

Land grabbing, conflict and agrarian-environmental transformations: perspectives from East and Southeast Asia

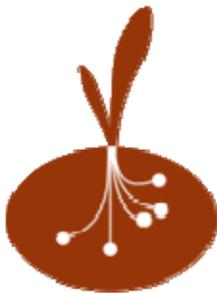
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The Praxis of Access: Gender in Myanmar's National Land Use Policy

Hilary Oliva Faxon

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BRICS Initiatives for Critical Agrarian Studies (BICAS)

Email: bricsagrarianstudies@gmail.com

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Website: www.iss.nl/mosaic

Land Deal Politics Initiative (LDPI)

Email: landpolitics@gmail.com

Website: www.iss.nl/ldpi

RCSD Chiang Mai University

Faculty of Social Sciences, Chiang Mai University Chiang Mai 50200 THAILAND

Tel. 66-53-943595/6 | Fax. 66-53-893279

Email : rccd@cmu.ac.th | Website : <http://rccd.soc.cmu.ac.th>

Transnational Institute

PO Box 14656, 1001 LD Amsterdam, The Netherlands

Tel: +31 20 662 66 08 | Fax: +31 20 675 71 76

E-mail: tni@tni.org | Website: www.tni.org

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Abstract

In Myanmar, heated struggles around land grabs, acquisition, and formalization fail to acknowledge the complexity and heterogeneity of existing land relations. Gender dynamics are key to shaping these systems, and have been neglected in current research and policy. This paper examines women's access to land and the emergence of gender discourse in land policy debates through a participant ethnography of the National Land Use Policy consultation process. I explore both ways in which land access is lived by rural women, and feminist contributions to land-based social movements. Attention to the differentiated yet interlinked spheres of the household, customary law, and land formalization enhances understanding of land politics, and women's presence, gender concerns, and the nascent common identity of the pan-Myanmar women can catalyze effective advocacy for just land reform in Myanmar.

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Introduction

When South East Asia's largest nation announced its entry into the era of globalization, one prize was obvious: land. Since reform rhetoric began in Myanmar in 2008, resource speculation and conflict have both intensified and diversified, yet comprehensive knowledge of the country's varied land systems remains sparse. Despite the important role of female land rights activists in mobilizing and articulating concerns of land-based social movements, women's access to land remains largely ignored in research and policy. Current debates over land offer opportunities to assess and advocate for women's land access, as well as to leverage women's networks and leadership in struggles for equitable land and resource distribution more broadly.

In this paper I am interested to explore not only, in more detail, what land access means for Myanmar women, but also what women, and attention to gender, can do for land-related movements. This paper will first provide conceptual framing and background on current Myanmar context. I then discuss dimensions of rural women's access to land and gender discourse within the 2014-2015 National Land Use Policy consultations. The final part reflects on two emergent themes: which land rights matter for women, and feminist contributions to land-based social movements. In this section, I argue for attention to the differentiated yet interlinked spheres of household attitudes, customary law, and land formalization processes, and examine how women's presence, the inclusion of gender concerns, and the nascent common identity of Myanmar women can advance land reform struggles. During workshops and policy consultations, women's common concerns around land access allowed both ethnically diverse women and differently positioned activists to find common ground, suggesting that future struggles for land can use the common concerns of Myanmar women as a rallying point.

Concepts and Context

Conceptual Framing

Bina Agarwal's (1994) landmark argument that the key gender gap was women's command over property awoke new interest in gender and land relations. Contesting the dominant fixation on gender and employment, Agarwal asserts, "women's struggle for their legitimate share in landed property can prove to be the single most critical entry point for women's empowerment in South Asia" (1994: 2). She goes on to explore inheritance, marital traditions, and women's role in struggles for land reform across the region. Agarwal aimed to convince not only academics, but also policy-makers of the importance of property ownership for women. She has achieved much success on the latter count: over the past two decades women's land rights have been broadly promoted as a key path towards women's economic security and empowerment (cf. UN FAO Gender & Land Rights Database; UN FAO 2012; Landesa LandWise Database; IUCN 2013; IIED 2014; World Bank 2001).

While rhetoric abounds, land rights for women remain neither a reality nor necessarily a priority on the ground (Prosterman 2013; Doss et. al. 2013). Lack of enthusiasm among grassroots women themselves for individual land titles, along with methodological qualms, leads Jackson (2003) to critique Agarwal's monolithic promotion, arguing instead for debundling and evaluating various types of women's land rights, as well as for consideration of men's various, often status-linked, property relations. Jackson and others (O'Laughlin 2007; Razavi 2009) question not only the importance awarded to land ownership for women's empowerment, but also the way in which relationships with land are categorized. Agarwal's arguments for titles and clear, usually individual, rights emerge from a liberal paradigm, whereas populist grassroots movements often seek solutions not in markets, but in local and communal control facilitated through state intervention (Wolford 2007). Gendered resource tenure regimes are both multi-dimensional and negotiable, and situated within localized power

relations (Rocheleau and Edmunds 1997). While some feminists critique agrarian scholars for inattention to gender, the foci of class, politics, accumulation, and historical legacies that have shaped debate on the agrarian question are essential to better understanding gender and land (O’Laughlin 2009). In describing rural women’s relations with land throughout this paper, I will rely on Ribot and Peluso’s (2003) theory of access – “the ability to derive benefit from things” – as a foundational framing. I focus on women’s advocacy for land “access,” as opposed to ownership, titling, control, security, or other related categories, because it maps most closely to the ways in which Myanmar women have articulated their struggles for resource rights in communities where I have conducted research.

