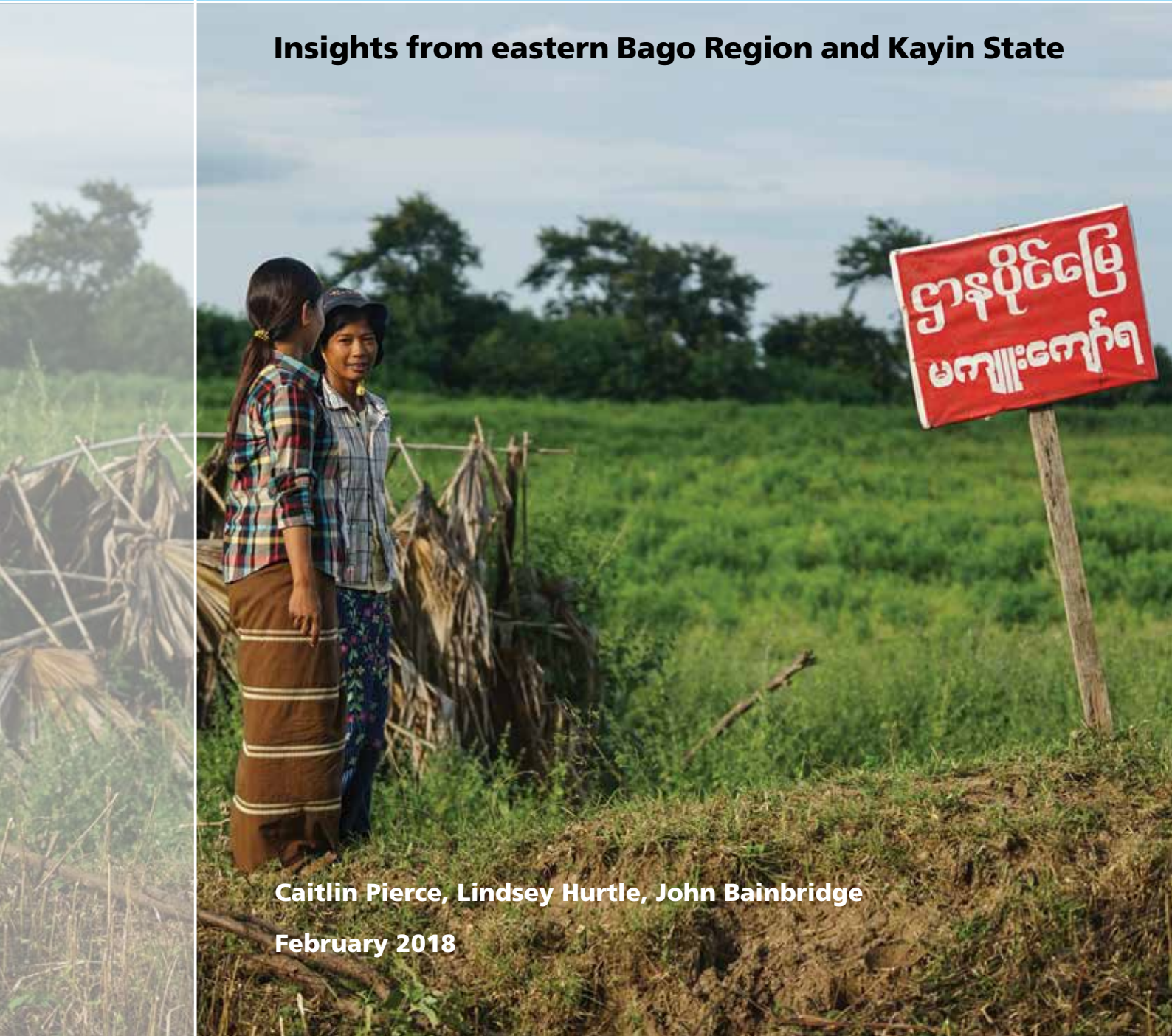
REPORT

SAFERWORLD
PREVENTING VIOLENT CONFLICT. BUILDING SAFER LIVES

Gendered experiences of land confiscation in Myanmar

Insights from eastern Bago Region and Kayin State



Caitlin Pierce, Lindsey Hurtle, John Bainbridge

February 2018

Gendered experiences of land confiscation in Myanmar

Insights from eastern Bago Region and Kayin State

Caitlin Pierce, Lindsey Hurtle, John Bainbridge

FEBRUARY 2018

Acknowledgements

This research was undertaken with the assistance of Hser Mu Htaw, a civil society organisation operating in eastern Bago Region and Kayin State, southeast Myanmar. It was funded by Oxfam Novib. The report has benefited greatly from review by Saw Lin Chel, Hesta Groenewald, Theo Hollander and Kim Jolliffe. It was copy edited by Jessica Summers and Kay Humphrey, and designed by Jane Stevenson.

Contents

Executive summary

THE IMPACT OF LAND CONFISCATION should not be understated. In Myanmar, it is estimated that from 2010 to 2017, large-scale land confiscations across the country increased by 170 per cent.[1] Compulsory land acquisitions are increasingly undertaken for the purposes of large-scale investment and development programmes for state-sponsored agriculture projects, agro-industrial plantations, infrastructure, mining, and for the creation of Special Economic Zones.[2] This increase in land confiscations continues to disproportionately impact Myanmar's rural populations, where 70 per cent of people depend on land to support themselves. For participants in our study, land confiscations have led to significant destruction of their livelihoods, causing economic insecurity, psychological trauma – leading to heightened stress and anxiety – and intra- and inter-household conflicts in communities who have no clear pathways for redress. Structural systems relating to land in Myanmar are also gendered – land ownership is predominantly male in both formal registration and customary land tenure systems.[3]

The aim of this report is to improve understanding of how to mainstream gender sensitivity into actions that seek to support communities to address land confiscations. It presents the synthesis of two two-day workshops with a group of 12 men and 12 women affected by land confiscations from Taungoo and Htantabin townships in eastern Bago Region and Thandaunggyi Township in Kayin State. Therefore, it is important to note that the small sample may not necessarily be representative of gendered experiences of land confiscation elsewhere in Myanmar. These areas have, to varying degrees, been impacted by armed conflict between the Myanmar Armed Forces (Tatmadaw) and Ethnic Armed Organisations (EAOs). For participants from these areas the impact of land confiscation is often felt even more acutely. The workshops examined gendered experiences of land confiscation, its different impacts on men and women, and the ways in which men and women attempt to resolve land disputes. The workshops were organised by Hser Mu Htaw, a civil society organisation operating in eastern Bago Region and Kayin State. Most of the workshop participants were involved in activities to find redress for their land cases. This report also draws on relevant literature to substantiate findings.

Gender expectations, norms and roles heavily influence how land confiscation impacts men and women differently. Men's masculine identities are closely tied to access to or ownership of land and their expected role as providers for their families; while

1 Global Justice Centre (2017), 'Vulnerable land, vulnerable women: Gender dimensions of land grabbing in Myanmar', May, p 9.

2 *Op cit* Global Justice Centre (2017). See also Faxon H (2015), 'The Praxis of Access: Gender in Myanmar's National Land Use Policy', May. KHRG (2015), 'With only our voices, what can we do? Land confiscation and local response in southeast Myanmar', June. UNDP and ADB (2016),'Gender equality and women's rights in Myanmar: A situation analysis'. South A and Jolliffe K (2015), 'Forced migration and the Myanmar peace process', UNHCR New Issues in Refugee Research Paper No. 274, February.

3 *Op cit* Faxon H (2015).

women's feminine identities are centred on their expected role as family caregivers, even though in reality, they make an important contribution to providing for the family economically. The practices of inheritance, ownership, and decision-making over land are also influenced by the expectations of the roles that men and women fill. While men and women have equal rights to inherit and own land under Myanmar law, among the people interviewed, men were often favoured to own and inherit land, and to make decisions about land issues.

In the formal land ownership system, men predominantly hold land-use certificates. Gender norms among many of Myanmar's ethnic nationalities dictate that the father or husband (if alive) is officially considered the head of the household – a status that must be given to one member of each household in accordance with Myanmar governance systems. Female-headed households are often those in which the husband has left or passed away, or in which both parents have died and the eldest child is female. As a result, even though men and women have the same legal right to register land regardless of whether or not they are the head of household, a lack of understanding of land laws (by both government land officials and communities), combined with societal norms, results in most land being registered in men's names only.

Our research found that land confiscation has a considerable impact on gender roles within the family. The men in this research said that they experienced a significant decline in their ability to be a provider, while the women experienced a significant increase in their workload. Because of decreased family income due to land confiscation, women were expected to generate an income in other ways, which they mostly did through daily wage labour. However, the expectation that women should take charge of household duties did not decline, and some of the female participants in this research said that they were sleeping less to create enough time for all these activities. For the majority of men who participated in this research, having their land confiscated reduced their ability to fulfil their gender expectation of being a provider, and alternative income generation strategies appeared to be a poor substitute for their status as the provider in the family. When men had to work as daily wage labourers, they worked further away from their families and contributed less to parenting than if they had been able to work on their own land.

