that livelihood benefits were limited to timber for housing and minor income. In some cases, businessmen had arranged for villagers to apply for community forest certificates while they provided capital for initial planting costs, and claimed a proportion of profits going forward.

Some of these community forests applied for and received a 30-year community forestry certificate, which confers 30 years of use rights to the CF user group contingent on their following the management plan. Like farmland registration, this is a type of land formalization, and experience with CFs in the village can therefore illustrate recent experiences of registration. Respondents noted the certificate can be extended and provides some security. Disputes over land described as community forest land were fairly common in our study, especially because much of this land is suitable for banana plantation. In one village, villagers were renting out lands to a Kachin broker who was facilitating the development of Chinese banana plantations in Waing Maw. Some of the approximately 80 acres had been rented out voluntarily; others had been taken or rented at an unfairly low price. When unhappy villagers complained to the Forest Department, the Department sued and imprisoned the broker for 10 days, but he was eventually freed with the support of the faction of villagers who were satisfied with the rental agreement. Part of this land had been registered as community forest, and part as church lands. This case suggests that community forest certificates, and perhaps, by extension, government land registration documents generally, provide a rather contingent claim, and are vulnerable to being struck down or renegotiated if land suddenly proves valuable for business.

Most CSO respondents rejected the 2018 VFV Land Law amendments and stated there was no VFV land in Kachin State. Respondents emphasized that practices of taungya agriculture and customary land management are incompatible with the assumptions of state administration. Several pointed out that while large business

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3. Histories of land control in each of the study villages are provided in the 2015 report.

people can navigate the new VFV application procedure, it is too complex and costly for small farmers to create and implement the mandated management plan, and its format does not match with customary agricultural practices. Even though customary lands had been excluded from VFV classification in the amended law, CSOs emphasized that there was no clear criteria to determine customary land, and saw the law as facilitating investment at the expense of local livelihoods. Overall, CSOs emphasized that the VFV law was impractical for, if not incompatible with, the conditions in Kachin State, and that registration could not be taken seriously as an option for local people. While some CSO respondents dismissed the VFV amendments as unrealistic, others emphasized that formal registration was important for land security, and ideally should be done alongside and be compatible with customary tenure.

Villagers in FGDs had only sometimes heard of the VFV Law or an announcement that they had to apply to the government for some sort of VFV land use rights. Respondents frequently confused farmland and VFV registration, for example explaining that they had to register all their farmland within 6 months, a reference to a deadline in the amended VFV law. No villagers were able to explain the registration process, though some noted that it was very complicated, for example saying: *'it's hard to get Form 7, but it's even harder to get VFV [registration].'* We did not meet any small farmers in the process of applying for VFV registration, though many were using taungya, grazing, bobwapine (customary), or religious land that might have fallen into this zoning category.

The picture that emerges is complex and dynamic. Kachin State is characterized by ongoing armed conflicts, multiple land types, and plural systems of land control, and is also being affected by new laws, migration patterns, and environmental change. Our study sites, all in government-controlled areas with large areas of farmland, do not represent the diversity of governance challenges across Kachin State, itself a uniquely complicated area for land issues. However, this research in the villages and in Kachin State more generally does highlight the types of challenges that emerge in the broader project of land formalization in ethnic States with diverse populations and new pressures on land.

### Key Findings:

- Armed conflict, diverse land use, and new pressures on land present challenges for land governance in Kachin State.
- Rather than protecting farmers, new laws and policies, including farmland registration, can facilitate land grabbing or accelerate land use change.
- Community Forests, VFV registration, and Form 7 all represent efforts at land formalization. Failure of CF to protect villagers from outside businessmen or to secure livelihoods and confusion about and resistance to VFV registration renders these policies weak and dangerous for smallholders in Kachin State.

# Registration Process



In six of seven original study villages, the number of households with Form 7 had increased in the four years between studies. Some households had applied before 2015 and received Form 7 after the study due to delayed processing of their applications. Households also submitted new applications, explaining that their motivation was to avoid future problems and because neighbors and others in their village had applied. In some areas, greater understanding of the process and potential benefits of registration facilitated these later applications. Access to agricultural loans was repeatedly given as the main motivation for registration. According to respondents, before 2018, some Agricultural Bank branches continued to accept tax receipts

as proof of ownership, but in recent years they have restricted loans to only those with Form 7, providing further impetus to apply.