Here I start from a normative view, held by many Myanmar women with whom I spoke, that land for women is a desirable goal. Without falling prey to development narratives promoting an essentialist link between femininity and nature (Leach 2007; Jackson 1993), I draw on feminist political ecology and its empirical and theoretical attention to women’s multiple positions and identities regarding resources and relationships (Rocheleau 2008). Regardless of female property’s rank in the race for gender justice or implications for agricultural productivity, gender analysis can enrich our understandings of land deals, following calls to complicate our notions of land politics (Scoones et. al. 2013; Baird 2014). Recent scholarship has explored gendered aspects of each stage of agribusiness land transformations, from negotiation and compensation to labor, technology choice, and monitoring and enforcement (Behrman et. al. 2012). Nuanced analysis is particularly critical in the Myanmar case, where research constraints and the dominant dichotomies of the Myanmar land debate – military vs. civilian; ethnic armed organization vs. central state; foreign agribusiness vs. local smallholders – leave little room for consideration of intra-community power structures.¹ Gender offers a window through which to identify patterns in the uneven politics of land.

Mapping “New” Myanmar

Land tenure formalization is one of several ambitious state-making projects launched since Myanmar re-emerged on the international stage. In 2008, the military government launched a range of highly publicized reforms ostensibly aimed at democratization. A new constitution enshrined the state’s ownership of land and all natural resources, anti-discrimination, and a quarter of parliamentary seats for military appointees. The 2008 constitution also barred Nobel Laureate Daw Aung San Suu Kyi from the presidency, a flashpoint for ongoing efforts at amendment. Myanmar held semi-open elections in 2010 that won Suu Kyi and her party, the National League for Democracy, parliamentary seats, and has announced another round of elections in late 2015. In March 2014, Myanmar collected data for a national census, its first in 30 years, amid controversy over its methodologies for enumerating ethnic minorities. These activities play out against anti-Muslim violence and denials of Rohingya citizenship, and sporadic military offensives and peace negotiations between the Burmese government and Ethnic Armed Organizations. A national ceasefire agreement – the keystone of the secure state – remains elusive.² These processes of counting and consolidation attempt to make legible (Scott 1998) the state’s subjects and assets, a foundational task for “new” Myanmar.

¹ Specifically, gender considerations are almost entirely absent from recent legal (Obendorf, 2012) and political economy analysis of land tenure (Kyaw Thein, 2014; USAID, 2013), timber trade (TNI, 2013) and rubber plantations (Woods, 2012) and case studies documenting land grabs in central Myanmar (LCG, 2012) and in the Arawaddy Region (GPI, 2014; Share Mercy, 2014). In the past six months, new reports have highlighted gender within dry zone agriculture (Oxfam, 2014), Dawei land relations (TWU, 2014; Trocaire, forthcoming), food security in Arawaddy, Magway, and Southern Shan (FSWG, forthcoming) and the National Land Use Policy (TNI, 2015), though these reports are limited in scope.

² Actually – wow – a draft ceasefire agreement was signed several hours before this paper’s submission. Its implications are, clearly, yet to be seen.

Myanmar civil society, long forced underground or into exile, has resurfaced, evolved, and diversified over this period. Members of the “88 generation” who participated in the brutally-repressed 1988 student protests were often forced to hide or flee, and dissent under military rule was muted and mutated by blurred boundaries between and family ties across military, civilian, and rebel groups (Fink 2009). Contemporary activists face a new choice set of reform and resistance. Organizations that operated out of Chiang Mai or Mae Sot in Thailand, the old exile centers of social justice, are tentatively moving to Yangon. The break-up of the national telecom monopoly in mid-2014 has promoted affordable technologies of communication and organizing, facilitating grassroots networking. An October 2014 Civil Society Organizations Forum in Yangon created a formalized coordination mechanism that has successfully produced public statements and briefings for press and foreign embassies. An influx of international aid and attention drives many development projects and priorities, providing both opportunities for funding and training as well as for advancement of geopolitical and neoliberal agendas. Despite initial international optimism for the reform process, local social movements and international actors remain extremely constrained. The March 2015 assault and arrest of at least 127 students peacefully protesting the National Education Bill was a stark indication that at least some old rules, and the consequences of their violation, still apply.