Land confiscations are not, however, a new phenomenon, and the participants in this research identified that the Tatmadaw has consistently been and continues to be responsible for more land confiscation cases than any other actor in their areas. Participants described a range of perceived motivations for the Tatmadaw in undertaking such compulsory land acquisitions, including to secure geographical military advances against EAOs, and for economic and political purposes through the preference of state-owned conglomerates, or indirectly through military-backed companies.

Both male and female participants were engaged directly in trying to resolve their land confiscation issues, and it became clear that gender – combined with age, motivation, and other personality traits – determined who in the household took a leadership role. Men and women both shared stories that revealed an agreed perspective that in some particularly sensitive cases, women were better suited than men to interact with officials, especially in cases where they were negotiating directly with the Tatmadaw. Male participants suggested that this was the case because the Tatmadaw is more paternalistic and less aggressive towards women than men, and that women were more likely to be successful in negotiation. This may also, however, demonstrate that men's safety is given priority over women's. Female participants believed that it was women's negotiation skills that made them better suited to deal with authorities. Women emphasised their abilities to be more diplomatic and respectful to authority figures than men, and they saw this as giving them a greater chance of being successful in submitting land complaints.

Women and men both reported that their experiences in fighting for land justice helped them learn new skills, become braver, and become leaders in their communities. For men, this reinforced positive male identities; for women it created new ones. Female participants who were involved in redress activities said losing their land was a catalyst for allowing them to become leaders in their families and communities. They reported becoming braver in the process of trying to get land back, and they strove to further their knowledge about land rights and law. The more work they did, the more confidence they developed, and as a result, their communities started relying on them as leaders for many issues, not just land. Men saw themselves as demonstrating bravery, perseverance, leadership, vision, and becoming more educated, and this felt to them like an expression of masculinity. Some male participants explained that they felt shame and a sense of failure when they were unsuccessful in reclaiming land; female participants articulated frustration with their skills and the political system, but not shame. While men expressed feelings of pressure and anxiety when losing land, they said that the emotional burden of losing inherited land that had been in the family for generations was far worse.

For land users in areas affected by armed conflict, the impact of land confiscation was often felt even more acutely. Many research participants remain deeply mistrustful of government and the ability of land departments to fairly resolve their claims. They felt that governance reforms and the peace process had not made it easier to seek redress to their land confiscation cases and, in the majority of cases, participants in our research felt that an influx of businesses and state-sponsored agricultural or development programmes had made their situation even more untenable.

The overarching finding of this initial research was that the majority of participants, despite having suffered a range of human rights violations as a result of conflict, said that having their land confiscated had the greatest impact on them out of all these violations, and with the gravest long-term consequences. This study improves understanding on how land confiscations impact communities differently in terms of their geographical locations (lowlands versus highlands) and their ethnicity, but also in deeply gendered ways.

Given these gender dynamics, any support to livelihoods diversion or community development to mitigate the impacts of land confiscations needs to be carefully calibrated with gender norms and roles in mind. Similarly, training and support to communities on legal knowledge and concrete skills to seek restitution for land loss need to be targeted at both men and women in a gender-sensitive manner. Practically, the research showed that communities are more successful in these claims when they are organised in groups and when these groups include active men and women. Where livelihoods support is provided to counter the negative impacts of land confiscations, these need to be gender-sensitive in recognising the expectations placed on men and women of different ages, locations and identities; but also on the impact on their well-being as individuals and within their families and communities. For instance, men and women travelling away from their families diminishes their positive roles of being loving and caring parents (both men and women), and for women, alternative livelihood options should not lead to an even higher workload that undermines their well-being. New livelihood options could also provide opportunities for more equal gender relationships in decision-making on household income, and in family and community affairs. Finally, this report recommends that more work is undertaken to make information about land claims more accessible to men and women in affected communities, and to conduct advocacy to ensure that claims processes provide gender-equal access to land.

1

Introduction

THE AIM OF THIS REPORT is to improve understanding of how to mainstream gender sensitivity into actions that seek to support communities to address land confiscations. The research has three primary areas of focus: gender expectations, norms and dynamics related to land use and ownership; the impact of land confiscations on families and individuals; and the process of solving land cases.

Many of the findings demonstrate how socially held beliefs about the expectations of men and women interact with structural systems in Myanmar – such as formal registration and customary land tenure systems advantaging men over women in land ownership. For example, gender norms among many of Myanmar's ethnic nationalities dictate that the father or husband (if alive) is officially considered the head of the household[4] – a status that must be given to one member of each household in accordance with Myanmar governance systems. Therefore in the formal land ownership system, men predominantly hold land use certificates.

Our research suggests that land confiscation has a considerable impact on gender roles within the family. The men in this research said that they experienced a significant decline in their ability to be providers, while the women experienced a significant increase in their workload. In regards to the role of male and female research participants engaged directly in trying to resolve their land confiscation issues, it became clear that gender – combined with age, motivation, and other personality traits – determined who in the household and broader community took a leadership role.

There is a long history of forcible land confiscations in both conflict-affected and peaceful areas of Myanmar. The effects of these confiscations cannot be overstated: nearly 70 per cent of Myanmar's population depend on land for their income, food, traditions, and identities as farmers.[5] When an individual's land is taken from them they face a grave sense of injustice and livelihood insecurity, which can lead to anxiety and anger. While land loss affects both men and women, the impacts differ and are typically determined by men's and women's relationships to the land and their gender roles and responsibilities, as well as legal, institutional and social inequalities. This further influences how men and women are able to respond to land-related injustices and how they can mitigate the effects.

A cross-cutting theme in the research, which was especially applicable to those from the highlands in Kayin State, was that despite the variety of conflict and human rights abuses experienced in their lifetime, all of the participants said that having their land taken from them had the most severe and longest lasting impacts on them and their

4 For more details on gendered roles and norms, see The Gender Equality Network (2015), 'Raising the curtain: Cultural norms, social practices and gender equality in Myanmar', Yangon, Myanmar.

5 TNI (2015), 'Linking women and land in Myanmar: Recognising gender in the national land use policy', February. See also FAO (2018), 'Myanmar at a glance'.

families. A young Karen man articulated that he saw land confiscation as a continuation of conflict against the Karen people, and this compounded his feelings of powerlessness.

In the southeast of Myanmar active fighting was greatly reduced with the signing of a series of bilateral ceasefires from 2012–2014 between the government and various Ethnic Armed Organisations (EAOs) – a process that led to the signing of the Nationwide Ceasefire Agreement (NCA) in 2015 between eight EAOs and the government. Despite this, many communities in this area continue to be affected by the long-term consequences of conflict and ongoing violations of their rights. Past and ongoing land confiscations remain a significant problem and were seen by some participants as a perpetuation of conflict during the ceasefire period under the narrative of economic development. Land conflicts also featured prominently in community safety assessments that Saferworld conducted in 2016, and research undertaken by the Karen Human Rights Group in Thandaunggyi Township, northern Kayin State. Other issues participants mentioned were the effects of continued militarisation, a growing narcotics problem, continued forced recruitment of soldiers and administrators into armed groups, and double taxation by government and armed groups.

This report is based on a small study with men and women community members who have been affected by such land confiscations. It aims to shed light on how men and women experience land confiscation and what some of the gendered differences are in terms of the impact on and responses of communities. The report concludes with some lessons for practitioners on how interventions aimed at helping communities to find redress can be made more gender sensitive. Given the limited scope of the research, this report primarily focuses on research participants' experiences of interacting with government. However, to determine lessons that are applicable for all of Myanmar's diverse populations, further consultations and research are required. This is especially true for those populations living in ethnic borderlands where the government has little or no influence, and as such, a range of customary and EAO laws take primacy in determining land usage.

Research approach and methodology

This research relied on a participatory, qualitative methodology, using Saferworld's 'Gender analysis of conflict toolkit',[6] which offers practical exercises for participatory analysis of gender roles, behaviours and norms, and how these connect to conflict and peace dynamics. It assesses the gendered impacts of land confiscations and the gendered elements of people's efforts to seek justice for these confiscations. This approach is intended to generate learning on how to support communities in ways that do not cause harm. For instance, it is important not to entrench stereotypical gender norms that exclude women from important decision-making processes; or to focus exclusively on women and bypass men, which could add to existing feelings of male powerlessness and even lead to an increase in intimate partner violence. Indeed, interventions that are based on a good gender analysis can be gender transformative and promote gender equality. For instance, many of the female participants in this research felt that their active role in redress activities empowered them in their communities. However, the same women also reported a backlash in the form of social disapproval by some members of the community (men and women), demonstrating the need to address underlying gender norms alongside women's empowerment efforts. A gender analysis helps to articulate how men and women are impacted differently, play different roles, and make different contributions to land confiscation issues.

The research sample was small and therefore might not necessarily be representative of the gendered experiences of land confiscation elsewhere in Myanmar. The study involved a total of 24 respondents, in two two-day research workshops – one involving

6 Saferworld (2016), 'Gender analysis of conflict toolkit', available at https://www.saferworld.org.uk/resources/publications/1076-gender-analysis-of-conflict. The toolkit consists of seventeen exercises: nine which look at gender and conflict in general; four which specifically address land conflict; and four which examine conflict around extractives.

