



Report Briefer

June 2015

‘With only our voices, what can we do?’: Land confiscation and local response in southeast Myanmar

“Yes, now look at our ancestors’ land that has been given to us, it is all being destroyed. They do business and get money. For us we have to sacrifice, suffer, and we get nothing out of it. How much can they bully us? What is human? We are equally human, yet they do not know whether other people will be hurt or suffer. They just care about their profits and are satisfied if they get money, not caring about other people’s suffering and destruction. It is not human, it is animal...they can do whatever they want with a package of their money, but for us, with only our voices, what can we do?”

Naw T---, (female), D--- village, Kyonedoe Township, Doooplaya District/Southern Kayin State
(Interviewed in November 2014)

“There is no compensation for the land that was confiscated...And they told me ‘If you are talkative [complaining], you will not receive any money.’ So I dare not talk [complain].”

Naw D---, (female), B--- village, Ma Lay Ler village tract, Dwe Lo Township, Hpapun District/
Northeastern Kayin State (Land Grabbing Form received in July 2014)

Since December 2012, villagers in Karen communities across southeast Myanmar have reported widespread land confiscation and its associated impacts. Much of this can be attributed to the rapid expansion of domestic and international commercial interest and investment in southeast Myanmar since the January 2012 preliminary ceasefire between the Karen National Union (KNU) and the Myanmar government. Consequently, land confiscation for commercial and development purposes has emerged as a primary concern for villagers across Karen communities in southeast Myanmar. Villagers consistently reported that their perspectives on these projects were frequently excluded from either planning or implementation, and compensation was often nonexistent or insufficient. These projects often provided little or no benefit to local communities and resulted in significant harm to livelihoods and the environment. The objective of this report is to present villagers’ perspectives on land confiscation, its consequences and related community responses in southeast Myanmar.

This report draws on 126 reports written by KHRG researchers between December 2012 and January 2015, across all seven locally defined Karen Districts, which incorporate all of Kayin State and Tanintharyi Region, as well as parts of Mon State and Bago Region.

‘With only our voices, what can we do?’:

Land confiscation and local response
in southeast Myanmar



KHRG Karen Human Rights Group
Documenting the voices of villagers in rural Burma

Villagers in Thandaunggyi Township, Toungoo District/Northern Kayin State gathered to demonstrate against the building of a second dam on the Day Loh River on April 27th 2014. The construction of the Toh Boh Dam on the Day Loh River destroyed farmers’ lands due to flooding, which also submerged a bridge. Villagers are campaigning to halt the construction of the second dam and to build another bridge to make traveling easier for residents in the region. [Photo: KHRG]

Through analysis of villager testimony, this report identifies four primary project types related to land confiscation. These are 1) infrastructure projects, which include the construction of roads, bridges, dams and other projects; 2) natural resource extraction (NRE), which includes mining for gold, stone, and other minerals and metals, as well as logging; 3) commercial agriculture projects, which primarily include rubber, teak, palm and other plantations; and 4) the confiscation of land by armed actors for military purposes.

Villagers described a multitude of consequences as a result of land confiscation; most prominently livelihood issues, environmental destruction, displacement and health issues. These consequences are often felt in tandem with one another, compounding the difficulties that local communities face. Villagers reported that land confiscation caused, among other things, a loss of income and employment; loss of access to communal land, which villagers use as a source of firewood and building materials; flooding which destroys farm and pastureland; pollution of water resources resulting in water shortages, as well as skin and respiratory diseases; homelessness and economic migration.

Villagers consistently reported that they were rarely consulted prior to project implementation, nor were they commonly compensated for losses. In cases where consultation did take place, villagers reported that their concerns were often ignored or their consultations were not inclusive. In the cases where compensation was offered, it was often reported to be insufficient, or had yet to be paid. In a number of cases, rather than being provided with compensation, villagers were forced to pay high fees to re-lease their land from those who had confiscated it.