Village experiences since 2015 bolster the findings that both the active involvement of village heads and collective applications can be successful strategies for registration. In Nyaung Kone, which had not received any Form 7s during the original study, a group of 13 people applied together with the help of the village head and all received registration. In this round of research, some respondents also mentioned members of parliament (MPs) who had aided their farmland registration.



**Table 3: Approximate Form 7 Registration in Study Villages**

Village	Total Households	Households with farmland	Form 7s received in May 2015	Form 7s received 2015-9	Total with Form 7 in Feb 2019	% total HHs with Form 7 2019	% farmland HH with Form 7 2019
Nam Shei Kawt	202	197	180	0	180	89%	91%
Nyaung Taw	210	90	13	67	80	38%	89%
Kawng Ra	337	130	50	42	92	27%	71%
Aung Myay 1 (Ward 5)	900 (118)*	90	24	35	59	50%	66%
Wu Yan	283	160	30**	65	95	34%	59%
Nyaung Kone	120	30	0	13	13	11%	43%
Se Maing	360	unknown	15	Over 50	Over 65	18%	--
Nam Wa (Ward 3)	498 (290)*	170	NA	0 (29 applied)	0	0%	0%

\*Spectrum worked in 1 ward each in Aung Myay 1 and Nam Wa

\*\*The 2015 report erroneously reported that 117 households had received form 7 in Wu Yan

The table above shows approximate numbers of Form 7s in each study village. These numbers are estimates, and come from interviews with village leaders and Spectrum field staff. The percentages in the last column to the right represent the percentage of village households with farmland who have Form 7. Actual percentages are likely lower given that some Form 7s belong to outsiders who do not reside in the village. Occasionally a villager or outsider did have Form 7 for orchard land or other land not necessarily considered ‘farmland,’ making the numbers in the second-to-last column a useful metric of the percentage of total village households with Form 7.

While inexact, these numbers indicate that although more households received Form 7 between 2015 and 2019, compared to registration rates in the Dry Zone and Delta, registration rates for farmland remain low in most study villages. Only in Nam Shei Kawt do the vast majority of households have Form 7. Nam Shei Kawt had registered almost all households with paddy land in 2015, and there was no reported change in the number of certificates between 2015 and 2019. Nyaung Taw and Kawng Ra reported relatively high rates of registration compared to the number of households with farmland, though in both cases the proportion of village households with farmland was less than half. Other villages appear to have relatively low registration rates, with the number of Form 7s less than two-thirds of the number of households with farmland.

Despite an overall increase in households with Form 7, challenges to registration noted in the 2015 study remained. In discussions, farmers frequently complained that the office was far away, that they were confused about the registration process, and that the land survey staff were few, difficult to work with, and needed to be paid for their petrol costs and time. Wait times for Form 7 could be over a year, and in cases of conflicting or confusing claims farmers were often left waiting indefinitely. In one village, mislabeled kwin names on government maps and farmers applications had completely stalled registration. Farmers did not always receive Form 7 for all of their land, nor did they always check the number of acres on their document and the situation on the ground, leading to incompatibilities between land registered and land used.

Farmers working land excluded from the government’s cadastral map had less chance of getting Form 7, and they reported longer wait times and more informal costs. Land zoned as forest areas or being used for grazing or orchards was excluded from registration, leaving it without legal protection despite the fact that critical agriculture and livelihood activities were taking place there. In the village Kaung Ra, many farmers had taungya, orchard, and bobwapine land that cannot be registered under the Farmland Law. Most orchard land also was untitled, though in some cases rich agribusinesses had managed to obtain Form 7.

The ability of wealthy or well-connected people to register land previously not categorized as farmland or considered individual property presents a problem particularly in cases of grazing land. Grazing lands are not officially recognized in the Farmland Law, making them vulnerable to being seized by outsiders. But we found cases where outsiders reportedly did receive Form 7 for grazing lands. Once an outsider has some sort of document, whether Form 7 or VFV registration, the villagers feel they cannot complain when they cannot use those lands anymore. The case below shows how communal grazing land can be seized and privatized when someone applies for Form 7.