12 men from Taungoo and Htantabin in eastern Bago Region, and Thandaunggyi and Leikto in Kayin State, and one involving 12 women from Taungoo, Htantabin, Thandaunggyi and Leikto. In each group, participants were recruited by Saferworld's partner organisation Hser Mu Htaw – a local civil society organisation that supports communities in Taungoo and Thandaunggyi on development and peace issues, and helps to find redress for land confiscation. The workshop was conducted in English, Burmese, and Sgaw Karen.

All participants had directly experienced land confiscation and already knew Hser Mu Htaw, which meant sensitive issues around conflict and gender were easier to discuss because of the existing relationships. The gender analysis was limited to focusing on men and women, and did not consider sexual and gender minorities (SGM) because of the small group size and difficulties and sensitivities involved in identifying and mobilising SGM individuals. Further research is needed to understand the impacts of land confiscations on SGM individuals.

Most participants were already actively engaging authorities to find a resolution to their land cases, which they often did alongside other members in their community who had land confiscated. In cases where participants were not actively involved in solving their land case, they reported that other people were trying to settle the case on their behalf. Only a few participants in our research did not take any action. As a result, the level of active engagement on land confiscation redress among research participants may not be representative of all communities. Most participants who did take action had only started the process in recent years, either because their cases were new, or because their cases were old but they had not dared to take action prior to the governance reforms that began under President Thein Sein in 2011. Everyone who was involved in actions to settle land cases expressed a sense of frustration about the process, because they had very little power in comparison to those actors who were responsible for confiscating their land.

The research team selected and contextualised specific exercises that were most appropriate for the research objectives. The first day of the workshop focused on understanding masculine and feminine ideals and expectations, gendered division of labour, and the decision-making power of men and women. The second day comprised two components: the impacts of conflict on men and women and their strategies for coping with land loss; reflecting on how the expected traits of being considered a 'real/respected' man or woman informed the impacts of land confiscation and resolution efforts on these gender norms and expectations.

Given the small sample size, this research provides a snapshot of respondents' experiences and reflections on how having their land confiscated affected their own gender identities; and to what extent their identities enabled or inhibited their efforts to seek redress for their land cases.

2

Political and legal context of land management and land dispute resolution

SINCE 2011, governance reforms have opened channels for individuals affected by land confiscations to seek redress. Along with implementing a host of new land laws and land policies, the Myanmar government has committed to receiving citizens' claims of land confiscation, and to providing compensation or restitution to civilians for actions carried out by the military and government ministries. Under the tenure of President Thein Sein, a Parliamentary Land Investigation Commission (PLIC)[7] was established in 2012 to study land confiscation claims. By June 2015, the commission had only granted compensation for four per cent of the more than 20,000 cases it had received.[8] This Commission was officially dissolved in 2016, but was succeeded by a new Central Reinvestigation Committee by the National League for Democracy (NLD) government in the same year, with regional and state-level committees forming part of its structure.[9] The National League for Democracy (NLD) put justice for farmers at the centre of their 2015 election manifesto,[10] and this new structure was intended to provide a new multi-stakeholder mechanism for settling historical land grievances. However, for many families affected by land confiscations, justice remains elusive.

Many of the participants in this research came from areas that have, to varying degrees, been impacted by armed conflict between the Tatmadaw and EAOs. As the largest EAO in southeast Myanmar, the Karen National Union (KNU) signed a bilateral ceasefire with the government in 2012. This was followed in 2015 by the signing of the NCA between eight EAOs, including the KNU, and the government. Despite this, however, many communities in this area continue to be affected by the long-term consequences of conflict and ongoing violations of their rights. Alongside land confiscations, participants mentioned the effects of continued militarisation, a growing narcotics problem, continued forced recruitment of soldiers and administrators into armed groups, and double taxation by government and armed groups.

7 The full name is the Investigation Commission for the Prevention of Public Disenfranchisements Connected to the Confiscation of Farmland and Other Lands, also known as the Parliamentary Land Investigation Commission (PLIC), San Thein, Pyae Sone and Diepart, J-C (2017). 'Transparency Under Scrutiny. Information disclosure by the Parliamentary Land Investigation Commission in Myanmar'. MRLG Case Study Series 1, Vientiane: Mekong Region Land Governance, p 2.

8 Namati (2015),'Returns of grabbed land in Myanmar: Progress after 2 years', p 1.

9 San Thein, Pyae Sone and Diepart, J-C (2017), p 2.

10 National League for Democracy (2015), '2015 Election Manifesto', September.

Many ceasefire areas across southeast Myanmar are influenced or controlled by EAOs, meaning that there are large areas of partial or no government control. In these areas the presence or influence of the KNU administrative structure often overlaps with that of the government, and in these instances, research participants noted that communities are often confused about where to take their land restitution claims, due to unclear governance structures and competing claims by EAOs and the government for political representation and territorial control. In areas under government control, participants noted that the system surrounding land restoration is vague, complex and at times contradictory. Moreover, despite their relatively strong mandate, the state-level land confiscation investigation committees tend to refer sensitive (including military) cases to the Central Reinvestigation Committee, which slows down the process of resolving the case and returning the land to the claimants.[11] Under the previous PLIC structure, military-related cases were directly referred to and handled by the military,[12] so while the post-2016 system is an improvement, it is still not fulfilling its potential.

The military and businesses have been and continue to be responsible for more land confiscation cases than any other actor in Myanmar. During the 1990s, the military government was regularly accused of allocating land concessions in ceasefire zones in the northeast of Myanmar to business people in what has been dubbed "ceasefire capitalism".[13] This process appeared to be a deliberate strategy to profit from and control land and populations in areas where the government previously had only a limited presence.[14] Land confiscations are also increasingly occurring for the purposes of large-scale investment and development programmes for state-sponsored agriculture projects, agro-industrial plantations, infrastructure, mining, and for the creation of special economic zones, in both ceasefire areas and areas unaffected by conflict. According to the Global Justice Centre,[15] from 2010–2017, large-scale land confiscations increased by 170 per cent. The increase of land confiscations for economic development purposes impacts Myanmar's rural population, often resulting in the loss of livelihoods, economic insecurity, psychological trauma, and intra- and inter-household conflicts in communities competing for the same land resources.

11 Namati (2017), 'Myanmar's foray into deliberative democracy: Citizen participation in resolving historical land grabs', p 3

12 San Thein, Pyae Sone and Diepart, J-C (2017). p 4.

13 Woods K (2011), 'Ceasefire capitalism: military-private partnerships, resource concessions and military-state building in the Burma-China borderlands' pp 747–770.

14 *Ibid*.

15 *Op cit* Global Justice Centre (2017), p 9.

3

Gender norms and representation

MYANMAR IS A MULTI-ETHNIC COUNTRY in which patriarchal structures dominate, and where ethnicity, age and religion are important factors in people's access to opportunities and resources.

The World Economic Forum's Gender Gap Index rates women's economic participation and opportunities relatively well in Myanmar, at 26th out of 144, but places women's political empowerment at 132nd out of 144.[16] Myanmar has an extremely low representation of women in decision-making bodies. In 2016, women made up only 12.8 per cent of state and regional parliamentarians.[17] More importantly, at the local level where the majority of Myanmar communities interact with government, only 42 out of a total of 16,785 village tract or ward administrators were women, and no women were township administrators as of March 2016.[18] This is an important reflection of how society views the role of men and women in Myanmar. In the KNU, there are currently five women on the 55-member central standing committee (nine per cent). According to the KNU constitution, there must be a minimum of three women on all standing committees, including at the district and township level. However, the majority of village leaders in KNU-controlled areas are men, and it is at this level that most land claims are made.

Overall, participants in this research reflected perceptions of gender norms that were consistent with previous research on the topic in Myanmar and which conform to patriarchal systems.[19] Male participants said that a 'good woman' is expected to be good at household work (managing the children, managing family income, cooking and cleaning), be decisive in knowing right from wrong, and to support their husbands in difficult times. When female participants were asked what qualities makes someone a 'real' or 'respected' woman, they also emphasised the need for women to be good housewives, wise, faithful, polite, to know right from wrong, and to be able to guide the family. In a telling quote supporting her self-assessment of the importance of motherhood, one woman said, "the one who rocks the cradle rules the world", which reflects on women's roles in shaping future generations. Women participants also said that

16 World Economic Forum (2017), Gender Gap Report: Myanmar 2017, available at http://reports.weforum.org/global-gender-gap-report-2017/dataexplorer/#economy=MMR. Also see Oxfam, Trócaire, CARE, Action Aid (2013), 'Women and leadership in Myanmar', available at https://myanmar.oxfam.org/sites/myanmar.oxfam.org/files/file_attachments/Women%20%26%20Leadership%20%28Full%20Report_English%29.pdf

17 Namati (2016), 'Gendered aspects of land rights in Myanmar: Evidence from paralegal case work', April, p 3.

18 *Ibid*.

19 For instance *op cit* The Gender Equality Network (2015) and Bridge, The Gender Equality Network (GEN), Oxfam (2016), 'Political gender quotas. Key debates and values for Myanmar', Discussion Paper, available at https://myanmar.oxfam.org/sites/myanmar.oxfam.org/files/file_attachments/dp-political-gende-quotas-myanmar-280516-en.pdf

women who are too social or focus too much on their own fun and enjoyment are not good wives, and wives who dominate their husbands are not considered 'real women'. This suggests that for women to be considered 'real or respected', they are expected to take care of their families and homes first and foremost, while also maintaining a supportive and subservient role to their husbands, thereby leaving the patriarchal order intact.