Despite widespread and varied abuses, villagers reported employing numerous individual and collective action strategies to prevent and mitigate the impact of projects. Villagers reached out to civil society organisations and the media, negotiated with actors involved in projects, lobbied both Myanmar government and Ethnic Armed Group (EAG) officials, as well as attempted to register their land or file official complaints. Furthermore, during the reporting period, KHRG received both an increase in the number of reported cases of villager agency, as well as in the variety of strategies employed by villagers compared to the previous reporting period of January 2011 to November 2012.

Rationale for the report

The objective of this report is to present villagers' perspectives on land confiscation and related community responses in southeast Myanmar. It aims to highlight the continuation of previously identified trends, as well as introduce new issue areas which have since emerged in prominence based on villager testimony since December 2012. The testimony presented in this report is the direct, lived experience of villagers in southeast Myanmar.

Its dissemination is therefore crucial for both domestic and international actors to better understand the impacts of land confiscation on the communities in which they occur.

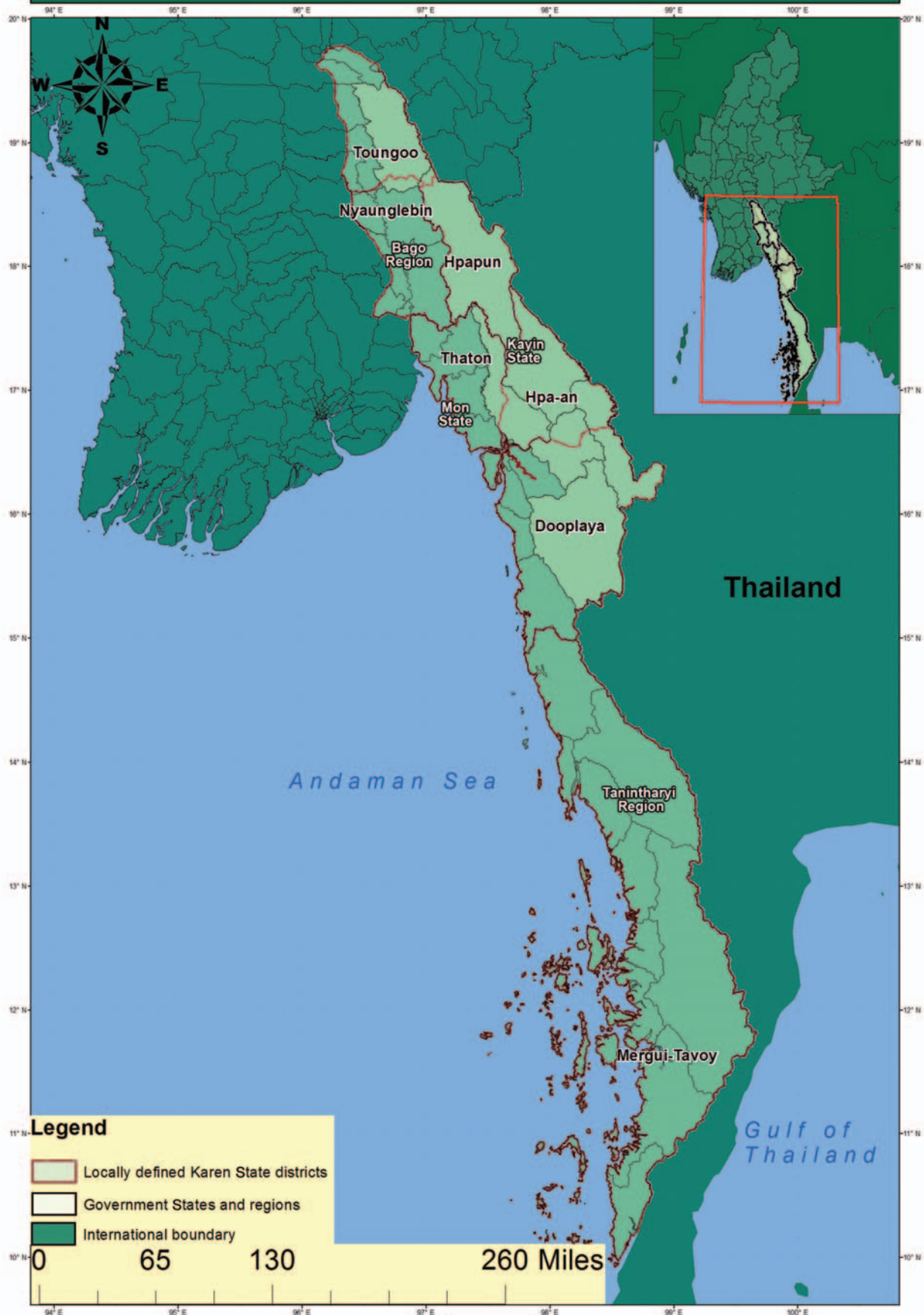
Although the nature of human rights abuses in southeast Myanmar may have changed since the 2012 preliminary ceasefire, land confiscation has been a primary grievance throughout the conflict period, and will continue to be of importance to the tenability of peace in the region. Ensuring that land tenure rights and land confiscation issues are addressed in an inclusive manner in any future agreement between the Myanmar government and the KNU is therefore crucial to the protection and promotion of human rights in southeast Myanmar.