Activists and scholars have increasingly challenged the common assertion that Myanmar does not have gender issues or inequalities (Ikeya 2005/6; Belak 2002). The argument of existing equality does not only come from bull-minded men; Therapi Than (2014) has traced the ways in which the presence and explicit claims of elite Myanmar women have historically obscured the oppression of the vast, voiceless female majority. While gender-based restrictions and harassment are less initially obvious in Myanmar than in other countries in the region, pervasive social and cultural norms and gender-based violence undermine women’s voice, authority, and wellbeing within Myanmar households, communities, and power structures (Oxfam et. al 2011; GEN 2015; GEN forthcoming). Women are notably absent from formal national and subnational governance systems (Minoletti 2014; PTE and GEN 2012; PTE and GEN forthcoming) and from decision-making and leadership within many ethnic communities (cf. Pale 2012). Despite these absences, hundreds of women’s groups are members of networks such as the Chiang Mai-based Women’s League of Burma, the Yangon-based Gender Equality Network, and the widely dispersed Women’s Organizations Network of Myanmar. In recent years women’s organizations and feminist activists have become more visible and influential, for example documenting incidents of military rape (cf. WLB 2014), working with government to produce the National Strategic Plan for Advancement of Women (2013), and elevating gender concerns in national and international media.

Land injustice is more overt and better publicized than gender inequality (cf. TNI 2012, LCG 2012, Global Witness 2015). Existing land policies prioritize agribusiness investment and state ownership, and lack adequate mechanisms to protect smallholders and customary land tenure. Since its establishment in 2012, the Farmland Investigation Commission has received over 26,000 complaints, fewer than 10% of which have been “dealt with” and “very few” of which have been “resolved” (Eleven 2014). Many of these complaints pertain to military land grabs in the 1980s and 90s, but the reform period has brought new forms of land conflict. Recent research shows large-scale land acquisitions for commercial agricultural production have increased 170% since 2010 (Woods 2015) and showcase land conflict linked to resettlement in former conflict zones (South and Jolliffe 2015). These conflicts ignite resistance. In 2014, military land grabs sparked plough protests in Mandalay Division (Irawaddy 2014) and a nine-month sit-in outside Yangon City Hall (Irawaddy 2015). Protests against displacement due to foreign direct investment have been particularly charged in the case of the Dawei Special Economic Zone, the Myitsone Dam, and the Letpadaung Copper mine, where a female protestor was killed with a rubber bullet in December 2014. Two Yangon-based coalitions – the Land Core Group and Lands In Our Hands – have emerged to lead land policy reform efforts. Dispute

resolution and coalition building are challenged by the heterogeneity, complexity, and opacity of land concerns; tenure systems and their threats are locally situated, and still vastly under-documented. Attention to gender is one of several approaches necessary to better understand these struggles, and their context.

Gendered Access and Land Policy

Myanmar's National Land Use Policy (NLUP) aims to address the contested nature of land issues described above by creating a guiding framework for land policy, law, rules, and procedures. The formulation of such a policy necessarily invokes competing values, narratives, and visions for land and national identity. My observations on the NLUP consultation process are drawn from my work as an adviser to the Yangon-based Gender Equality Network (GEN), a coalition of about 120 national and international NGOs and technical resource persons. I have attended land movement meetings and government workshops as a GEN representative from July 2014, and from October 2014 to March 2015 collaborated with Myanmar colleagues from different organizations within the network to prepare and present a bilingual report on gender in the draft NLUP to submit to the government. To support our analysis, we organized three full-day consultation meetings in Yangon and Mandalay in November and December 2014, which drew a total of 77 female farmers, activists, and community-based organization representatives from five of Myanmar's seven Divisions and all seven of its States, whom we accessed through feminist and indigenous peoples' networks. Our research methodology evolved alongside the consultation process and emphasized iteration and collaboration. This approach reflects current research constraints and ethical demands in contemporary Myanmar (Prasse-Freeman 2014; Brooten and Metro 2014) and the classic feminist task of "empowerment of women and transformation of patriarchal social institutions through research and research results" (Fonow and Cook 2005).

In the section below I take up two tasks based on report research and participant observation in the policy process: first, to sketch the broad characteristics of women's land access in rural Myanmar, and second to provide a brief ethnography of the NLUP process with specific attention to gender discourse.

1. Mapping Women's Access

"The son is the master, the husband is god." – Myanmar proverb

Ribot and Peluso (2003) theorize access to property as a bundle of powers that allow or constrain the ability to derive benefits from resources. Legal rights, and illegal transgressions, are complemented by structural and relational access mechanisms that shape the possibilities to exercise these claims. Though the NLUP formulation process is focused on various types of legal rights, conversations with rural women make clear that structural and relational access mechanisms are far more important to their lived experiences of land. Women bemoaned their own ignorance of policy, or their lack of time and ability to study law, but they also alleged that officers tasked with enforcement did not know the rules, either. "Rule of law" rhetoric had not changed these women's lives, let alone property relations on the ground:

Also the law has no effect. See how law is ignored! In the transformation they [the government] have transformed their promises. We are like marbles in the tray, going back and forth. [cheers and

clapping]³

In this section, I sketch some of the self-reported forms of and barriers to women's access to land by engaging Ribot and Peluso's non-exhaustive list of structural access mechanisms: technology, capital, markets, labor, knowledge, authority, identities, and social relations. Myanmar is diverse, and gendered land relations are heterogeneous among and even within various ethnic groups. This section does not aim at comprehensive or comparative analysis, but rather serves as an introduction to the power of gender in mediating access to land in the Myanmar context.