Regarding masculinities, all men associated manhood with perseverance,[20] bravery, leadership within their communities, being a visionary (with the ability to make plans), and responsible for bringing benefits (financial and others) to their families and communities. Likewise, female participants reinforced these masculine ideals by sharing the importance of the husband to be someone they and their family could depend on financially for their livelihood and for family guidance, who has good morals (i.e. not drink excessively, take drugs, or commit adultery), and who shows compassion.

While both men and women expected each other to show compassion, be moral in character, and know right from wrong, many of the traits participants mentioned in focus group discussions also perpetuated traditional and unequal gender norms that make men the expected providers and women the expected care-givers in a family setting.

20 This could also be connected to the fact that the group of men selected were men who had to persevere in trying to resolve their land conflicts, and who were taking actions to do so.

4

Gender and land

SOCIAL CONSTRUCTS AROUND GENDER interact with structural land ownership and governance systems in Myanmar. Women are absent from nearly all formal decision-making bodies related to land. Land management and land disputes are addressed through a variety of administrative structures, which are staffed by the General Administration Department (GAD). As of 2016, only 11 per cent of gazetted GAD staff and 35 per cent of non-gazetted GAD staff were women.[21] This means that it is primarily men who implement land law and arbitrate land disputes, which can intimidate women[22] and create other barriers preventing women from seeking and receiving restitution.[23] In KNU areas, land complaints are typically submitted to the village or village tract leaders and then up to more senior officials. The majority of officials at all levels are men. Nonetheless, the KNU Constitution provides that at the village tract level, women must make up two out of seven administrative committee members. At township, district and central levels, at least three standing committee members must be female.[24]

In addition, land ownership is predominantly male in both formal registration and customary land tenure systems.[25] Under national law, men and women have equal access to land ownership and remedy, but the gender inequality that prevails in Myanmar society means that this is not the case in practice. On paper, land ownership[26] and access to grievance mechanisms are equally open to women and men. Myanmar's 2012 Farmland Law allows any member of an agricultural household that has a claim to ownership to apply for and receive a land use certificate for land that is legally categorised as farmland,[27] which is the most secure form of land ownership in Myanmar. While the Farmland Law does not explicitly allow for joint titling of land, it also does not prevent joint titling, and joint titles have been successfully issued in different parts of the country. However, joint titling in Myanmar appears to have benefited men, as the instances of joint titling appear to take place when a woman brings family land into a marriage and agrees to include her husband's name on the title in addition to hers 'out of respect', rather than when a couple purchases new land or when it is a husband

21 Namati (2016).

22 *Op cit* Faxon H (2015).

23 Chattopadhyay R and Duflo E (2004), 'Women as policy makers: Evidence from a randomised policy experiment in India', *Econometrica* **72** (5), September.

24 For more information, see Jolliffe K (2016), 'Ceasefire, governance and development: the Karen National Union in times of change', December.

25 *Op cit* Faxon H (2015, 2017).

26 In Myanmar there is no true 'land ownership' or freehold land. Rather, the state owns all land in Myanmar. In 2012 with the passage of the Farmland Law, indefinite leasehold for farmland became possible for the first time in Myanmar's history. Likewise, with the passage of the 2012 Vacant Fallow Land (VFL) law, households can apply for 50-year leases for VFL. Prior to 2012, land was legally only granted for one year at a time through the provision of form 105 to households, though in practice households have farmed the same tract of land for generations, even though this is not legally recognised.

27 It is worth emphasising that land titles can only be received for land that is legally recognised as farmland – much of the land farmed by households in the country, especially in ethnic areas, is not officially classified as farmland, but rather as forested or vacant fallow lands, and households using this land are not eligible to receive land use certificates.

who brings family land into the marriage.[28] It is most often the male head of household who applies for (and receives) a land use certificate. A lack of awareness of the law by both local government actors and communities means that few joint titles are issued.[29] This makes it more likely that men, who are usually considered the head of household, will take responsibility for formal interactions with the state in terms of paying taxes, registering land, and seeking agricultural loans.

When submitting a claim to the investigation committees or when submitting a request for records to the Department of Land Management and Surveys, a claimant or requestor must be able to demonstrate a connection to the piece of land in question. Usually this is done through tax receipts or loan books, as land use certificates did not exist before the passage of the 2012 Farmland Law. Based on anecdotal evidence, it seems that men's names appear more frequently on tax receipts than women's names, thereby creating a gender bias that undermines women's abilities to make restitution claims.[30]

While the 2015 National Land Use Policy sets out suggestions for how bylaws or implementing procedures can be made more gender inclusive, much work remains to improve public awareness and to implement existing laws to ensure gender equality in land ownership, management and disputes.

Gender roles and responsibilities related to land use

Cultural expectations of appropriate and ideal behaviours for men and women influence the roles and responsibilities that each gender takes on within communities, even though in reality the scope of roles and responsibilities is much broader and more nuanced than the ideals articulated.[31] The table overleaf shows the perceptions of male and female workshop participants on the various gender roles and responsibilities in the community.

The table demonstrates that in reality, both men and women contribute significantly to the cultivation of farms and food production for the family, yet prevailing gender norms mean the value attached to men's and women's contributions is different. Men are seen as 'farmers' and expected to have access to and control over land, while women are described as 'agricultural workers'[32] and are expected to work on their husband's land. Even though women play an important role in the agricultural production process, female participants indicated that most of the tasks they fulfil are considered support functions.

Cultivation of land is just one of a range of responsibilities women are expected to fulfil. Women are also expected to engage in tasks relating to livestock, finance and family management. Their feminine identity is arguably therefore less dependent on land ownership, but their agricultural work plays an important part in their ability to fulfil their expected roles of providing food for the household, even though they are not expected or enabled to control their access to land.

28 *Op cit* Namati (2016).

29 *Ibid* p 4.

30 Namati (2016), see also GRET (2017), 'Land tenure in rural lowland Myanmar: From historical perspectives to contemporary realities in the Dry zone and the Delta', Land Core Group (2017), 'Myanmar's First Female Farmers Forum; Reflections and Findings for Women's Land Governance', Policy brief, March. See also previous research carried out by other Myanmar-based organisations such as Namati, GRET, and Land Core Group.

31 Out of 24 individuals interviewed, only one man and one woman thought their spouses reflected the ideal traits of their gender.

32 *Op cit* Faxon H (2015), Faxon H (2017), 'In the law & on the land: Finding the female farmer in Myanmar's National Land Use Policy', January. See also *op cit* UNDP and ADB (2016).

	Workshop findings: expected tasks and roles for men and women		
	Men	**Women**	**Both**
Men's responses	Buying rice Cutting crops Carrying heavy loads Hiring or buying machinery Cultivation Hiring male workers Earning money Gathering wood Doing hard labour Climbing trees Making repairs to home and machinery Meeting with authorities Talking with visitors Resolving land disputes Buying new land Paying taxes Depositing, withdrawing, transferring money	Cooking/cleaning Carrying water Searching for vegetables Raising livestock Harvesting crops Managing income Gathering vegetables for curry Removing weeds Picking tea leaves Doing light labour Interacting with authorities if men are busy Hiring female workers Looking after children's health and education	Harvesting crops Interacting with religious leaders (particularly for marriage and baptism)
Women's responses	Pounding the land Clearing the land Preparing storage for paddy Buying land Choosing which crops to grow Earning money Making bricks Ploughing and harvesting Getting loans Registering land Paying taxes Dealing with land disputes (usually meeting with authorities – this involves travelling a long way on rough terrain. Men go because they are often more knowledgeable about land ownership than women.) Travelling long distances Growing paddy/cultivating until it is time to reap the paddy	Tying bundles of harvested rice Cooking Washing Sewing and reaping paddy Giving advice and making decisions about the children's futures Buying household items Participating in church/religious activities and community events Buying equipment/using money Borrowing money Sending children to school Looking after children's health Spending money for health Carrying out household chores Managing income	Sometimes interacting with authorities for land disputes Planting and harvesting paddy together

Gender and land ownership, inheritance and decision-making

Practices of inheritance, ownership, and decision-making over land are also influenced by expectations of the distinct roles that men and women fulfil. While men and women have equal rights to inherit and own land under Myanmar law,[33] in practice, the majority of participants said that men are usually favoured in ownership, inheritance, and in decision-making over land issues. Participants suggested that men have more control and better access to land because they are expected to look after the land, do more labour-intensive agricultural work, and provide food to sustain their families. In contrast, this study found that since women are not expected to be the predominant providers or workers on the land, they do not have as much ownership or control over land. Women are expected to play what participants defined as a "supporting"

33 Namati (2016), p 4.

role during cultivation, and assist their husband or male relatives with planting seeds, gathering the harvest, and doing light labour, while taking a leading role in managing their homes, families, and livestock. Yet when setting out the roles of women and men in agricultural production, it is clear that this assessment has more to do with gender norms that value men's work more highly than women's, than a reflection of the actual contribution of men and women to agricultural production. As a result, men's say and control over land was said to be prioritised over women's.