Detailed Findings

Infrastructure Projects

- The confiscation of land for the construction of roads, including the Asian Highway, was identified in villager testimony as an important emerging issue since December 2012. This was particularly the case in Doooplaya District, where KHRG received a large quantity of reports from December 2012 to January 2015.
- Land confiscation for hydropower dams continues to be a subject of serious concern for villagers in southeast Myanmar. This is compounded by local concerns about the potential for future confiscation or destruction of land through annual flooding for those living near the reservoir catchment areas. This concern was raised particularly by those villagers living near the proposed site of the Hatgyi Dam.

Locally defined KNU and Myanmar government boundaries



"During the meeting, they said that if the dam is constructed, they will provide the electricity and moreover we will gain improvement [development] and the area that has been flooded by the water will be compensated for. Moreover, they said that the people who lost their houses will be relocated to Bago Region. So, it is a big problem for us to be relocated. The problems are not actually happening yet so, we just hold it in and let it be as it is."

Saw D---, (male, 53), J--- village,
Bu Tho Township, Hpapun
District/Northeastern Kayin State
(Incident Report received
in July 2013)



The above photo shows a paddy field in N--- villlage, Kawkareik Township, Dooplaya District/Southern Kayin State in 2014. The Thoo Lei Company previously constructed a road through this paddy field. The road is now being reconstructed again and has blocked an irrigation ditch causing the surrounding paddy fields to flood. [Photo: KHRG]

- The main effects of infrastructure projects include the destruction of villager livelihoods and the surrounding environment. On a large scale, farms and plantations have been levelled in order to build roads and flooding from dams has devastated the local environment in Kayin State.
- The lack of compensation and consultation featured as a prominent trend. Where compensation was mentioned, villagers were given a fraction of what they are entitled to or were still awaiting payment. Where consultation occurred, often, even with villager disapproval, infrastructure projects would still go ahead as planned, leading to serious consequences amounting to human rights violations.
- heavily on the surrounding natural environment for their livelihoods, environmental damage and livelihood issues often went hand in hand.
- Villagers identified Myanmar private companies and wealthy individuals as the most common perpetrators of land confiscation for NRE projects, often in collusion with armed actors and Myanmar government officials.
- In the majority of cases, villagers reported that little or no compensation was provided for confiscated land, while only a small number involved consultation with villagers prior to land confiscation. In one instance, villagers report being forced into signing agreements to hand over their land.