The grazing land case above is a stark example of the inequality that permeates many aspects

*Box 1: Grazing land in Nam War*

*In 2006-2007, one outsider from Myitkyina or Waing Maw came and planted rubber on 100 acres of the Nam War villagers' grazing lands. This outsider applied and received Form 7 for the land. As those lands were not officially registered as grazing lands in the past, it was difficult for the villagers to complain about it to the village head or the government. Therefore, they cannot do anything about it now.*

of the registration process. In more than half of the FGDs, villagers agreed the ability to get Form 7 is unequal. They said that rich people can get Form 7 more easily and quickly than poor people. Those from Nyaung Kone said that the rich people can get Form 7 in a single day, while our 2015 research found that waiting times for many farmers were one year or more. The villagers from Wu Yan also added, *"In this age, we cannot do anything without money. [Registration success] differs depending on the level of power too."*

Inequality does not only mean the difference between the rich and the poor. In addition to having money, having knowledge about how to apply Form 7 and having good relations with the Village Head or the staff can help to register

land with Form 7. Moreover, some respondents claimed that some specific ethnic nationalities and businessmen from outside the village can get Form 7 faster, especially if they have more capital. For example, villagers in Aung Myay 1 complained in both 2015 and 2019 that rich Lisu and Chinese businessmen received Form 7 much faster and more consistently than local Kachin farmers.

Interestingly, most of the villagers who said they did not observe inequality in who received Form 7 were from the three villages where farmers applied together as a group, either the whole village or a selection of households. As they got Form 7 together and shared financial costs, they did not directly experience inequality in the application process. During the current research, CSOs echoed the findings of our 2015 study that a key factor for receiving Form 7 was having an effective, engaged Village Head who organizes villager's applications and negotiates with DALMS. The greater efficacy and equity of collective registration was also a key finding in the 2015 research.

## Key Findings

- Despite an overall increase in registration, registration rates remain lower in the study villages than those in lowland areas. This is both because of limited land zoned as farmland, and to barriers to registration similar to those we saw in 2015.
- There is evidence of inequality in registration, with well-connected outsiders, rich villagers, and those with knowledge of the law or an active Village Head more likely to get Form 7.
- Applying together as a group was a strategy that avoided inequality, as well as reducing the time and cost of applying for Form 7.

# Productive Farmers?



A driving argument for land formalization through titles is that it will enable farmers to invest in their land and make it more productive. Proponents also argue that titling facilitates the creation of land market, enabling farmers to sell their land to those who will invest, increasing the efficiency and productivity of land use. Critics note that this can lead to farmer debt and dispossession and accumulation of land into the hands of elites and companies. In this section, we evaluate if and how getting Form 7 allows farmers to access credit, invest in land, and buy and sell property.

Farmers in our study frequently stated that the ability to get a loan from the Myanmar Agricultural Development Bank (MADB) was their major motivation for registering farmland. Farmers can receive up to 1.5 lakhs per acre for monsoon rice, but they cannot get a loan for more than 10 acres total. MADB loans have an interest rate of 0.8 %, compared to other money lenders whose rates range from 3-5% to 20%. Most villages reported that they use loans to cover input costs including labor wages, fertilizers, irrigation, and renting farming machinery. Wages for agriculture are the most important costs in these villages, with a wage rate that varied from

5000-7000 kyats or one tin of rice per day. Covering costs of wage labor was reported as one of the main motivations to apply for Form 7. In addition to using the loan for farming, the farmers may also use the loan to pay for emergency expenses like family health issues. These loans can help them survive through farming difficulties and other emergencies.

Many farmers we spoke with reported difficulties when the time comes to pay back the loan after 8-10 months. The research team observed that the loans are not enough to fund major improvements in agriculture, and that poor weather or a drop in the price of rice can make them impossible to repay. Land quality influences input costs and profits, though it has no bearing on the amount of MADB credit available. If farmers cannot pay back the loan, they cannot receive it again next season. In some villages like Nyuang Taw and Nyuang Kone, the Village Head collects the Form 7s and gets loans for the farmers all together. In this case, villagers reported that if one farmer cannot pay back the loan, the rest will not also receive a loan for the next season. The villagers are under heavy social pressure to pay back the loan in any way they can, including by selling the property,

often gold or cows, or by borrowing money from private money lenders at a higher rate.