In the formal land ownership system in these communities, men's legal rights are assumed and they predominantly hold land use certificates, whereas women's formal rights are negotiated, i.e. it is only when they insist on these rights that they can be fulfilled. Gender norms among many of Myanmar's ethnic nationalities dictate that the father or husband (if alive) is officially considered the head of the household – a status that must be given to one member of each household in accordance with Myanmar governance systems. Female-headed households are generally those in which the husband has left or passed away, or in which both parents have died and the eldest child is female. As a result, even though men and women have the same legal right to register land, regardless of whether or not they are the head of household, a lack of understanding of the law (by both government land officials and communities) combines with societal norms to result in most land being registered in men's names only, except when women inherit land from their families.

When registering land, most participants stated that it is usually men's names listed on land titles. Some couples decided together to register the land in their husband's name: one woman explained that she used her husband's name on tax and land forms "in order to pay my respect to him"; another said that she decided that the household's land should be registered and she pushed her husband to do so, which resulted in it being registered in his name. Only one woman said that both her name and her husband's name were on the land title. A young participant said that she and her brother were starting the process to add her name to the land form for their inherited land. None of the men reported joint titles, but most of the men from highland areas also reported that they did not have land use certificates for their land, as it is officially not farmland.

Some participants stated that all children inherit land, but sons inherit more than daughters.[34] As one man said, "mostly men inherit land because he will become the breadwinner in the family. Women have the right to inherit land, but they will receive less in proportion to men because the husband will feed her, so there is no need for her to inherit a lot of land like her brothers". Similarly, a woman shared that within her family, she received fewer acres of land than her brother, and the land she received was hilly and on less fertile soil. This reflects the idea that women, even though they also actively use the land to produce food, have less say in land matters and less control over this resource as a result of prevailing gender norms prioritising men's relationship to land.[35]

When a married landowner dies, the spouse inherits the land. However, when a single man or woman passes away, participants said, "either the parents or the eldest male sibling will own and manage the land, and if the eldest sibling is female, land ownership will still be transferred to the male sibling if there is one". Participants were also asked how land was distributed after divorce. They replied that either divorce was not allowed and was uncommon in their communities; or they said that land was equally divided between husband and wife. Given the participants' lack of experience with divorce in their communities, the research was unable to examine more deeply the quality of land that would be assigned to each party.

34 This observation was not shared by all participants. Some participants said that the difference in inheritance allocation is less dependent on gender, but has more to do with the time and effort of children in looking after their parents.

35 *Op cit* Faxon H (2017).

Men also have more decision-making power over how to use land and when to buy or sell it. Men and women participants said men usually decide on which land is suitable to buy, decide whether to buy land or not, and choose which crops are suitable to plant. Some participants said both men and women decide together to buy new land, and they usually agree to register the land in the husband's name. No one reported that women alone can make decisions to buy land.

A distinction was drawn between buying and selling land, with women reporting to exert more influence than men in the decision to sell land. This may be due to how income from land sales is used, and whether some of it would be considered 'for the family' and would therefore fall under the woman's decision-making domain. Final decision-making power rests with whoever owns the land under consideration, and this, as previously outlined, is predominantly a man.

5

Gender and land confiscation

ALTHOUGH WOMEN AND MEN HAVE DIFFERENT RELATIONSHIPS TO LAND, having their household's land confiscated emerged as the gravest type of conflict that both men and women participants had experienced. This is despite the fact that the communities represented in this research have faced a variety of conflicts over the past decades.[36] Despite these experiences, male and female participants almost universally agreed that the confiscation of their or their family's land had affected them the most when compared to other violations, and they also indicated that the effects of such confiscations lasted longer.[37]

When asked about the relative impact of land confiscation, one Karen man said, "Land grab is not killing you, but it's like it is indirectly killing you… Having our land confiscated had a much bigger impact than any other type of conflict, because at the time our land was confiscated, we were already married and had a family to take care of. Those of us living in the hilly areas also have no opportunities to change our livelihood, and all our siblings' and family's land was grabbed". A Karen woman offered a similar perspective: "Everyone was affected. In Thandaunggyi, everyone suffered from four-cuts [a military strategy aimed at cutting EAOs off from all support, including from communities]. We could not bring medicine. If we were seen with medicine we were killed. We could not carry batteries because they [Tatmadaw or Myanmar military] feared we would use them to make explosives. When Tatmadaw saw people come back from fishing carrying wire, they would shoot. We had to sleep in the jungle and had to have permission letters to move from place to place. If we used flashlights the Tatmadaw would beat us. We couldn't carry fish paste or rice... [but] with four-cuts, we still had the opportunity to sneak out to our land and grow and cultivate. With land confiscation we don't have that opportunity. It is gone".

Each participant, regardless of gender, ethnicity, or primary livelihood reported that due to fear of interaction with the government and a lack of knowledge about their rights, they only began trying to reclaim their land after 2011, when the government began with reforms and announced it would start returning land that had been confiscated.

36 The types of conflicts and violence in this research were self-identified and self-prioritised. Researchers did not independently verify participants' experiences, nor are researchers able to confirm whether there may have been other types of violence that participants experienced but chose to omit from the discussion.

37 The exceptions were two Karenni women, who stated that the type of conflict which had the biggest impact on their lives was the practice of KNU conscripting boys and young men from their village.

All participants reported that some form of physical or verbal threat was involved in the process of land acquisition. This was a moment when gender identities were threatened – male participants felt that they were failing to provide for their family's safety or future by witnessing their land being taken and not fighting for it. Female participants felt they were failing to protect their children from being threatened by armed actors. However, neither group reported that inaction by men or women in their community to stop the land confiscations reflected a failing of character or gender norms. Rather, all participants reflected that military, government and corporate power was simply assumed to be greater than them at that point in time, and that any action was impossible.

Men's and women's responses to land confiscations

What became clear from these participants' experiences is that after land was confiscated, women's roles expanded beyond traditional norms. This included a broader role as provider for their families, and often as an independent actor earning wages away from their husband, rather than as a supporting agricultural worker on 'their husband's farm'. Conversely, men saw their roles as providers shrink – not only as their wives' potentially grew – but also in instances where they were not able to find suitable wage-based occupations to replace the goods that were previously provided through their own land.

For the majority of men who participated in this research, having their land confiscated reduced their ability to fulfil the general gendered expectation of 'being a provider', which according to several participants made them feel less masculine. For example, according to one man from a highland area, "for those living in the mountainous regions, men do not have other options for jobs outside of their land… they can't practise their agricultural skills. Their agricultural skills go away, and it affects their ability to be a man in the mountain area".[38] Without their land, men said that they could not work and provide for their families. One man said, "losing my land meant losing my job, and I had to start over". For those participants who did find alternative income sources such as daily wage work or other livelihood activities, they found that this contributed less to the family than what they had generated from their farms. Some men also suggested losing their land decreased their motivation to work. One of the men said, "we become active to get back our land, but we are not active anymore [in cultivating]. Even though we grow our crops, this is not our land anymore. We didn't want to work as hard anymore, since it wasn't our land". After losing land, men no longer held a sense of pride in their work. They lost the motivation to work hard for their family's livelihood and they lost financial resources – preventing them from fulfilling their masculine expectations to be providers.

Women took on new roles outside the home as day labourers, no longer working in direct support of their husbands' farming enterprises. "We had to work as daily labourers. Everyone in the family who could work as a daily labourer had to work. Women worked nearby and men worked further away". All women agreed that after taking up daily wage work, their days became longer and their work became more difficult. Even if they were ill, they had to continue to work to survive. Though women took up daily wage work further away from their homes and families, they were still expected to fulfil the same unpaid work around the house as they did before land was taken. One woman said, "we can't manage our work as well as before the land grab – we have less time for housework than before. It is more difficult to manage our time because we have too many things to do between working, taking care of the home, and trying to get our land back". One woman said, "we get more tired than before. We sleep less. We have to work by ourselves without our families and husbands nearby, and we

38 Though the sample was too small to identify patterns or draw conclusions, researchers observed that men's self-reported ability to attain or maintain masculine ideals seemed to correlate loosely with whether men came from highland or lowland areas (in the latter, more livelihood diversification opportunities were reported), and how much land (all, or only some) was confiscated.

have to work longer hours outside under the hot sun. It's more difficult. We rely on the daily income. Even if we are sick we still need to work. If we are sick [and unable to work], then we have to go into debt to have enough food for the day". Having to work in daily wage jobs significantly increased the workload of women and made it very difficult for them to fulfil the general gendered expectations of caring for their family, cooking, cleaning, and managing the household. It also has a negative impact on their health, and risks negatively affecting their children.

When taking up daily wage work, women earned less than men for the same job. Women earned 3,000–4,000 kyat per day as daily labourers, and men earned 4,000 to 5,000 kyat per day, again indicating that men's agricultural production is valued more highly than that of women's. It was difficult for the women's group to assess whether this income was equal to, more, or less than the income they earned as farmers, but they all agreed that their livelihoods and their ability to manage the household was a lot more challenging as day labourers. Women did not think that this new way of earning a living shifted decision-making power in their households in favour of men. One woman thought that switching to a wage-based livelihood after their land was confiscated meant that her husband had less decision-making authority in the household than before. "Men have less decision-making in the house [after having their land confiscated] because women earn less but [still] contribute to the home financially. Men don't give money to the home or to their wives. They spend it on themselves. So it is a woman's responsibility to decide for the household". It is unclear whether the balance of decision-making power in households changed systematically or only in a few instances. However, if women's household decision-making power can be increased, there is also potential for challenging existing gender norms. It is clear that the livelihood coping strategies employed increased women's workload. For men, the alternative livelihood opportunities were a poor substitute for their status and inadequate for their expected role as provider for the family.