Natural Resource Extraction (NRE)

- Gold mining was identified as the most common NRE project to result in land confiscation. This was particularly the case in Dwe Lo Township, Hpapun District, where the majority of reports regarding land confiscation related to NRE projects were concentrated.
- Villagers reported that NRE projects, particularly gold mining, resulted in extensive environmental damage, including the release of chemicals into rivers, as well as soil erosion. As villagers rely

"Because the people who are working on the gold mining used so many chemicals, we do not dare to use the water from the river for drinking and bathing because we are afraid that it would cause diseases."

Situation Update written by a KHRG
researcher, Dwe Lo Township, Hpapun
District/Northern Kayin State (Received in
June 2014)



The photo on the left was taken on January 31st 2013 in G--- village's mining area in Bilin Township, Thaton District/Northern Mon State. The mining area is owned by U Mya Poo, owner of the Mya Poo Company, and mining began in 2009. As of 2012, seven gold mining boats of Chinese origin had arrived in the same mining area, purportedly in co-operation with the KNLA. The photo on the right was taken on April 22nd 2013 in Nyaunglebin District/Eastern Bago Region. A company owned by U Ye Htun purchases raw lumber from both Kyaukkyi and Mone townships. Villagers had previously tried to protect these logging areas.
[Photos: KHRG]

Agricultural Projects

- Rubber plantations were identified by villagers as the primary use of land confiscated for agricultural purposes, however, teak, betel nut and cardamom plantations were also cited.
- The primary perpetrators of land confiscation for agricultural projects were the Myanmar government, Karen Border Guard Forces (BGF) and private corporate actors. Collusion between state or state-backed armed actors, as well as other armed actors, and private business interests was identified as a continuing trend in southeast Myanmar.
- Land confiscated was predominantly identified as being either privately held land or communally owned. Communal land, including both land governed according to traditional land tenure systems, as well as protected forest areas, were often reclassified as 'uncultivated' prior to confiscation.

- The primary consequence of land confiscation for agricultural projects identified by villagers was livelihood issues. A decrease in access to firewood and building materials, often due to the confiscation of communal land, was identified as an emerging new trend in the current reporting period.

"Poor people who do not have land and do hill field farming have almost no land to cultivate. This is because there are many [different] authorities [armed actors] in the area, and the soldiers and some villagers worked together and sold the land to rich people from other areas, and the rich people are growing rubber trees."

Situation Update written by a KHRG researcher, Kyonedoe Township, Dooطلا District/Southern Kayin State (Received in February 2014)

Militarisation

- Land confiscation for military purposes included the building of new camps, expanding existing ones, building housing for soldiers' families, as well as for commercial projects to fund military activities.

