

Questions and Answers on Land Issues in Myanmar

UNHCR has received a number of reports from refugees in camp that the land on which they once resided in Myanmar is now occupied by other people or is being used for business or development projects. This note is intended to provide some basic information on land laws and practices in Myanmar and to help guide those who may wish to re-claim land or secure alternative land in the future.



What are the land laws and practices in MYA?

Prior to displacement, most camp residents held some security over land in rural Myanmar through a traditional land use system that was created and functioned at the community level. However, this customary system is not recognized under Myanmar's national land laws, which has made it difficult for some to retain their land or re-claim land on which they once resided.

There are many laws and regulations relating to land in Myanmar. However, the four most relevant for those in camps may be the Constitution of the Republic of the Union of Myanmar (2008), the Farmland Law (2012), the Vacant, Fallow, and Virgin Lands Management Law (2012), and the Lower Myanmar Town and Village Lands Act (1898)¹

Taken together, these four laws stipulate that all land in Myanmar is owned by the government. The government has the authority to grant individuals, corporations, or development projects the right to use that land, particularly when it has been left vacant or is not being farmed.

Due to the political progress in Myanmar and the extensive natural resources found in the country, there has been a great deal of business and development initiatives in the past few years in the southeast. In addition, internal migration has brought new residents to the area. Some land, particularly that which has been left vacant, has been allocated by the Government and, in some cases, non-State actors to provide for these new demands. This may impact on the ability of some refugees to return to their place of origin.

How do I re-claim my land?

In practice, if land on which a person once lived or farmed is sitting empty and has not been re-allocated, most are able to simply return to their land. Once there, farmers have a right under the new

¹ Constitution of the Republic of the Union of Myanmar (September 2008); Farmland Law, Pyidaungsu Hluttaw Law No.11 of 2012 (March 30, 2012); The Vacant, Fallow and Virgin Lands Management Law, Pyidaungsu Hluttaw Law No.10 of 2012 (March 30, 2012); The Lower Myanmar Town and Village Lands Act, Burma Act IV of 1898, (September 9, 1899).

laws to obtain a certificate that grants them greater security over the land. This “Land Use Certificate” is available by application through the Township Land Records Department Office.² It should be noted, however, that this process does not confer ownership. It has also been criticized as complicated and expensive and land titles are reportedly difficult to obtain.

How do I obtain compensation or re-claim my land if it is now being used by another family/business/project?

There are a number of formal and informal channels that may be utilized for redress when land has been confiscated or appropriated by another. These include:

- Lodging a written complaint with the Land Investigation Commission or the Rule of Law and Stabilization Committee. This should be done by August 2014.³
- Lodging a complaint with the respective Land Utilization Management Committees at the District and Township levels.⁴
- Lodging a complaint with the respective Ministers for National Race Affairs.
- Forming a committee at the local level to seek the return of land or compensation for the use of land or loss of livelihood.
- Submitting written complaints to authorities, including the Government, KNU, and private companies, stipulating the amount and value of land that has been affected.
- Negotiating with businesses, armed groups, or government officials on the terms of land use.
- Non-Compliance – simply refusing to allow others to occupy or utilize the land.

While these methods have had a small degree of success, in practice it is very difficult to secure land or compensation once it has been confiscated or re-allocated.⁵

How will I farm and where will I live if I can't get my original piece of land back?

The Government of Myanmar, non-State actors, refugee leadership, and humanitarian organizations are all very aware that land is one of your greatest concerns and that it must be made available for those who return in order to secure a residence and establish a livelihood.

If you are unable or unwilling to return to your place of origin and have not identified another place to which you wish to return, you may choose to return to land that is being identified by national and ethnic leaders for people who have been internally displaced within Myanmar and for those who have sought protection in Thailand. There are a number of such projects that currently exist or are under development.

² Farmland Law, Chapter 2 (March 30, 2012).

³ On August 8, 2012, the Pyidaungsu Hluttaw formed an investigation committee for one year. The tenure of the commission has been extended up to August 2014. No information is available on whether the tenure of the Commission will be further extended.

⁴ Under the SPDC, the Tatmadaw confiscated land from farmers for the use of troops. Recently, the President's Office has requested that the Ministry of Defense return some of this land. A person may inquire with the relevant Committee to determine whether their confiscated land is included in the list of released land and, if so, reclaim it.

⁵ Much of the information for this note was obtained through the Karen Human Rights Group, *Losing Ground: Land Conflicts and Collective Action in Eastern Myanmar*, March 2013.

A decision on whether, when, and where to return is entirely yours to make. Some of you may wish to move independently, some may wish to move with friends and neighbors, some may follow your village or camp leadership, and some may decide not to move at all. Whatever you decide to do, it is important that you inform yourself as much as possible. Please listen in camp, ask questions of your neighbors and your leaders, learn about the environment and the availability of services in the place you are considering, and verify to every extent possible the information you receive.

If you have any questions about land issues or projects in Myanmar, please contact UNHCR. If you are in Myanmar, you may directly contact any of our offices in the Southeast.⁶ If you are in Thailand, we can work with colleagues in Myanmar to try to obtain as much information as possible to help you make an informed decision about your future.

⁶ UNHCR Myanmar has an office in the following locations in the Southeast: Mawlamyine, Hpa-An, Taungoo, Myeik, and Loikaw