6

Impacts of land confiscation on family relationships

HAVING LAND CONFISCATED affected men's and women's roles and responsibilities and their ability to fulfil their gender expectations – all of which also impacted their relationships with each other.

For both men and women, land confiscation led to an increase in stress, insomnia and anger, which also affected their roles as mothers and fathers. One male participant said that after having land confiscated, "the adults can't sleep well. The father's relationship with his children becomes cold since most of the time he has to travel for the land issue. The mother has to work for the family's livelihood on behalf of the father, when they rarely had to earn money for the family before their land was taken. Sometimes family members can't speak kindly to each other or communicate well because they are pressured by their loss and the increasing difficulties for their family to earn an income".

Men's roles as fathers and husbands were also negatively impacted after having land confiscated. Experiencing land confiscation prevented men from being able to show patience, love and understanding in their families. In the immediate aftermath, men said they experienced confusion about what to do, which often led to arguments with their wives. Several men agreed that losing their land negatively impacted their relationships with their families, and that it reduced their ability to be loving and caring fathers and husbands. One of the participants articulated this: "in the moment of hardship, you cannot be patient anymore. Sometimes you cannot show your love". Men experienced emotional stress from losing their land. Another man said, "the role of the father is under much more stress. By looking at my own father, I can see him worrying about his children's futures and jobs". Owning land allowed men to provide food for their families, and served as a form of insurance for their children's future livelihoods if they continued to farm the land. Women reported feeling that they were failing to fulfil their roles as mothers, for example, by being unable to pay for their children's education. One female participant reported that she fought with her husband because "we did not have enough income… mainly because we couldn't use money on our children's education. As a mother, I wanted to do this... but my husband said no, so I didn't have any money for the children's tuition fees".

The majority of our participants agreed that during times of financial hardship, the failure to fulfil their expected gender roles could lead to more arguments between husbands and wives. One of the participants reflected on other families who had their land confiscated in her communities: "I have seen arguments between husband and wife because they heard from the government that they would eventually get their land back and they have to wait. Then because they spent money to get back land, they feel it's wasted because you never know if you are going to get back your land, so it leads to arguments about what to do and if it's worth it [to try]". Another participant described increased fighting between her and her husband: "When my husband got involved with the land issue, I got mad at him. I told him not to get involved because it was my inherited land. We got into arguments about my land."

This research indicates that frustrations in men's and women's abilities to fulfil gender roles and the increased tension in families over financial issues and decision-making led to an increase in intimate partner violence. However, it was unclear how widespread this was due to the sensitivities surrounding this topic and the limited scope of the research. According to one of the female participants, "It is difficult in our area to earn an income after our land was taken. After the land grab, women have become closer to God, but men are much more violent than before. Men think that growing crops is their only duty, but after losing their land they feel they have no more duties. So the men just get drunk and then come back home and bring trouble. When the land grabbing happens, the men and women have to separate. The men have to work further away and the wives stay near the home so it makes their relationship more difficult". Numerous participants, especially in the women's group, indicated that men's alcohol use increased drastically after land was confiscated from them. Some women also reported that this increase in drinking was accompanied by high levels of domestic violence, occasionally involving weapons, when men were drunk. Moreover, the women's group acknowledged that some women also started drinking alcohol to help them overcome stress-related insomnia that they experienced after their land was taken, which they indicated was incongruous with their desired feminine traits. Overall, it seems that drinking alcohol became a coping strategy for both men and women.

7

Resolving land confiscation cases

AFTER THE THEIN SEIN GOVERNMENT announced in 2011 that land would start being returned to citizens, some of our male and female participants began the process of submitting their land complaints. Many participants said they attempted to get their land back after 2011, because they saw the new government leadership providing an opportunity to more safely voice their complaints about the involvement of the military, government, companies, or powerful individuals in confiscating their land. Individuals often decided to act through discussions within their families, after which they brought the issue to their local village leaders or mobilised other community members who also had their land taken. In all the cases that our participants raised, there were other people in the community who had suffered from the same land confiscation, so often the people affected worked together to produce complaint letters or take other action.

Our research indicates that both men and women play an active role in land restitution/redress activities, even though seeking resolution was regarded by men as more of a male than a female role.[39] Interestingly, in most instances, individuals interviewed for this research reported that in their household they were alone in engaging with authorities to try to resolve their case. In the few instances where men or women reported that they and their spouse were both engaged in trying to resolve the land issue, it appeared to be in households where the respondents had reported a strong partnership and joint decision-making on a variety of issues – for example, decisions about children's schooling and on whether to buy or sell land. However, not all men were engaged, nor were all women engaged. Some men were not engaged because they trusted others in their community who were leading a collective effort to fight for their land, or because an older family member (in the example given, a sister) was leading the effort. Of four women who were not engaged, two were over sixty years old, and their sons were leading the effort; for another one, her sister was leading the effort because she was older.

Age, connections, confidence and personal motivation appeared to be important factors in determining an individual's roles in land restitution activities. Many of the women participants (the majority were over 45 years old) acknowledged that their age helped them take on leadership roles to seek justice for the land confiscations in their households and communities because their children were older. They were therefore not at risk of having their role as mothers threatened or their children's care affected.

39 Dispute resolution was considered by men to be a primarily male role, while women indicated that men and women could work together to resolve disputes.

One woman who has become a leader in her community said, "most of our children were already adults, so it didn't impact our ability to be mothers. If we had been younger, it would not have been okay". Another woman said that her wage-work and leadership roles created too many obligations, resulting in her children having to stop attending school. One woman leader said, "my youngest daughter had her education delayed because of me – because when I went to Naypyidaw for meetings, sometimes she came with me to learn how to do this work, but sometimes my daughter would stay home to cook. My daughter didn't finish grade ten". Another woman who is a civil society leader explained that on days when she is home late due to her involvement in community work, her husband cooks the dinner. Most of the women who were the primary members of their household involved in seeking justice reported that their husbands did not fulfil the role of being good husbands due to a variety of factors such as laziness, alcoholism, or lack of intelligence. One woman leader explained that her own engagement in resolving land cases and becoming a community leader was because her husband lacked the motivation, while she was motivated: "In 2012 I went to a workshop about land rights and empowerment. Men were invited but they were not interested, so it was just women who went. After that, I worked with Geographic Information System (GIS) experts, community-based organisations (CBOs), and I even travelled to Hpa An to talk to the Forestry Department about our land".

In some cases, when women asserted themselves in public it defied existing gender norms, which was met with social disapproval from both men and women in their wider community. After members of her community had their land confiscated, a female participant said, "Women received training and felt more confident to take leadership roles in their community. Men don't like this because they always expect women to be subordinate, and for men to be superior, so they didn't like it when women started becoming leaders. The more we took on this role, the more confident we became". Women participants also suggested that some women did not support or approve of them taking leadership roles after their land was taken. One woman said, "in the village if you can speak up, women encourage you. In the town it's different – when a woman speaks up, other women think that women shouldn't take on that [leadership] role".

Even though female participants in this research took an active role in land restitution, the majority of male participants felt that it was mostly a man's responsibility to lead land restitution activities, to set the strategy and make vital decisions. A group of men stated that it is men's responsibility to get back their land because the process involves frequent long-distance travel on poor roads, and this is perceived as unsafe for women. Men said that women offer support in other ways, such as by cooking food and preparing their homes for meetings, and in some cases assisting with compiling relevant documents. Conversely, women participants stated that they often travel far distances on their own (including to other states or Naypyidaw, Myanmar's administrative capital), to have their cases heard. They know there is a social taboo against doing so, but they said that their journeys were necessary to fight for their land.

When asked about it, the majority of male participants who took a leading role in land restitution activities felt that it was at the expense of their role as husbands and fathers: "Since we work for the majority we feel proud: we are fulfilling our duty to protect the community. But when we look at the house, we feel that we are not fulfilling our duty. This makes us feel sad, because we can't provide for the children". Our research showed that if men took action to resolve land issues, their time was taken up attending meetings and travelling to different government departments. This meant they had little time to work to provide for the family. If men were forced to work as daily wage-labourers, they worked further away from their families and contributed less to the family than if they had been able to work on their own land. Several men explained the difficulties and complexity of experiencing land confiscation in that it made men unable to fulfil their role as fathers, but simultaneously made them more capable leaders in their communities. "When you experience emotional distress, you cannot speak happily

and enjoy each other in the family. You show less love. There are two parts to our ability to show love and kindness. We are giving less time to the family and we show less love than before, but we are also caring for other victims who had land confiscated".