According to our interviews, before 2018, even if the farmers had only tax receipts, they could still get a loan from MADB with the Village Head's recommendation. Farmland Law implementation therefore restricted loans to permanent farmers who have been able to register land with Form 7. Farmers who have not received Form 7 because they have hillside farmland, orchards, or farmland that is improperly classified as forest or VFV land cannot access the loans that they previously might have been able to by using recommendations and tax receipts.

Other sources of support for farming in the study villages include Mya Sein Yaung (Emerald Green Fund, a Department of Rural Development-administered loan program available in some villages) and church-based groups funds (these have a lower interest rate than private lenders). Farmers can buy machines on installment plans with the support of the Cooperative Department or directly from machine companies; usually this does not require Form 7, only the recommendation of the Village Head. Those who cannot get a loan from the MADB often have to borrow money for the input costs of farming from a private money lender with a high interest rate, or sell their cows. We documented this situation in Kawng Ra village, where much of the hilly surrounding land is VFV and many farmers have orchards and taungya plots that they could not register. In other villages in Wine Maw township, some farmers with leh or orchard agriculture who have been unable to register are now unable to receive a loan to cover input costs, and are renting their land to Chinese-owned watermelon or banana plantation business. Leasing land in the absence of adequate input capital has become one of the causes for land use change in some villages.

While respondents consistently rated being able to receive a loan to cover the costs of farming as one of the most important reasons to apply for Form 7, not all farmers with Form 7 were able to access MADB loans. In Nam Shei Kawt village, almost all villagers had Form 7, but they had never heard of an MADB loan in their village tract. While the villagers did not know why this was, the research team observed that this was

likely because MADB had extremely limited presence in Putao and the Village Head was not very active. The Village Head stated that villagers rarely took loans because they worried they could not pay it back; instead villagers share labour for planting and harvest, keeping input costs low by reducing wages. He said the village also keeps a village fund that serves as reserve capital. Individuals also sold cows, pawned Form 7 to local rich, and migrated seasonally for mining work to obtain cash for farming. This case was initially surprising because the 'success story' of the 2015 study lacked access to what other respondents perceived as the primary benefit of Form 7. But it also suggests an alternative narrative of productive farmers, one in which collective labor, intra-village loans, and seasonal migration can support agricultural livelihoods.

*Box 2: No Agricultural Loans for Nam Shei Kawt village*

*In Nam Shei Kawt village, located in Putao, almost all of the villagers have had Form 7 since 2015 for at least some of their lands. In this village, the villagers do not take loans from MADB and did not know much about the loan; many villagers we asked had never heard of the institution. The villagers said they are managing investment in farming by working together on all of the farmlands in the village, so they do not need to spend money for labor wages. If they need to spend money to improve their land, they can also borrow from the village fund without worrying about incurring debt. Therefore, they do not need to take bank loans.*

Participants in 10 out of 14 FGDs agreed that Form 7 increases the value of land, because those with Form 7 can receive an MADB loan and have stronger tenure security. Though we were unable to find concrete examples of price increases, the research team heard rumors that villagers could get millions of kyat per acre for land with Form 7, a high price in rural areas. Others disagreed that Form 7 increases land price, emphasizing that land's price for sale or rental depends on many other factors like the quality and location of lands, as well as the availability of irrigation water. For example, according to our discussion with Myitkyina CSOs, the land with good soil in villages outside Myitkyina can be rented for 400,000 kyat per acre, medium quality lands can be rented for 230,000 kyat per acre, and the lowest quality lands can be rented for only 100,000 kyat per



acre. In some cases, outsiders promised to help farmers register as incentive to rent out their lands. In study sites, registration's impact on market value remains ambivalent. One Shan villager who also participated in data collection said that if the quality of lands is not good, the buyer will not be interested in buying the land regardless of having Form 7 or not. He also said that it was easier for the buyer to apply for Form 7 himself than to change the ownership name on an existing Form 7 after buying the lands, making it more attractive to purchase unregistered farmland.