Identity and Social Relations within the Household and Family

“You have to show your might. [We know the saying] ‘You kill a cat in order to intimidate the wife.’ When you have a husband, the wife tries to kill an elephant in order to intimidate the husband! Now we are wrestling!”

Intra-household bargaining and marital and kinship relations are central mediators of women's land access throughout their life cycle. Feminists have long dismissed the unitary household's validity as a unit of analysis and explored the co-existence of both cooperation and conflict within the household. As daughters, Myanmar women are often, though not always, passed over for inheritance in favor of brothers. Especially in ethnic communities with a strong and precarious identity, giving land to daughters who may marry outside the village or ethnicity was seen as a threat (c.f. Agarwal 1994 on endogamy). In one workshop, women from ten different ethnic groups reported that customary land inheritance was always male; two reported both male and female inheritance, but in one case only for married women. In one case, a woman in a family of only two single daughters feared losing her share of inheritance to a brother-in-law when her younger sister married (other participants joked she should marry quick!).

Women's relationships with their husbands, and perceived reliance on their goodwill, income, and social status, may lead women to stay silent on their own personal claims to land. In the words of one workshop participant, “it's quite clear in the countryside, you will be looked after by your husbands.” Participants spoke of the need to change this internal notion of dependency, and gender roles and high workload that constrained and exhausted women's ability to exercise decision-making authority. Some noted that discrimination was often strongest among female members of the same household, for example when mothers were pitted against daughters-in-law in land claims, or governed their behavior to ensure they did not challenge local customs and norms.

In some communities with high levels of male out-migration, alcoholism, or drug-use, women reported that absent husbands led to *de facto* female land management. However, these forms of control were not recognized outside the household, and inequalities continued after a husband's death with barriers to succession. In various communities, a dead man's land went to his sons, his son-in-law, his widow's new husband, or his parents or brothers over his wife. In one case, a widow without children trying to claim family land described the administrative and financial difficulties of obtaining a death certificate for her husband to contest the confiscation of their land. When trying to assert her right, she repeatedly confronted an irrational obstinacy: “[they think] the land belongs to the guy in the coffin!”

³ Workshop participants represented a variety of ethnicities with distinct gendered experiences of land. Because I spoke to only a few women from each ethnic group, and ethnicity is particularly sensitive, I attempt to steer clear of ethnic labels here. Far more research is necessary to understand the gendered land dynamics within distinct groups. All workshops were conducted in Myanmar language; quotations represent statements as conveyed simultaneously in English by my translators.

Technology, Capital, Markets, and Labor

Women reported severely restricted access to inputs necessary for productive farming. Agricultural extension services and equipment were all perceived as being designed for and used by men. Women explained it was difficult to obtain loans and credit because men were registered as head of household, not only for land titles but also for tax and educational purposes. In some cases, safety concerns around transportation, or childcare duties, restricted women's access to market. These challenges are in line with global limitations women face in obtaining agricultural inputs (cf. World Bank 2012).

Women are a critical source of rural labor, but often undertake gender-specific, and lower-paid, agricultural tasks. When discussing the rural wage gender gap, women described themselves not as farmers, but rather as workers.⁴ This identity stemmed in part from the government's constitutional claim to land ownership, but also had a gender dimension based on predominant male possession of Land User Certificates. One participant noted:

We are only skilled workers not land owners. The land belongs to the government. We have only the lease, not the land. Actually the entitlement is with men, not women.

Recent research in Myanmar's Dry Zone reported similar links between women's landlessness, gendered and underpaid work, and a "worker" identity:

Women are rarely the landholders in Thazi, and are, therefore, considered 'casual labour,' not 'farmers,' despite being responsible for many of the most critical tasks. Transplanting of paddy, and sowing and harvesting of cotton, are all women's roles, but their work is undervalued. Women report wages of approximately 20 per cent less per day than men even for the same work (Oxfam, 2014).

This issue was also raised during NLUP meetings in Nay Pyi Taw, during which one male activist explained that gender-specific language was necessary because, in Myanmar, the word "farmer" implied a male. This worker identity potentially not only reflects but also perpetuates women's separation from the means of production through lack of access to property. Additional empirical evidence and theoretical imagining will be necessary to better explore the incidence and effects of rural female worker identity.

Knowledge and Authority in the Village and Community

Myanmar culture places a premium on male space and power: to wash male and female laundry together is said to sap men of their *hpone*, or male strength. Traditionally, leadership is almost exclusively associated with men (Oxfam et. al. 2011; Maber 2014; GEN forthcoming). In the General Administrative Department, the face of government in rural Myanmar, 17 of 15,972 ward/village tract administrators are female, and there are no female administrators for the country's 330 townships (Kyi Pyar Chit Saw and Arnold, 2014). In workshops, women emphasized that land titling offices and courthouses were male domains, and intimidating to women. Women were also constrained by a lack of knowledge about land issues, confidence and experience public speaking, and, in the case of ethnic women, ability to speak and read Burmese. Gendered barriers were common across different

⁴ While I recognize the significant implications of this distinction to an exploration of the agrarian question in contemporary Myanmar, such an analysis is beyond the scope of this paper. It is, however, certainly a critical topic for future research (cf. McMichael 2014; Bernstein 2014).

government, farmer's association, and customary decision-making spaces, contributing to a cycle of exclusion from land and agricultural debates:

I went to the farmers' committee, and there were hardly any women, all the invitees were men. Women couldn't have their voice heard. When there were about 100 men, only 10 were women. They forgot to think about women throughout the process and women did not have access to the draft. There was not much [in the resolutions] about women. Women themselves wouldn't want to get involved. They are afraid of going to office and going through office procedures.