Some participants had experience of directly negotiating with the Tatmadaw to resolve their land disputes. The men's and women's groups both shared stories that revealed an agreed perspective that in some particularly sensitive cases, especially when engaging with the Tatmadaw, women were better suited to interact with officials than men, which has been similarly supported by other research findings.[40] Men drew this conclusion from a security perspective, suggesting that the Tatmadaw is more paternalistic towards women, and less aggressive towards women than men, meaning that women were more likely to be successful in negotiation. Men may be at actual or perceived risk of violence when interacting with officials over land confiscations due to the threat of being arrested or tortured. They therefore felt that it was less risky for women to engage with the Tatmadaw than men. It is also possible that women may face risks of sexual violence, although this was not specifically discussed during the research.[41]

Conversely, women participants perceived their negotiation skills as making them better suited for dealing with authorities. They emphasised their ability to be more diplomatic and respectful to authority figures than men. They believed this gave them a greater chance of being successful in submitting land complaints.

Women and men both reported that their experiences attempting to seek redress for their land cases helped them learn new skills, become braver, and become leaders in their communities. For men, this reinforced positive male identities; for women it created new ones. Female participants who were involved in redress activities said they perceived losing their land as a catalyst for allowing them to become leaders in their families and communities. They reported becoming braver in the process of trying to get land back, and they strove to further their knowledge about land rights and law. The more work they did, the more confidence they developed, and as a result, their communities started relying on them as leaders for many issues, not just land. As one woman explained: "my self-confidence to speak in front of people increased because I had to stand and speak in front of people to assert my rights and fight". Other participants specifically said that their communication skills improved: "Our communication improved because we had to interact with different authorities". Some women suggested that gaining leadership skills also improved their patience. One participant said, "I felt like I had to be much more patient than before, because I had to learn how to communicate with CBOs and others to help. I also had to learn to be more patient with my husband, because he didn't like me working with men in CBOs without him there, even though they are the age of my son or grandson. My husband stopped being patient, so I had to be". Many of the women said they developed new skills, confidence, and the opportunity to show bravery and to be leaders in the community – characteristics commonly associated with men and masculinity. Because of this, women also experienced a backlash from some members of their community, both men and women, who disapproved of the role they played as it defied norms around femininity.

Men perceived themselves as demonstrating bravery, perseverance, leadership, vision, and as becoming more educated. Men said that land confiscations served as a catalyst for improving their leadership and education. They had to learn to conduct meetings and negotiate with officials. One man said, "we became better community leaders.

40 *Op cit* Namati (2016), p 4. See also: Karen Women's Organisation (2010), 'Walking amongst sharp knives; the unsung courage of women village chiefs in conflict areas of Eastern Burma'; The Asia Foundation (2014), 'Women's Participation in the Subnational Governance of Myanmar'; Karen Human Rights Group (2008), 'Village Agency: Rural Rights and Resistance in a Militarised Karen State'.

41 Although our research was unable to investigate the risk of sexual violence against women by the military in the specific context of land restitution discussions, there is strong evidence of sexual violence against women perpetrated by the military in ethnic communities in particular (e.g. http://www.burmapartnership.org/2014/11/if-they-had-hope-they-would-speak-the-ongoing-use-of-state-sponsored-sexual-violence-in-burmas-ethnic-communities-2/). More participatory research is needed to understand the nature of this risk in land-related interactions with the military and in community decision-making about whether men or women should approach the military.

When faced with land issues, our skills and education increased because we started to learn about these issues, such as land laws and our rights. Our knowledge increased". Participants suggested that before losing their land, men's bravery and perseverance may have been present, but dormant. Having their land taken from them allowed men to more easily access that part of their masculinity. Another man emphasised both his bravery and morality: "I became braver than before. I am a man, so I have to be brave. The land I own now is not stolen from others. I didn't steal it". After losing land, individuals may feel pressured to grow crops on others' land, trespass, or steal land to continue providing for their families. Thus it is significant that this man proudly shares that he withstood these pressures, enabling him to fulfil yet another aspect of being a 'real man': acting with morality.

Men felt shame and a sense of failure when they were unsuccessful in reclaiming land; women articulated frustration with their skills and the political system, but not shame. Compared to the women participants, men felt more pressure to fight, to have their land returned, and they indicated having feelings of guilt for not being able to fulfil what was expected of them. While men expressed feelings of pressure and anxiety when losing land, they said that the emotional burden of losing inherited land that had been in the family for generations was far worse. One man described how his family relied on him after their land was taken: "My parents encouraged me to get back the land because it is our ancestors' property, so we don't want to lose it. My parents are already old, so they rely on me to struggle to get back the land". He and his family are still fighting for their land; the family has very high expectations of him, as he does of himself. Similarly, a young Karen man explained, "After the land grab, I could not get my land back. I feel that I am not fulfilling the duty of the family and the village and my people. The feeling is coming from inside myself, not from any pressure outside. The feeling is coming when you see your people being oppressed. It makes me very angry". Men stated that the feeling of sadness is worse after losing inherited land. A young Karen man articulated that he saw land confiscation as a continuation of conflict against the Karen people, which compounded his feelings of guilt and powerlessness.

8

Conclusion and implications

THIS REPORT HAS EXAMINED how land confiscation is experienced differently by men and women in order to improve understanding of how to mainstream gender sensitivity into actions that seek to support communities to address land confiscations. Given the limited scope of this research, however, to determine lessons that are applicable for all of Myanmar's diverse populations, further consultations and research are required. This is especially true for those populations living in ethnic borderlands where the government has little or no influence, and as such, a range of customary and EAO laws take primacy in determining land usage. This section offers some broad lessons and reflections that have come out of the research that can contribute to advancing understanding on gender sensitivity and land use in Myanmar.

1. Gender expectations, norms and dynamics related to land use and ownership

While in reality, both men and women contribute significantly to the cultivation of farms and food production for the family, prevailing gender norms have resulted in society valuing those contributions differently. Men and women participants revealed that men are expected to be providers, leaders, and visionaries, while women are expected to manage the children, housework, family income, and to support their husbands in difficult times. In areas reliant on land and agriculture, such as our research area in eastern Bago Region, and in Kayin and Mon states, these norms contribute to men viewing themselves and being seen by others as 'farmers' since they spend more time on their land and away from their homes, thus developing an identity more closely tied to their occupation and land. On the other hand, participants indicated that women are perceived as playing a supporting, 'worker' role on their land and farms. Although they spend significant time ploughing and harvesting land and contributing to the family's income and wellbeing, these contributions are not as widely recognised.

Interviews with participants demonstrated how socially held beliefs about the expectations of men and women interact with structural systems in Myanmar – such as both formal registration and customary land tenure systems advantaging men over women in land ownership. Since men are expected to be the providers for their families, their ownership of land is also assumed and expected, while women's land ownership is often negotiated through approaching their male relatives and convincing them to add their names to land use certificates. These gender expectations and assumptions mean that often authorities and the men and women within communities

do not understand the negative consequences that single land titling under the head of household has on the rights of women and children. Organisations working on securing women's land rights should offer training on the importance of joint titling to both community members and authorities, especially authorities at the local level, which are almost entirely male-dominated.

2. Impact on family and individuals

Many participants in the workshop, especially those from the highlands in Kayin State, have experienced a variety of conflict and human rights abuses in their lifetimes, yet all of them said that having their land taken from them had the most severe and longest lasting impacts on them and their families. They noted that while the other conflicts had stark impacts, such as decreased freedom of movement, forced labour, or arbitrary arrest and violence, losing land meant losing their ability to sustain themselves, their family, and future generations. Participants also said this feeling of loss was far worse if the land taken had been land passed on within their families for generations. Men especially emphasised that they felt they were disappointing their immediate family and their ancestors for losing a possession so valuable.

Having land confiscated altered the daily activities, gender roles, and abilities of men and women to fulfil their gendered expectations, and often caused significant strain on family relationships. Without their land, participants said men, women, and in some cases children all had to work for daily wages for the family to generate enough of an income to survive. Women were working for an independent wage for the first time, although at a rate lower than men. They also worked longer hours in combination with their household work, which some participants said prevented them from fulfilling domestic tasks and reduced their sleep and well-being. Additionally, taking up daily wage work meant that the husband and wife had to work further away from each other and their homes, with men in particular travelling far to find work.

Participants suggested men's relationships with their families became more distant after having land confiscated both through decreased physical proximity and emotional distress. Working their daily wage jobs further away from home meant men had even less time and interaction with their family than before and prevented them from fulfilling their roles as fathers. Male participants expressed anxiety and sadness because they felt unable to fulfil their gendered expectation of being a provider for their families since they were making less than what they had made working their own land. Both men and women participants also indicated that these changing dynamics resulted in more family disputes and violence, alcoholism, and stress related to planning for the future.

When gendered differences and relationship dynamics are overlooked, interventions aimed at helping communities who have had their land confiscated run the risk of being gender blind and exacerbating problems. For example, interventions could further entrench stereotypical gender norms that exclude women in important decision-making processes, or interventions purely focused on women could bypass men, which could add to existing feelings of powerlessness and even lead to an increase in intimate partner violence. Programmes aimed at assisting individuals who have lost their land need to provide assistance based upon the different types of support men and women need, and make certain that their support will strengthen rather than disrupt positive family dynamics and relationships. For instance, most of the negative gendered impacts of land confiscation were caused by changes in income generation, thus livelihood diversification could reduce the negative impacts losing land has on individuals and family dynamics. Some participants believe that an over-dependence on land-based livelihoods made them particularly vulnerable to land insecurity. Therefore, a focus on gender-sensitive or gender-transformative livelihood diversification can significantly decrease the negative effects of land confiscation on affected communities.