Land in study villages and throughout Myanmar has long been bought, sold and rented in the absence of formal documents, often with informal hand-written contracts signed by both parties and the Village Head. One of the stated motivations of the Farmland Law was to facilitate the commodification and sale of village lands by legally allowing the sale of land. While villagers understood that with Form 7 they could sell their lands, they noted that it was difficult to change the ownership name on the document. Land sales were already conducted before 2012 through quasi-legal land market or through customary land tenure systems, despite land exchanges being restricted under the 1953 Land Nationalization Act. However, in practice, transferring ownership officially remains difficult. Our 2015 study found that the absence of clear transfer procedures was a major barrier for selling land or transferring Form 7 to a widow or children, indicating a potential crisis for the sustainability of the land registration system. Varying and expensive transfer fees were also found to be the clearest opportunity for extortion and corruption within the Form 7 process. Therefore, Form 7 does not necessarily facilitate land sales and may provide obstacles for the tenure security of widows and children. In 2019, many respondents reported that changing the name on the document, for example after inheritance or sale, was more challenging and expensive than getting Form 7 in the first place. Thus, while Form 7 hypothetically confers transfer rights, in practice, alienating land was not a straightforward process.

Respondents also noted that Form 7 came with new restrictions. Farmers noted that once they

had Form 7, they had to use the land in certain ways, explaining that working the land was important in order not to lose the right to land, and also that Form 7 for paddy land restricted farmers to plant only rice. If they wanted to change crops, they would have to pay money and go through more paperwork. One member of our research team noted, 'Without Form 7 you can [plant] what you want on this land,' expressing the sentiment that Form 7 comes along with rules that recipients were obligated to follow. However, villagers noted that, in practice, farmers do not need to have Form 7 to sell their lands; they can still sell with a tax receipt and an informal contract.

### Key Findings

- Most respondents considered access to low-interest loans from the MADB the main benefit of farmland registration. MADB loans are preferable or at least supplementary to high-interest credit, and are often used to cover wage labor and other input costs. However, the credit available is too small for major livelihood improvements.
- While Form 7 is a requirement for MADB loans, it does not guarantee access, as demonstrated in the case of the relatively-remote village of Nam Shei Kawt.
- The roll-out of Form 7 appears to have shrunk overall access to MADB loans, which before 2018 were accessible for all farmers with tax receipts or recommendations from the neighbors and authorities. Form 7 is also perceived as coming along with restrictions, for example limiting crop choice.
- In our study sites, land quality and location remain the key drivers of sale and rental prices; while registration makes land more valuable in theory, the practical challenges and expenses of transferring legal ownership mean that informal transactions continue.

# Secure Tenure?



Form 7 can help to secure the land of farmers who are able to register their land, providing evidence of land claims that farmers can use to seek state protection, defend against attempted land grabs and receive compensation. Critics note that this can mean unregistered land is increasingly insecure, and that registration can create new land conflicts. In this section, we consider how Form 7 affects tenure security, exacerbates or resolves land conflicts, and changes relationships with government authorities.

Villagers in all FGDs agreed that having Form 7 can help to secure their lands. They stated that Form 7 is evidence to prove their land rights, and is guaranteed by the government. However, this is a conditional guarantee: once they have the official document, the farmers are required to follow the rules included as described in the Farmland Law and mentioned above, or the government can rescind their rights to own and work on their farmlands. One villager stated, *“You need to follow the rules to keep the rights.”*

Overall, villagers believed that Form 7 can secure their lands from other villagers or farmers, but not necessarily from the government or companies. One CSO respondent also emphasized the state’s Constitutional claim to all land ownership, giving the example of people in

Hpakant who were forced off their lands due to mining activities. While we did not find any examples of land grabs occurring on lands with Form 7 in our eight study villages, we did hear about cases elsewhere from Myitkyina CSOs:

*CSO1: It is easy to take the lands despite having Form 7. There’s a case nearby, they have all the documents, and they took it anyway. The company took it regardless.*

*CSO2: The people cannot get secured by the law whatever they have.*

However, CSOs believed that government and companies usually prioritized VLV lands for acquisition, and had less interest in lands with Form 7. Villagers often stated that having Form 7 could prevent their lands from being grabbed to some degree, and that they might at least be able to receive compensation for their seized lands, though at an inconsistent rate. In addition, with Form 7 villagers said they can strongly protect the lands from being encroached on or occupied by other people, as demonstrated in the cases below. Farmers said that if they have Form 7, they also feel more secure if they want

4. While the legal basis for this specific claim is not entirely clear, Act 1/64 under the Tenancy Law stipulated that land cultivated by a tenant for more than five years consecutively may go to the tenant (Boutry et. al. 2017). The Farmland Law revoked the Tenancy Law, but this idea is still invoked.

to rent out their lands for many years. Villagers claimed that they can lose their lands if they rent their lands out for more than three years without any document.<sup>4</sup> Form 7 was therefore perceived as providing strong security between villagers, and being a more limited but still desirable evidence of rights to show to powerful entities.