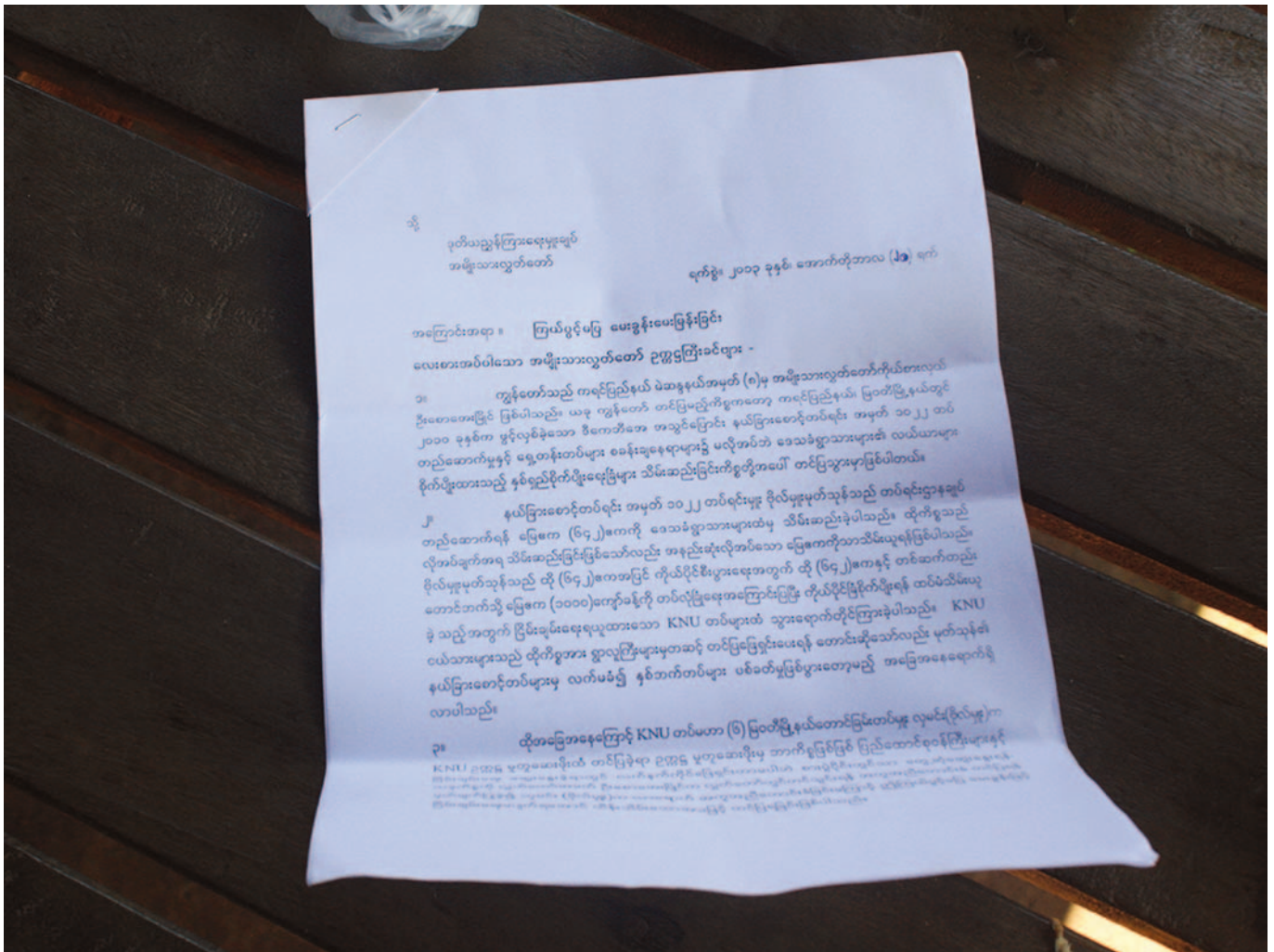
"We are unable to [work on] our farm. If we go [to the farm] they might shoot us... they built houses for the KPF [there]. We cannot work on the land. We [the villagers] just live in fear."

Maung A---, (male, 42), B--- village,
Kawkareik Township, Doooplaya District/
Southern Kayin State (Interviewed in August
2014)

- Villagers identified state and state-sponsored armed actors as the perpetrators of land confiscation. This included the Tatmadaw, BGF and Karen Peace Force (KPF).
- In the majority of cases, villagers were not consulted prior to confiscation, and in one case villagers were deliberately misled into signing an agreement which turned over land to an armed actor.
- Throughout the reporting period, KHRG continued to receive reports detailing the negative impacts of cases where land had been confiscated prior to December 2012. This particularly highlighted the ongoing trend of land grabbing by the Tatmadaw over the last several decades.