Any livelihood diversification efforts should suit the varied needs of both men and women. For example, women generally said that they have less mobility than men because they need to be close to home to look after the children and fulfil other domestic duties. Livelihood activities that require extensive travel and/or time would be more accessible to women if alternative arrangements could be made for domestic duties, for example, by encouraging men or other family members to share household responsibilities. This should be accompanied with work around more gender-equal expectations and norms. While men's mobility was perceived to be higher than women's, it was noted that the large distances that men had to travel between work and home created tension in the family and put their non-financial responsibilities as fathers at risk.

3. Solving land cases

Fighting land cases had both positive and negative effects for men and women. Those who were most active in travelling, submitting complaints, speaking with authorities and civil society organisations, said these activities came at a cost of reducing their available time to fulfil their roles as fathers and mothers. However, men and women participants also said that fighting the legal battle to have their land returned provided them with opportunities to become leaders within their families or in their communities. Men felt they were redeeming their masculinity and self-esteem by being leaders and defending the rights of their families and communities; and women were challenging unequal gender norms by taking on new positions of power and leadership, which in some cases resulted in communities relying on these women for other issues in addition to their land claims.

The process of seeking compensation or the return of land after confiscation is costly and time consuming. It involves men and women dedicating years of determination and time to meetings and travel. While the group of male participants said they primarily took the lead in seeking redress for their land loss, discussions with women participants showed that this was not completely the case. Men said they took action to get land back because they knew more about land issues, or because they knew there would be a lot of travel involved and they felt the roads were not safe for women. They recognised that their wives helped in other ways, such as by organising complaint documents and preparing their home to be used for land committee meetings. One male participant explained how women played a key role in meeting with the Tatmadaw about the village's land claims when the men were fearful that they would be met with violence. This may also indicate that men's safety is given priority over women's. When speaking with the group of women, several participants said they took the lead in getting their family's land back, but also noted they were only able to do so because they did not have young children to look after. They said they were better suited to interact with authorities because they perceived themselves as being calmer and having better negotiation skills than their husbands.

Regardless of these efforts, all participants said they still face several barriers preventing them from receiving compensation or having their land returned to them. Several participants said they lacked understanding of existing land laws, how to formally submit their land complaints, or lacked the funds necessary to submit land complaints, which once submitted reached unresponsive authorities. Considering the enormous power imbalances between victims of land confiscation and those responsible for land confiscation, participants that were the most successful engaging with authorities about their land claims did so through collective action in land committees formed within their villages, which sought support from CBOs and local leaders. Thus, training and community support on legal knowledge, collective action, and concrete skills like writing, speaking, and negotiation or mediation should be given to both men and women so that they can better negotiate with government, Tatmadaw and other powerful actors. Better understanding is also needed about any violence men or women may face when interacting with the Tatmadaw in particular.

Furthermore, the research suggests that local government officials would be better equipped to deal with land claimants if they improved their knowledge and linguistic skills to assist men and women to follow appropriate procedures and complete formal documentation; or that free-of-charge translation services are available. In addition, government officials who deal with land restitution cases are predominantly male, and female land claimants might feel that this forms an additional barrier for them to claim their rights. Local-level government officials in particular should try to recruit more women into government bodies that deal with land cases, and they should be trained on assisting communities to submit land claims according to proper government procedures.

Bibliography

Belford A, Zaw H Y, Slodkowski A (2016), 'Insight: Suu Kyi tackles military land grabs in test of new Myanmar government', *Routers*, 3 August (https://in.reuters.com/article/myanmar-military-land/insight-suu-kyi-tackles-military-land-grabs-in-test-of-new-myanmar-government-idINKCN10E0J9)

Bridge, The Gender Equality Network (GEN), Oxfam (2016), 'Political gender quotas. Key debates and values for Myanmar', Discussion Paper (https://myanmar.oxfam.org/sites/myanmar.oxfam.org/files/file_attachments/dp-political-gende-quotas-myanmar-280516-en.pdf)

Buchanan J, Kramer T, and Woods K (2013), 'Developing disparity – regional investment in Burma's borderlands', February, pp 41

Chattopadhyay R and Duflo E (2004), 'Women as policy makers: Evidence from a randomised policy experiment in India', *Econometrica* 72 (5), September

Faxon H (2015), 'The Praxis of Access: Gender in Myanmar's National Land Use Policy', May

Faxon H (2017), 'In the law & on the land: Finding the female farmer in Myanmar's National Land Use Policy', January

Food and Agriculture Organisation of the United Nations (2018), 'Myanmar at a Glance,' (http://www.fao.org/myanmar/fao-in-myanmar/myanmar/en/)

Global Justice Centre (2017), 'Vulnerable land, vulnerable women: Gender dimensions of land grabbing in Myanmar', May

GRET (2017), 'Land tenure in rural lowland Myanmar: From historical perspectives to contemporary realities in the Dry zone and the Delta', November

Jolliffe K (2016), 'Ceasefire, governance and development: the Karen National Union in times of change', December

Karen Human Rights Group (2008), 'Village agency: Rural rights and resistance in a militarised karen state', November

Karen Human Rights Group (2015), 'With only our voices, what can we do? Land confiscation and local response in southeast Myanmar', June

Karen Women's Organisation (2010), 'Walking amongst sharp knives; the unsung courage of women village chiefs in conflict areas of Eastern Burma', February

Land Core Group (2017), 'Myanmar's First Female Farmers Forum; Reflections and Findings for Women's Land Governance', Policy brief, March

Land in Our Hands Network (2015), 'Destroying people's lives: The impact of land grabbing on communities in Myanmar', December

May Sitt Paing (2015), 'Land dispute resolution plagued by graft: lawmakers', *The Irrawady*, May, (http://www.irrawaddy.org/burma/land-dispute-resolution-plagued-by-graft-lawmakers.html)

Namati (2015), 'Returns of grabbed land in Myanmar: Progress after 2 years', December

Namati (2016), 'Gendered aspects of land rights in Myanmar: Evidence from paralegal case work', April

Namati (2017), 'Evidence is not enough to secure land rights in Myanmar', January

Namati (2017), 'Myanmar's foray into deliberative democracy: Citizen participation in resolving historical land grabs', June

National League for Democracy (2015), '2015 Election Manifesto', September

Oxfam (2017), 'Whose crops, at what price? Agricultural investment in Myanmar', February

Oxfam, Trócaire, CARE, Action Aid (2013), 'Women and leadership in Myanmar', (https://myanmar.oxfam.org/sites/myanmar.oxfam.org/files/file_attachments/Women%20%26%20Leadership%20%28Full%20Report_English%29.pdf)

Saferworld (2016), 'Gender analysis of conflict toolkit', (https://www.saferworld.org.uk/resources/publications/1076-gender-analysis-of-conflict)

San Thein, Pyae Sone and Diepart, J.-C. (2017). 'Transparency Under Scrutiny. Information disclosure by the Parliamentary Land Investigation Commission in Myanmar'. MRLG Case Study Series 1, Vientiane: Mekong Region Land Governance

South A and Jolliffe K (2015) 'Forced migration and the Myanmar peace process', UNHCR New Issues in Refugee Research Paper No. 274, February

The Asia Foundation (2014), 'Women's Participation in the Subnational Governance of Myanmar', June

The Asia Foundation (2017), 'Women's political participation in Myanmar', April

The Gender Equality Network (2015), 'Raising the curtain: Cultural norms, social practices and gender equality in Myanmar', Yangon, Myanmar

TNI (2015), 'Linking women and land in Myanmar: Recognising gender in the national land use policy', February

UNDP and ADB (2016), 'Gender equality and women's rights in Myanmar: A situation analysis', October

Woods K (2011), 'Ceasefire capitalism: military-private partnerships, resource concessions and military-state building in the Burma-China borderlands', September, *Journal of Peasant Studies* **38** (4), pp 747–770.

World Economic Forum (2017), 'Gender gap report: Myanmar 2017', (http://reports.weforum.org/global-gender-gap-report-2017/dataexplorer/#economy=MMR)

Saferworld is an independent international organisation working to prevent violent conflict and build safer lives. We work with local people affected by conflict to improve their safety and sense of security, and conduct wider research and analysis. We use this evidence and learning to improve local, national and international policies and practices that can help build lasting peace. Our priority is people – we believe in a world where everyone can lead peaceful, fulfilling lives, free from fear and insecurity.

We are a not-for-profit organisation with programmes in nearly 20 countries and territories across Africa, the Middle East, Asia and Europe.

COVER PHOTO: Women stand near their land that was confiscated. The sign reads: "Government land. Do not trespass." © SAFERWORLD/AUNG NAING SOE

SAFERWORLD

UK OFFICE
The Grayston Centre
28 Charles Square
London N1 6HT, UK
Phone: +44 (0)20 7324 4646
Fax: +44 (0)20 7324 4647
Email: general@saferworld.org.uk
Web: www.saferworld.org.uk

MYANMAR OFFICE
R 3A-B, No. (275 C), Pyay Road
Myaynigone, Sanchaung Township
Yangon, Myanmar
Phone: +95 (0) 9264802051
Email: saferworldmyanmar@saferworld.org.uk

Registered charity no. 1043843
A company limited by guarantee no. 3015948

ISBN 978–1–909390–65–2