These exclusions at the local level, another participant emphasized, were echoed at the national level, in which male authority also presided over land management.

In one workshop, collective action through networking and cooperation was advanced as the only way for women to access knowledge and authority necessary for successful land claims. Women emphasized the need to support each other, share information, and cooperate with peasants, whose interests and identities were articulated as separate, but complementary, to those of women. They also strategized on how to infiltrate the GAD and find allies in positions of power. Experienced female land activists emphasized the need for persistent challenges to government authority through collaborative action. In their urge to mobilize women, these organizers felt free to use gender stereotypes to their advantage:

Men want to be soothed by women. If you have that ability you can coax them to doing into what you want. We have that ability naturally. I don't know how. We are those who are having problems in the decision-making process... We have to know our rights, thoroughly; they [men] just blurt it out.

Women's access to land is ordered by their identities and social relations within the household, family and community, and limited by restrictions around technology, capital and markets. The perception of women as only laborers, rather than farmers, and their lack of information and voice in decision-making also shape land access. After acknowledging these structural mediators, I now turn to the process of establishing and formalizing legal rights to ensure women's land access through the production of the National Land Use Policy.

2. Gender in the National Land Use Policy Process

Systematizing Land Governance

The 2008 Constitution declares the state ultimate owner of all land and resources in Myanmar. National forestry, agriculture, and land records systems still carry the imprint of British colonial systems established in the 19th century. In the post-independence and socialist periods (1948-88), peasants exercised de-facto use rights to farmland while the state held ultimate ownership. After 1988, the government abolished socialist systems of co-operative management and promoted market reform and foreign investment. The 1991 "Wasteland Instructions" are emblematic of new priorities: the instructions allow the transfer of use rights to nebulously-defined "wasteland" to private individuals and companies for development of large, usually export-oriented, agricultural projects. The 2012 Farmland Law and the Vacant Fallow and Virgin Land Laws continued to promote large-scale agriculture and authorize land seizure while offering few legal protections for smallholders, failing to recognize customary land tenure rights or joint ownership between husbands and wives. Tension at the

national level between the mandates of Ministry of Agriculture and Irrigation, especially the Settlements and Land Records Department, and the Ministry of Environmental Conservation and Forestry (MOECAF), add to confusion over official land governance. Meanwhile, Ethnic Armed Organizations are advancing their own agenda for land, for example the Karen National Union's own draft Land Use Policy (KNU 2014) and similar efforts by the Kachin Independence Organization.

Against this contested legal backdrop, and under mounting internal and external pressure to address land concerns and streamline land administration, a multi-stakeholder government committee began drafting the NLUP, which was billed as an overarching framework to guide the creation of a National Land Law and the "harmonization" of existing laws pertaining to land, paving the way for comprehensive inventory and registration (U Shwe Thein 2014). On October 18, 2014 the Land Use Allocation and Scrutinisiation Committee, chaired by the MOECAF and supported by USAID, The Swiss Development Corporation, and the European Union, released the fifth draft of the NLUP for public consultation. In November, three MOECAF-led teams facilitated seventeen half-day public consultations, visiting the capital of every State and Division as well as Nay Pyi Taw and two additional towns in Shan State. The consultation process was originally scheduled for completion in December, but due to civil society objections, data-entry delays, and concurrent student protests, the program was extended through mid-March 2015. Civil society groups affiliated with both the Land Core Group and Lands in our Hands networks collected and sorted their findings from over 100 independent "pre-consultation" meetings in the states and regions, designed to inform the public about the policy, and collect their input. Altogether, the government reported 909 comments collected from official public consultations, as well as 12 major written submissions from national networks and NGOs, international NGOs, and the UN. These findings were shared in two Expert Roundtable Meetings with the government, civil society, and donors – the first in Nay Pyi Taw January 31 – February 1, and the second in Yangon March 6 – 8 2015. Findings from an intervening conference on customary tenure also produced feedback on the NLUP's treatment of ethnic land management to be considered in revisions.

Though the government did carry out limited consultations of the 2008 Constitution, these meetings were widely seen as sham. Relatively extended public consultations, and the expectation that feedback might actually be incorporated, are essentially unprecedented in Myanmar. Still, neither government nor civil society understand how the NLUP will interact with existing projects, impact other laws such as those pertaining to investments, apply to ethnic territories, or serve as a model to future legislative consultation. In the absence of a final policy document, the outcomes of the consultations are still unknown. In lieu of evaluation, I instead will attempt a preliminary analysis of the ways in which discourse of women's rights and gender equality was mobilized and contested throughout the policy process.

