

LAND USE AND TENURE ASSESSMENT OF LET MAUNG KWAY VILLAGE TRACT, NYAUNG SHWE TOWNSHIP

TENURE AND GLOBAL CLIMATE CHANGE (TGCC) PROGRAM



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Cover Photo: A meeting with women in a village in Let Maung Kway Village Tract to discuss land issues

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ACRONYMS AND ABBREVIATIONS

CSO	Civil Society Organization
DoALMS	Department of Agricultural Land Management and Statistics
GAD	General Administration Department
LTP	Land Tenure Project
MIID	Myanmar Institute of Integrated Development
MoAI	Ministry of Agriculture and Irrigation
MONREC	Ministry of Natural Resources and Environmental Conservation
NLUP	National Land Use Policy
USAID	U.S. Agency for International Development

EXECUTIVE SUMMARY

The key points emerging from the land use and tenure assessment in Let Maung Kway Village Tract are:

1. There is poor infrastructure provision (roads, electricity, irrigation) in all eight villages, but particularly for the northernmost, smaller villages. The villages with the best road access have the opportunity to engage in bamboo ware craft production for the local markets.
2. All eight villages have long settlement histories from at least 100 years ago. All villages have ethnically Taungyo residents. Over time, nearly 50% of the more remote, northernmost villages have migrated down to the plains area near Inle Lake in search of water for better agricultural production. In general, there is no significant pattern of seasonal outmigration although some engage in off-season work in Kachin state.
3. All land in these villages is on public protected forests under Ministry of Natural Resources and Environmental Conservation's (MONREC) jurisdiction. The cultivated land is all taungya land with no paddy lands being cultivated. Hence, this is a rain fed agricultural system with no supplementary water supply. The primary crops are upland rice, ginger, pigeon peas, and canola. A range of vegetables and fruits are grown on taungya land as well as on home garden lands. The crops are sold in local markets.
4. Villagers are clear, based on mutual understanding, about the boundary demarcations of their villages and household plots. They were not very clear about the village tract boundary. There are no significant conflicts between villagers over taungya land boundaries, or between villages.
5. There is a low level of landlessness among all eight villages (less than ten percent). Most landless families were able to create their own land by clearing forests in earlier times.
6. There appears to be a process of de-gazettement that was commenced about five months ago by Department of Agricultural Land Management and Statistics (DoALMS) together with MONREC. They came to document the land situation and record cropping arrangements. Only those villages in C group of the village tract (smaller than 50 households) have yet to receive a visit from DoALMS.
7. The land market is not active – the area is presently not of interest to buyers. However, given the development of the tourist economy around Inle Lake and the beautiful valley views afforded from some of these villages, it is only a matter of time before the land market starts to gather steam. At present, some villages (the C group) have some excess land which outsiders use, some for a rental fee.
8. There is a very low level of awareness and knowledge pertaining to land and forest rights. As such, most villagers were unaware of the existence of the 2012 Farmland Law, 2012 Vacant, Virgin, and Vacant Lands Management Law, the 2012 Association Law, or the draft National Land Use Policy.
9. All villages have community forestry areas (20-60 acres). Most were formed under agreement (30-year certificates) with MONREC; some, in the smaller, distant villages, were formed by independent organizations. These areas are used primarily for fuelwood supply. The main purpose of these community forestry areas is to support overall improvement in forest cover and condition in the Inle Lake catchment as a result of the substantial siltation problem it faces.

10. Presently, each household makes its own cropping decisions; there is no coordination by village leaders or any land use planning committee. There has been no experience with land use planning in any villages or among the government agencies.

I.0 PURPOSE OF THE ASSESSMENT

The purpose of this assessment is to better understand the current land use and tenure context in Let Maung Kway Village Tract (Nyaung Shwe Township, Taunggyi District of Southern Shan State) so that pilot site activities can be designed for determining how the draft National Land Use Policy can guide the recognition of community land and resource tenure as well as effective land use planning at a localized level. The pilot will involve identifying village tract boundaries as well as major land use and management patterns at a village level. The lessons learned from the pilot will contribute to the identification of appropriate methods for the recognition of community land and resource tenure as well as sustainable land use planning within other rural areas of Burma.

In light of this, objectives of the tenure and resource assessment include:

- a. Assessing the status of natural resources and existing land use arrangements with attention to gender and social inclusion dimensions;
- b. Identifying the institutions and rules (formal and informal) governing tenure over various land types and classifications such as agricultural, forest, grazing, shifting cultivation etc. (including dispute resolution methods), including any existing conflict; and,
- c. Examining the types of drivers leading to transformation of prevailing land use and tenure arrangements.

Let Maung Kway Village Tract is the second of three pilot sites to be selected by the U.S. Agency for International Development's (USAID) Land Tenure Project (LTP) in Burma. It is located to the northwest of Inle Lake (a large freshwater lake). Although there is tremendous diversity of land use and management practices in Burma, the area in the hills around Inle Lake in Southern Shan represents one type, namely a multi-ethnic, hilly area with mostly poor communities. Although the high agricultural productivity of the area immediately around Inle Lake has significantly improved economic conditions, these benefits have not necessarily trickled down into the neighboring regions.