The above photo was taken on April 19th 2014 in Meh Klaw village tract, Bu Tho Township, Hpapun District/Northeastern Kayin State. This photo shows the modification and extension of Tatmadaw Ammunition Platoon #642's camp fence, which resulted in the confiscation of two acres of Saw A---'s farming fields. [Photo: KHRG]



The above photo shows a complaint letter dated October 20th 2013 and lists the names of villagers who have had land confiscated in Hpa-an and Doooplaya districts/Central & Southern Kayin State. It was sent to the Deputy Director from BGF Battalion #1022, accusing BGF Battalion #1022 Battalion Commander General Mote Thone of confiscating 1,000 acres of villagers' land for military purposes. For his personal use he confiscated over 642 acres of additional land from villagers and threatened the villagers stating, "If you want back your land you will have to serve in a BGF or you have to deal with it with the law. If you don't like that I confiscated your land then I'll put you in jail." [Photo: KHRG]

Village Agency

- There was a marked increase in the frequency and diversity of village agency responses compared to the prior reporting period of 2011-2012. In particular, reports indicating negotiation and lobbying with armed groups has increased, while formal registration of land and outreach to community-based organisations (CBOs) have emerged as strategies.
- In a small number of cases, negotiation with armed actors was successful in preventing or stopping a project. However, in most cases villagers faced violent threats or even death for speaking out.
- Villagers reported lobbying EAGs, in particular the KNU/Karen National Liberation Army (KNU/KNLA), in order to address abuses in areas where they exert influence. In some cases projects were prevented following EAG intervention.

Recommendations

Consultation and consent

- As villagers are best placed to assess their own interests and the impact of development on their livelihoods, development projects should be planned in consultation with local communities, with full disclosure of information relating to how the projects could affect their lands and livelihoods. Communities should be given the opportunity to participate in decisions regarding size, scope, compensation, and means of project implementation, and all development actors should prioritise the perspectives and consent of communities in all decision-making.
- All development actors must carry out environmental, health and human rights impact assessments prior to project implementation. These assessments should be carried out independently of the actor's interests, in consultation with project-affected communities and made publicly available in all local languages.

Customary land rights, usage and national land policy

- The Myanmar government should ensure that the National Land Use Policy (NLUP) and other relevant land laws protect existing land use practices and tenure rights, and acknowledge that local communities may recognise land titles granted by multiple sources, including customary, colonial and local administrations.
- All policy reforms should ascertain and respect the land rights of communities and individuals displaced by conflict, including refugees.
- In cases where villagers wish to secure a land title from the Myanmar government, a transparent and inclusive process should be available for villagers to do so.

Support for community solutions

- Development actors should seek out and engage with local, broad-based, independent associations of villagers formed to address land issues, as well as local community-based organisations.
- Domestic civil society should promote knowledge-sharing among and give support to independent associations across the country.
- The Media should expand their coverage of land conflicts in southeast Myanmar and sustained pressure should be maintained by the media and civil society on the Myanmar government to ensure that land confiscation issues remain a central component to the current reform process in Myanmar.
- The Myanmar government and civil society should provide communities with training and educational resources about domestic complaint and adjudication bodies.
- All armed actors, including the Tatmadaw, Karen BGFs, KNU/KNLA, Democratic Karen Benevolent Army (DKBA), and others, should support local villagers' land rights and land tenure systems, and should commit themselves to following all of the measures included in these recommendations in areas under their direct control.
- The Myanmar government should ensure that access to domestic complaint and adjudication bodies is available to all villagers, and that land dispute mechanisms are community based and established according to customary practices.