Gender Equality Discourse in State-Making

Rule making and enforcement are typically male domains. Women were not visible in the NLUP-drafting committee, composed of senior men, and have typically been absent from the military, peace talks, and parliament. To categorize these processes as male does not discount the intricate power structures through which different groups of men negotiate, or seek to obscure the presence of a few exceptional women, but it does acknowledge the assumption that state-making, and within it land-formalization, are for men.

Given the committee's composition, the resulting fifth draft policy was surprisingly gender sensitive, at least in the English version that donors read. In contrast, the Myanmar version of the law omitted all mentions of women and gender, with the dubious exception of references to taxation on husbands and wives. The NLUP contains 13 parts, and a rather meager one-paragraph section entitled,

in English, “Equal Rights between Men and Women in Land Tenure and Land Use Management” appears in draft five as Part Eight. Part Eight in Myanmar excludes the phrase “between Men and Women.” As a result, despite maintaining a reference to the Convention to Eliminate All Forms of Discrimination Against Women (CEDAW), the heading reads as generic support for equality, interpreted by some government officials as applying to urban-rural, not male-female, gaps. Part Eight had been included, discarded, and revised at least once in previous drafts: the object of debate between conservative government factions and progressive advisors backed by donors. Some of these male gender champions were successful in maintaining Part Eight by invoking Myanmar’s international obligations as a signatory to CEDAW. As a result, the English-language fifth draft contained both Part Eight and limited gender-specific language throughout the document. For example, under basic principles: “It shall provide equal right in all sectors for the women for land use and secure land tenure” (NLUP 2014: 5). Again “for the women,” is absent in Myanmar.⁵

As international NGOs and UN agencies poured over the English text to prepare their written submissions to the drafting committee, they were essentially reading the wrong law. While other translation inconsistencies occur in the documents, and a 40-page sector-specific preamble exists only in Burmese, discrepancies relating to gender are by far the most glaring.⁶ GEN’s work to uncover and call attention to these differences alerted foreign and domestic experts, mobilized closer scrutiny of specific language in the policy, and elevated gender equality as an issue in the two National Land Use Policy Expert Roundtable meetings. Getting gender right was no longer just about women or some abstract idea of justice, it was about validity, consistency and legitimacy, tapping into the current Myanmar obsession with achieving “rule of law.”

Gender issues appeared not only within the text, but also at the grassroots. Eleven on the comments collected at government consultations addressed women’s rights to land. Of these, there was a nearly even split between calls to eliminate gender-sensitive language – usually in the name of tradition and culture – and calls to strengthen it (MOECAAF 2015). Assuming all comments were accurately recorded, this leaves quite a low number of calls for gender equality, though overall numbers are probably inflated by comments on specific land grabs and grievances rather than references to the text. Women were largely, predictably, absent from the public consultation I attended in Mandalay, though a number of female activists came to the consultation in Yangon. These consultations, particularly in smaller cities, share the same characteristic workshop participants noted of the land records offices: they are male space. Two of the recorded calls for gender justice, and an additional comment absent from the official record, came from participants of the workshop we organized in Mandalay. These women volunteered to attend and speak at the government meetings, and supported each other both during our workshop and afterwards with a Viber group. Outside of government consultations, women and gender champions may have felt more free to speak. Pre-consultations organized through the Land Core Group Policy Task Force collected several demands for joint titling. The Lands in Our Hands network, which conducted eight consultations across the country, issued strong calls for strengthening and promoting women’s rights to land in their written and public statements, specifically recommending women be represented on the National Land Use Council and that the policy recognize and remedy barriers to women’s effective access to land (LIOH 2015).

⁵ Sections pertaining to information management, mapping, zoning, land concessions, taxes, ethnic minorities and research and development all mention women specifically, while women and gender were absent from chapters on formation of a National Land Use Council, dispute resolution, and monitoring. Part eight enumerated five rights related to succession, inheritance, allocation, representation in dispute resolution and concession-related decision-making, but failed to list property rights such as holding title as well as rights to participate in broader decision-making and access credit. Part Eight also neglects to acknowledge of gendered barriers to land or provide mechanisms to realize rights in practice. For full analysis of gender equality in the existing text and suggested revisions see GEN (2014) and TNI (2015).

⁶ Thanks to Hsi Hsi and Elliott Prasse-Freeman for fantastic, detailed translation analysis.

Feedback on the text and from government and civil society consultations was presented and synthesized at the two Expert Roundtable meetings. GEN's presentation on gender in the policy was the first of four invited civil society presentations at the First Roundtable, held in Myanmar's capital, Nay Pyi Taw. The morning of the first day was strained; civil society representatives stayed mostly silent while senior government authorities spoke about the comparatively safe topics of taxes and zoning. A 20-minute presentation describing barriers in women's access to land and suggested revisions to strengthen women's equal rights in the NLUP was met with immediate pushback. Senior ministers alleged that Myanmar did not have any gender inequality, and that Myanmar's Constitutional anti-discrimination clause foreclosed the need for any further legislation about gender – Part Eight should therefore be eliminated.