*Box 3: Kawng Ra militias squatting on villager's lands*

*One villager in Kawng Ra village has 15 acres of land and has registered 11 acres with Form 7. In 2018, a militia came and squatted on the 4 acres of his lands for which he did not have Form 7 yet. After 3 or 4 days his land was cleared by the militia. He reported it to SLRD and said he would pay the militia for the cost of clearing the land, but he would not give up his claim to the land. Eventually, the case was solved at the village level through the village head, and the militia abandoned the land. While the exact process and definitive outcome of the case is uncertain, this incident suggests both the relative security of lands with Form 7 at the village level, and the ability of document-holders to contact government offices and defend land claims.*

*Box 4: Nyuang Kone embankment case*

*In a village nearby Nyuang Kone, a resident rented his lands out to another villager. This villager reconstructed the curved embankment, making it straight. At that time, part of the neighboring farmland was included in the new embankment. When the neighboring landowner saw what had happened, he complained to the township DALMS office. As he could prove his claim with the map on his Form 7, the township office helped him get his lands back.*

Questions of tenure security are important to consider in relation to actual land conflicts in the study villages. These can be categorized as inheritance cases between the family members, arguments about land boundaries between the neighbors, and land squatting or land grabbing cases between the villagers or between the villagers and outsiders like companies and the authorities. Conflicts between family members are more common and less serious than those between the villagers and the outsider like companies and government authorities. According to the villagers, not every conflict is related to Form 7, and more than half of the respondents disagreed with the idea that Form 7 can cause more conflicts. However, the research team reported that when Form 7

increased land's value, inheritance conflicts could become more serious, and they expected these would be more common in the future as more land was registered. The Farmland Law fails to lay out clear criteria for awarding Form 7 in the case of disputes; the case below demonstrates that village-level adjudication remains critical, even after registration.

*Box 5: Inheritance case between two brothers*

*Two brothers in Nyang Taw Village inherited six acres of land from their father. The elder brother cleared the land, which cost about 50 lakhs. Then, the elder brother passed away. The younger brother applied Form 7 for those lands. The wife of the elder brothers was not satisfied with this arrangement and complained to the Village Head. The Village Head and village land committee asked the younger brother to give 20 lakhs to his sister-in-law and let her work on those lands for six years. He will own the land after she has worked on them for six years. Both accepted the decision and the case was solved at the village level.*

The other common cases in study villages were the boundary or squatting cases between the villagers or between the villagers and outsiders. As discussed above, these cases are easier to solve if one side has Form 7 for the lands they are claiming. However, this introduces new potential inequalities if disputes are always resolved in favor of those with Form 7, who are often wealthy, well-connected, businesses or lowland farmers with strong ties to government. As discussed above, those who have Form 7 can secure their lands more when they rent those out to others, which could reduce future conflicts. However, while one side having Form 7 makes it procedurally easier to determine legal ownership, it raises justice problems given inequalities in access to the document.

Ultimately, tenure must be secured by somebody, in this case the Myanmar Government. Respondents in our study distinguished between two levels of relationships: at a basic level, just knowing each other and being familiar with each other, and at a higher level, familiarity that allows open discussion and negotiation. Generally, respondents felt that while the registration process increased basic communication with government staff for the parties who interacted directly with DALMs, it did not necessarily result in an ongoing, stronger relationship.

Respondents in more than half of the FGDs agreed that they became more confident to communicate with the government staff through the Form 7 registration process. Moreover, some noted that after registration, they dared to speak with staff and ask for help, as they have Form 7 in their hands. As some villagers have to go to the office themselves to apply for Form 7, they met with the government staff and spoke with them. Some said this experience led them to feel that they know each other and later they became closer. On the other hand, it cannot be said that all villagers became familiar with all government staff and have the confidence to communicate with them. It depends on who goes to the office, which office they usually go to, and who they communicate with. For example, as discussed in the 2015 report and other research on gender and land in Myanmar, women rarely communicate with officials, go to government offices, or have their names on land titles. While some men said that after going to the department and dealing with the DALMs staff, they felt more comfortable to communicate with other government staff, that does not necessarily mean women feel equally comfortable.