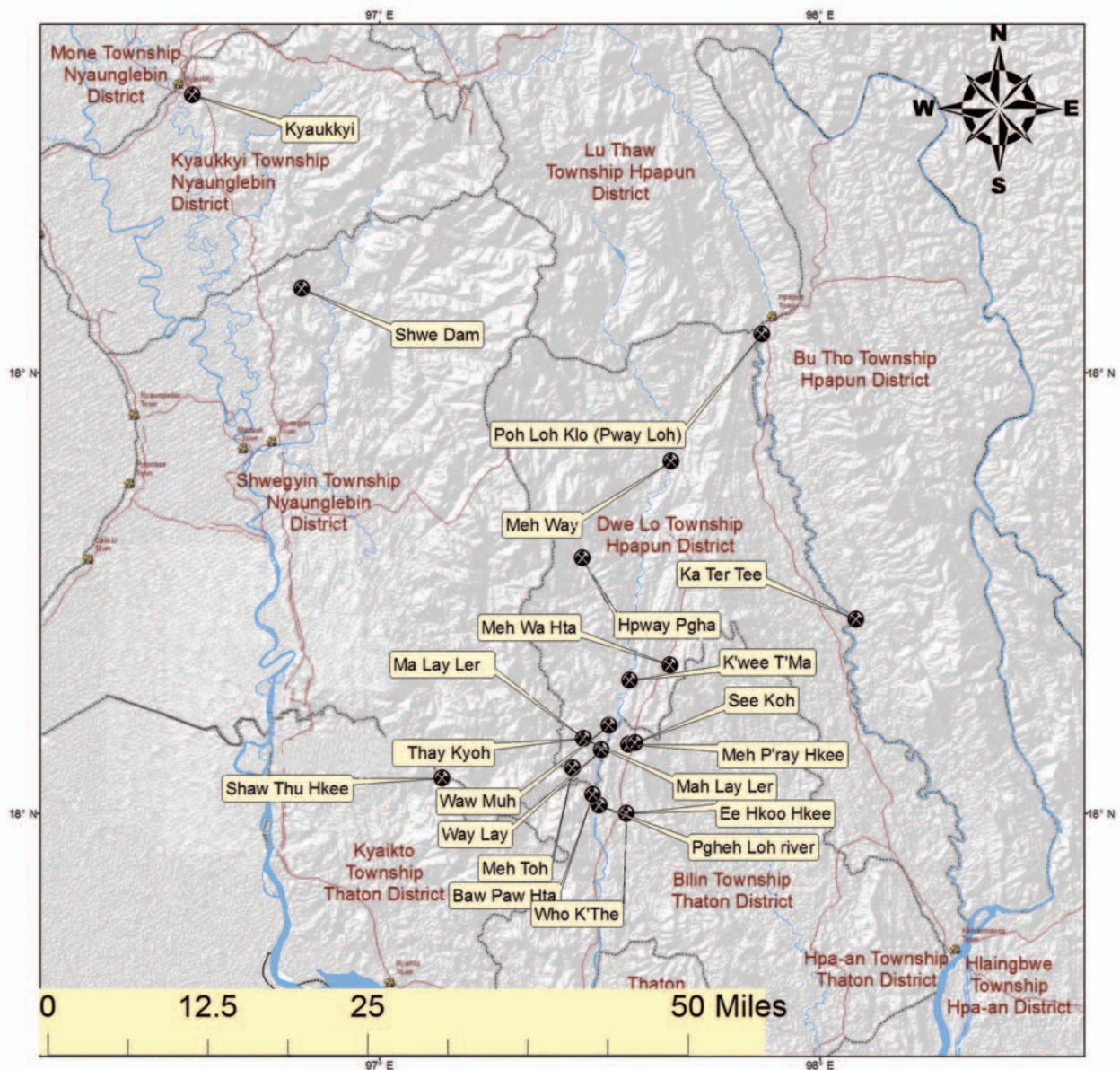
Ceasefire context

- All development actors should ensure that they do not become complicit in human rights abuses by carrying out good faith due diligence to make certain that their partners do not compromise the rights and security of local communities.
- All armed actors should demilitarise former conflict areas and immediately cease the confiscation of land in southeast Myanmar for the purposes of: constructing military facilities, which include camps, barracks, and housing for the families of soldiers; or leasing land in order to generate income.
- The Myanmar government and EAGs in southeast Myanmar should ensure that any future ceasefire agreements include components which ensure that the land rights of all populations, including internally displaced persons (IDPs) and refugees, are protected.