But these statements prompted civil society to engage: four advocates primarily focused on non-gender issues spoke in support of strengthening gender in the policy; three of these were young, and three of these were male. Senior men dominate the upper levels of Myanmar government – neither junior officers nor female civil servants (with one exception) spoke during the entire first Roundtable – and Nay Pyi Taw is characterized by clear subordination and deferential language. These interventions in favor of gender equality therefore represent a significant challenge to Nay Pyi Taw hierarchies. At the second Expert Roundtable, another young Myanmar man spoke up in favor of distinguishing effective participation from token representation in the context of gender. Gender-related advocacy both before and within these meetings crossed civil society strategic alliances, and ethnic and gender lines. Throughout the NLUP consultation process, land grabs and ethnicity were particular points of contention, eliciting shouting from all sides, and revealing fault lines among civil society groups. As a non-technical and broadly applicable issue within a charged atmosphere, women's equal rights to land became a "safe" point of engagement and coalition building for closer scrutiny of and genuine commitment to equality within the NLUP.

Discussion

1. (Which) Land Rights for Women

"Bina Agarwal discusses a number of kinds of land relations and scenarios, and makes essentially the same case for all of them – that land rights for women are good for efficiency, welfare, equity, empowerment. However, the renting of land by landless women, or the allocation of wasteland to landless women, or the titling of houseplots in women's names, or the inheritance of family land by daughters in landed households, all seem to me so deeply distinctive in their social relations that they require, in addition to her broad-brush treatment, fine-grained, long-term study to reveal how they are gendered, what changes are underway and what interventions may be promising. A gender analysis of 'the land question' needs both more disaggregated research questions and a more open analytical frame in which all roads do not necessarily lead to the singular destination of the justification of land rights." (Jackson 2003)

My field research shows that at least some Myanmar women consider equal access to land desirable and important. It is beyond the scope of this paper to evaluate land's comparative significance as one of the ingredients of women's empowerment, but following Jackson I will begin to parse separate strands of "women's land rights." Analysis of specific types of inheritance, allocation, and participation in different agricultural systems, acquisitions and conflict-resolution are all worthy topics of future inquiry, in line with research priorities for Myanmar.⁷ Here, I take up only the basic

⁷ In her keynote speech at the 2014 Burma/Myanmar Research Forum held at Cornell University, Burma scholar Dr. Mandy Sadan emphasized the dearth of rural ethnography in Myanmar, and its priority status for future research. As and if constraints on movement and research loosen, immersive methodologies will have much to

distinction between benefits to women within land titling and customary systems.

Individual land titling has been widely criticized as detrimental to livelihoods and identities of smallholder farmers, and formalization can be particularly disadvantageous for women if they lack the knowledge, capital, and connections to obtain titles, or if new land markets obliterate existing informal, secondary, or usufruct rights. Even in cases where women are targeted as beneficiaries of land titling regimes, they may be unable or uninterested in decoupling their individual claims from husbands or sons, especially compared with their desire to secure and extend household property rights (Razavi 2009; Walker 2003). In the Myanmar context, research suggests that the Land User Certificate titling scheme enacted by the 2012 Farmland Law may in some cases erode women's existing land claims. Around Dawei, where both Karen and Tavoyan ethnic groups have bilinear inheritance traditions, these new certificates, issued to (male) head of households, are effectively disenfranchising women from recognized joint claims (Trocaire forthcoming). LUCs not only codify, but also distort, existing land use systems, and prioritize male claims in the eyes of the Myanmar Government. Whether or not these changes reflect back to impact *de facto* rights within the community remains to be seen.

Not all customary systems in Myanmar are so egalitarian, but many are evolving in this direction. Among some Karen communities practicing customary tenure, women can serve as part of the *kaw*, or land decision-making body (KESAN 2015), but research from other communities in Bago Yoma and Chin and Shan States show that despite women's critical role in swidden, women are generally excluded from decision-making about land (POINT forthcoming; LCG 2015). Many upland ethnic minorities practice strict patrilineal inheritance. In one workshop, a young self-identified indigenous woman described how women were increasingly able to access education and travel freely, but, still, "land is for men." Women in a different workshop asserted the need for women's inclusion in customary governance structures, voicing, optimistically, "tradition means it can be changed." In 2014, two ethnic governance structures representing groups considered extremely patriarchal, the Chin National Front and the Council of Naga Nationals, both resolved to grant women land rights in customary law (Naga 2015; personal communications, 2015). Whether or not these rights will advance women's wellbeing and empowerment will depend not only on the specific types of rights granted, but also parallel advancements in women's opportunities and ethnic-central state relations.

The wrong question is: "Do women fare better in land formalization or (evolving) customary systems?" Given the complexities of ethnic-Burman power-sharing in contemporary Myanmar, and ongoing federalism debates and peace negotiations, these systems are inevitably linked. Whatever gains women stand to earn from land access must be won through both. The interlinked nature of family attitudes, customary norms, and titling procedures is demonstrated through this anecdote from a self-identified indigenous workshop participant:

[Customary] laws are now changing. Before, only sons could inherit, but now land can be given to both sons and daughters. In our family there are only daughters, and my father said he would give the land to the youngest daughter. When he tried to change the title to the daughter's name, the government wouldn't put her name on the title. [They] only [put] his, though he picked her.