For the government staff, having more communication and interaction with the villagers is not always easy or desirable. One CSO participant in FGD said, *"This is the age when the government staff are afraid of the local people."* For example, when Spectrum conducted a training in one village, the DALMs head officer was also involved. The local people asked a lot of questions and he didn't know how to answer. When telling this story, Spectrum staff explained that people are now more active and less scared to ask questions and to request what they want. With such exposure, they can understand more about how the staff are working, if they are working well, and if they are fair. If they are not, the relationship between villagers and government staff will become worse. This was evident in the 2015 research, where some farmers displayed strong resentment against government staff for corruption and high bribes for registration.

Villagers from Nyaung Kone, Wu Yan, and Nam Shei Kawt who applied for Form 7 as a group with the help of NGO or the village head

disagreed with the idea that registering land improved relationships with government. This is because they worked with village leaders and NGOs, they did not need to go to the government office and had never communicated with government staff themselves. The villagers from Nyaung Taw also disagreed that registration had improved government relations. Although they had to communicate with the staff for their Form 7 applications, they said that they did not feel closer with them and there was no more communication afterwards.

One Shan man participating in a focus group discussion said, *"We ethnic people see the government office as a place where we go only when we have problems."* He continued that they do not usually feel comfortable to go to any government office, but that at the time of the Form 7 application, they could not avoid going to the office since Form 7 was now very important for them to be able to get a loan for investment for farming. In his telling, the Form 7 application sends the villagers to the office, makes them communicate with the government staff when they otherwise would not go.

## Key Findings

- Farmers agreed that Form 7 provides evidence of their land tenure and they feel more secure renting land for multiple years if they have Form 7.
- Farmers believe they can use Form 7 to defend their land against encroachment from other people, but not necessarily companies or the state. They believe having Form 7 makes it more likely they will receive compensation if land is seized.
- Farmers understood that their right to use the land may be withdrawn if they do not follow the rules set out on Form 7.
- While most respondents did not think Form 7 caused conflicts over land, increased land values and the registration process itself may exacerbate inheritance disputes.
- Form 7 is being used as key evidence to adjudicate local land conflicts, for example boundary disputes.



- The Farmland Law rules do not lay out clear criteria for adjudicating tenure disputes. As a result, it is not clear who 'deserves' registration, and conflicts are resolved on a case-by-case basis. This introduces potential inequalities given unequal registration access.
- Many respondents agreed that Form 7 application builds relationships with government officials, and that they feel more confident interacting with government

because they have Form 7 in hand. But respondents who did not go to the office themselves stated that they did not have improved government relationships because they did not interact with officials directly.

- More frequent interactions does not always mean better relationships; corruption payments and perceived unfairness can breed distrust between farmers and officials.

# Conclusion

Enabling and securing productive livelihoods for farmers is a critical goal, but Form 7 appears to be a very limited tool either to unlock investment or to support smallholders in Kachin State. There was not strong evidence of an increase of land value due to registration in our study, in part because of the costs and difficulty of transferring Form 7, and informal land markets continued to function much as they had before the 2012 Farmland Law legalized land sales. While farmers considered access to low-interest MADB loans the main benefit of farmland registration, not all farmers with Form 7 were able to get them. As studies in lowland areas have shown, these modest loans do not constitute substantial state support for farmers (Boutry et. al. 2017). In our study, farmers without Form 7 complained about not being able to get MADB loans that had previously been available to them with a tax receipt. For those without Form 7, the loss of an opportunity for this loan was experienced as a restriction of opportunities, rather than as an expansion of rights. Similarly, farmers noted that Form 7 was contingent upon them 'following the rules' in ways that restricted their crop choice and ability to make a living from agriculture. Supporting agriculture and ensuring farmers' livelihoods requires confronting rising labor costs, migration, mechanization and debt, as well as regulating agribusiness expansion and prioritizing sustainable production; in Kachin State, as in the lowlands, Form 7 does very little to address these larger issues.