This photo was taken on April 7th 2013 near Meh Kleh Klo village, Dwe Lo Township, Hpapun District/Northeastern Kayin State. It shows the extensive environmental impact that gold mining operations have and the subsequent environmental damage. *[Photo: KHRG]*

Documented Gold Mining Sites



Legend



Gold mining area



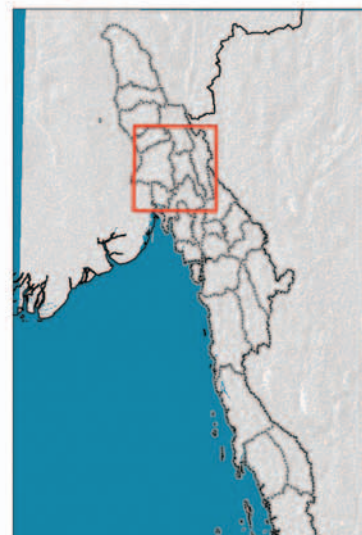
Town

Road

River

Karen township boundary

Government boundary



This map only depicts those gold mining sites which have been reported to KHRG in southeast Myanmar between December 2012 and January 2015 and may not be an accurate representation of all gold mining sites in the region. Karen Human Rights Group (KHRG)

Key Findings

- During the reporting period, villagers in Karen communities across southeast Myanmar reported extensive land confiscation and its associated impacts as the result of various types of business and development projects, including infrastructure projects, natural resource extraction, commercial agriculture projects and military activities.
- Villagers described a multitude of consequences as a result of land confiscation; most prominently, livelihood issues, environmental destruction, displacement, and health issues. These consequences were often felt in tandem with one another, compounding the difficulties that local communities faced. Due to land confiscation and related issues, villagers reported loss of income and employment, being forced to sell assets, including livestock, losing access to communal land as a source of firewood and building materials, flooding which destroyed farm and pasture land, the poisoning of water resources, skin and respiratory diseases, homelessness and economic migration.
- A wide variety of actors were reported by villagers as perpetrating abuses, either independently or in conjunction with each other. State or state sponsored groups, including Myanmar government officials, the Tatmadaw, and Karen BGFs; domestic and foreign corporate actors, as well as wealthy individuals; and EAGs were all described in villager testimony as committing abuses. Collusion between state groups and varied private business interests was commonly reported in villager testimony, with the involvement of a combination of domestic corporate actors, the Tatmadaw and Myanmar government cited in the majority of reports received.
- Villagers consistently reported that they were rarely consulted prior to project implementation, nor were they commonly compensated for losses. In cases where consultation did take place, villagers reported their concerns were often ignored or the consultations were not inclusive; in the cases where compensation was offered, it was often reported to be insufficient, or has yet to be paid. In a number of cases, rather than being provided with compensation, villagers were forced to pay high fees to re-lease their land from those who had confiscated it. In one case, villagers were deliberately misled during a consultation so that they would sign over their land.
- Despite widespread and varied abuses, villagers reported employing numerous agency and collective action strategies to prevent and mitigate the impact of projects. Villagers reached out to civil society organisations and the media, negotiated with actors involved in projects, lobbied both Myanmar government and EAG officials, as well as attempted to register their land or file official complaints. Villagers faced extensive barriers in responding to abuses, including lacking access to or knowledge of formal registration, complaint and legal mechanisms, and were often ignored by actors involved in land confiscation. Notably, villagers often negotiated directly with armed actors involved in abuses, despite great risk to their safety. In these cases villagers commonly reported facing violent threats against themselves and their communities, and in one case, a monk was killed after speaking out against a logging project. Despite widespread barriers and the danger in employing protection strategies against development actors, villagers did in some cases describe being able to prevent or halt projects through their actions.

Founded in 1992, KHRG is an independent local organisation committed to improving the human rights situation in Myanmar by training and equipping local people to document their stories and gather evidence of human rights abuses; disseminating this information worldwide; and working directly with local villagers to enhance their strategies for protecting themselves from abuse and the effects of abuse. Examples of our work can be seen online at www.khrg.org