In this case, both the father and customary law recognized a daughter's claim, but her official right to inheritance was stymied by conventions of titling forms and unhelpful local bureaucrats. Myanmar women are simultaneously members of the household, an ethnic community, and the state, and all three realms mediate their access to land.

Perhaps a better question pertains to necessary conditions for ensuring women's land access.

add to these questions.

Given the move to formalization, making women's claims legible in national policy is critical to enabling their future recognition and promotion. This means, at a minimum, women's names on land titles, where land titles are issued, and effective participation at the local and national levels of land-related decision-making. But ensuring evolution of mindsets, rules, and practices within customary traditions is an equally important task that demands a different approach. The most desirable forms of access for women, and strategies to claim them, will vary at the local level, by ethnic group and village. Ensuring access demands immediate advocacy within the neoliberal-Nay Pyi Taw nexus and idiom, as well as the longer work of differentiating and prioritizing forms of access, and overcoming local barriers to secure women's claims.

2. Feminist Contributions to Land-based Social Movements

Collecting rural women's barriers and recommendations around land is an important task for better understanding and addressing land relations. But how is gender different than ethnicity, geography, or other inequalities that rally specific attention? The power of women's collective action on environmental struggles, as exemplified by Chipko and other ecofeminist movements, has earned recognition as a both distinct and effective praxis. Here, I examine some of the ways in which women's presence, the inclusion of gender concerns, and the nascent common identity of Myanmar women can advance land-related social movements.

Female land activists are not only interested in gender equality; they are advocates for fair and clear laws, processes, and rights. When Myanmar women speak out on environmental concerns, peace and human rights, and accountability they challenge the cultural notion of men as change agents. The presence of women-in-themselves, not only women-for-themselves, can advance the ability of other women to participate (Agarwal 2014). In the Myanmar context, support networks among female activists are integral enablers of female leadership. Women's involvement in land struggles therefore not only adds strength to the movement, but also can catalyze additional voices and networks.

As seen in the NLUP consultations, gender can serve as a tactical entry point for advocacy – women's rights are “safe” human rights. Lessons from gender-equality advocacy and feminist networks can inform land reform efforts, and vice-versa. Particularly important in Myanmar's shifting terrain is the ability to work across boundaries and mobilize multiple cooperative and confrontational tactics simultaneously. In the words of one ethnic peace activist now advising the government on national gender policy, “Think in a revolutionary way, but talk in Nay Pyi Taw language.” Speaking with strategically in the capital while continuing oppositional and alternative-making activities elsewhere is key tactic of the Myanmar women's movement, employed for example in efforts to counter gender-based violence through cooperative legislative reform and research with the government, initiation of an emergency trust fund for victims, and quiet support of scathing reports of military impunity written from across the border in Thailand. Adopting these strategies can inform and accelerate land-related struggles. Gender and land justice movements also have common enemies, and recent feminist challenges to the growing Buddhist ultranationalist movement known as Ma Ba Tha pave the way for those advocating recognition of diverse land use systems and ethnic and returnee claims that run counter to Ma Ba Tha interests.

Myanmar women's traditional exclusion from state and ethnic militaries and decision-making factions may generate space to construct a compelling pan-Myanmar identity. Historically, resource politics in Burma has been a form of ethno-centric opposition to the central state (Doyle and Simpson 2006), with ethnic organizations focused on addressing local issues. In contrast, networks like the Women's League of Burma, which was founded in 1999 to draw together ethnic women's groups to promote women's role in the peace process and publicize sexual violence, advance the idea of the Myanmar woman, with her specific, common concerns. Women's networks are not completely

inclusive, and have in the past stratified by class and ignored Muslim women. But they are comparatively more mature than embryonic attempts to unify civil society groups or activate the concept of indignity, and provide an immature and imperfect model of amalgamated identity to contest the divide-and-conquer tactics so long and effectively employed by the Bama state. Effective trans-ethnic mobilization around gender-land concerns in NLUP consultations and women's workshops suggests women's access to land may be a powerful lever in future struggles for land reform.

Conclusion

Examination of specific forms of rural women's land access and gender equality discourse within land policy debates demonstrates persistent barriers to and nascent alliances for land justice in Myanmar. Customary land use systems are heterogeneous and interlinked with formalization processes, and more research into specific gendered relations among ethnic communities is necessary to parse which rights matter for women as preconditions and enablers of equal access. While my discussions here are preliminary, I hope to convince that feminist attention can accelerate land activism by providing leadership, tactics, and space for development of pan-Myanmar identities. Just as feminist epistemologies crack open the notion of a unitary household, gendered attention to land struggles can provide more honest and granular analysis of land relations, illuminating mobilization within surrounding social movements.

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About the Author

Hilary Oliva Faxon is a Ph.D. candidate in the Department of Development Sociology, Cornell University. She currently works as a technical adviser to the Gender Equality Network in Yangon, Myanmar, where she facilitates research, advocacy, and networking around women's and resource rights. Hilary holds Bachelor's and Master's degrees in Environmental Management from Yale University. hilary.oliva.faxon@gmail.com.