While farmland registration does enhance landholders' sense of security, this appeared to translate into defensible claims in local cases, and to hopes for compensation if government or companies seized land. Form 7 is increasingly used as one proof of land rights, but while it might help farmers kick out an encroaching neighbor, villagers and CSOs were skeptical that Form 7 could secure land against powerful outside entities, and this study found no evidence to the contrary. The case of privatization of village grazing land by an outsider demonstrates new exclusions enacted through

formalization. Because the Farmland Law rules fail to clarify the criteria for awarding Form 7 and, in practice, registration often goes to elites, farmland registration runs the risk of being deeply regressive. At a local level, it appears that Form 7 can either exacerbate existing disputes or provide a pathway to resolution at a local level. These findings highlight the fundamental question of who gets farmland registration documents – if these documents are being used to determine rightful owners in disputed cases, the legitimacy and efficacy of the registration process is even more important. In the cases highlighted here, the 'rightful' owner is not easy to determine – patrilineal inheritance norms, original ownership, and actual experience working the land come into conflict, demanding a normative determination of who deserves the land.

Well-connected outsiders, rich villagers, and those with knowledge of the law or an active Village Head were more likely to get Form 7. In areas where only some farmers have documents for their land, inequalities associated with registration access and benefits are likely to be far greater, for example when some farmers can access loans and defend their claims and others cannot. These findings have implications for other ethnic minority areas where farmland registration remains incomplete and uneven. The process of registering land also brings some farmers into contact with government staff, which can increase confidence to interact with officials. However, the potential of registration to build personal relationships and sense of state support or protection was also limited. Frequent interactions did not always mean better relationships, especially when corruption and perceived unfairness dominate. Some noted that in cases where the Village Head or CSOs took the lead on registering, only those actors had improved relationships to the government; the document-holders never cultivated a direct connection. Despite this finding, collective registration remained a key strategy to reduce costs, time and inequalities associated with registration.

Farmland registration in particular and land formalization in general must be understood within particular places and their politics. Our findings support and extend research in the Dry Zone and Delta that shows that Form 7 offers limited security and support for agricultural livelihoods (Boutry et. al. 2017). Unlike lowland areas, many farmers in our study remained without Form 7 seven years after the Farmland Law was passed, even in villages under government administration with CSOs supporting registration. This fact speaks to policy and implementation failures of national land administration in

Kachin State. When registration is more limited, the possibility of new exclusions and inequalities is more pronounced. Farmers perceived Form 7 as a new tool to employ in disputes and in defense of land, one that enables the productivity and security of those with the document, and reduces them for those without. The challenge for land governance going forward will be to find ways to adapt national policies to the realities of ethnic minority States, while promoting sustainable land use and mitigating widening inequalities within villages, and between States and Divisions.

# Recommendations

## **For policy makers:**

- Debate and decide the overarching goals and equity of land reforms before enacting new policies.
- Establish an affordable and accessible farmland registration process that covers the diverse types of farmland cultivated by farmers in Myanmar, including taungya, rotational taungya, gardens, and orchards. This requires reviewing and clarifying the definition of farmland in the 2012 Farmland Law and in related rules, procedures, and practices.
- Allow farmers to freely choose their crops. Farmers understand that their land tenure is dependent on restrictive regulations governing crop choice. These regulations prevent farmers from adapting to the most profitable and suitable crops for their situation.
- Clarify the farmland registration fee and support implementation at the township level, including by allocating resources to help remote areas and poor farmers register land.
- Create clear costs and procedures for transfer of Form 7s and encourage default joint titles to spouses.
- Align existing national policies and laws related to land across land types with the aim of security rights for cultivation in uplands and lowlands through the National Land Use Policy and National Land Law. This includes creating effective mechanisms to recognize customary tenure in line with the National Land Use Policy.
- Legislate and adjudicate clear criteria for deciding land claims and resolving conflicts.
- Provide additional and holistic support to farmers for sustainable agriculture.

## **For further research:**

- Seek to understand debt, investment and smallholder economies in diverse parts of the country.
- Seek specific evidence about whether Form 7 provides security at the village level and beyond, for example documenting and analyzing cases in which Form 7 is used in court.
- Explore the changing nature of land markets and land conflicts in Kachin State.
- Document the challenges and impacts of formalization in upland areas.
- Research the livelihood trajectories of people who rent, sell or keep land in the face of agri business expansion.



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