The pilot here will help to identify a technical approach that is scalable across other parts of the country with similar agricultural, physiographic, and cultural conditions. It will also permit a better understanding of how the tenure and land use arrangements found in Southern Shan are significantly different from other major agricultural production modalities within upland, dry zone or coastal regions.

2.0 ASSESSMENT METHODOLOGY

The land use and tenure assessment methodology involved interviews between 11 and 13 May 2016 in three villages with a) village members as a group, and b) women members. Two of the meetings included three villages, while the last meeting included two villages. The general village meeting was held in either a large open-plan home, outdoor meeting platform, or at the local monastery. Between two and 18 villagers attended each of these meetings; each meeting took about two hours. In the two women's meetings, there were about four women present in each meeting. A semi-structured interview questionnaire guide was used. The village tract administrator, U Yee, was present at the first village meeting in Kyaung Hnget.

The assessment team included Nayna Jhaveri (Resource Tenure Specialist); Theingi May Soe (Rural Communities Engagement Specialist); Khin Myat Moe (Media Specialist); Sai Nyi Nyi Paing (translator); U Win Tut from Minhla's civil society organization (CSO) Public Network; and, four members of the local CSO Peace and Justice Network, including Ma Nge Nge and Htun Htun Myint.

3.0 ASSESSMENT FINDINGS

3.1 OVERVIEW OF LET MAUNG KWAY VILLAGE TRACT

Let Maung Kway Village Tract is in Nyaung Shwe Township, located in the western part of Taunggyi District. It lies in the northern and western watershed areas of Inle Lake, areas that have contributed to significant siltation of the lake due to timber extraction and swidden cultivation (Table 1). Although the total forest cover of Shan State is about 76%, and annual average deforestation rates over the period 1990-2000 stands at 0.2% (Leimgruber et al., 2005), the direct impact of tree loss on the lake has prompted urgent action. This, together with the floating agricultural practices on the lake itself, led in the summer of 2010 to the lowest water levels in nearly 50 years. As a result, Let Maung Kway is part of the targeted areas where MONREC is aiming to improve forest cover and reduce degradation.

Table 1: Level of forest cover (2000) and average annual deforestation rate (1990-2000)

<i>Division/State</i>	<i>Total area (1000 km²)</i>	<i>Forest cover (1000 km²)</i>	<i>Forest cover (%)</i>	<i>Average annual deforestation rate (%)</i>
Ayeyarwady Division	34	9	26	1.2
Mandalay Division	37	11	31	0.5
Sagaing Division	96	62	66	0.4
Yangon Division	10	1	13	0.2
Rakhine State	35	25	74	0.2
Shan State	157	116	76	0.2
Magway Division	44	14	31	0.2
Kachin State	89	76	89	0.2
Tanintharyi Division	42	31	75	0.1
Bago Division	38	18	47	0.1
Chin State	37	31	87	0.1
Mon State	11	5	45	0.1
Karen State	30	24	78	0.0
Kayah State	12	8	74	0.0
Total	671	430	65	0.2

(Source: Leimgruber et al., 2005)

Although this village tract has only ethnically Taungyo (also written Taungyor) residents, there are other ethnic groups within the district such as the Shan (main ethnic group of the area), Pa-O (particularly in the Pa-O self-administered zone to the east and west of the village tracts), Intha on the lake, Danu (also having a self-administered zone), and Tanaw. Taungyo are a sub-ethnic group of the Bamar people, speak a dialect of Burmese, and are Buddhists.

The villages in Let Maung Kway have been located here for more than a 100 years though there was no collective memory of when the villages were established. In general, according to the elders of Let Maung Kway, life has become better with the development of roads, schools and health facilities. Even so, road construction is a very recent phenomenon. Most residents of the villages, particularly more

distant ones, have never visited nearby villages, let alone the main market towns of Taunggyi and Nyaung Shwe.

In Let Maung Kway Village Tract, there are eight villages clustered into three groups based on our interview methodology: Kyauk Hnget, War Gyi Myaung, and Yae Chan Kone in group A; Kyaung Taung, Kyaung Nar, and Amphat in group B; and, Pan Tin and Tha Yet Pin in group C.

All villages in each cluster were invited to one group meeting. The A group of villages are southernmost and closer to Inle Lake. The next group moving northwards are the B villages, and then the smaller C villages are in the northern edge bordering Kalaw District.

The total population of these four villages is 2,625 residents, according to records provided by the village tract administrator U Yee (Table 2). Of the eight villages, two of the A group of villages (Kyaung Hnget and Yae Chan Kone) are the largest, whereas one village of the B group (Kyaung Nar) and two villages of the C group (Pan Tin and Kyaung Nar) are the smallest, falling below the 50 household level required to be officially registered as a village. Although most villagers maintained that they are roughly all of the same economic level, based on observation, the villages closer to Inle Lake are in a better economic situation having greater opportunities for income generation as a result of better road access to market towns. They engage in bamboo craft (basket, mats, strips) production for sale in the market. The road to the A group of villages was only completed last year.

Table 2: Household numbers and populations in Let Maung Kway Village Tract

No	Village Name	No of houses	No of Households	Under 18 years old			Above 18 years old			Total		
				Male	Female	Total	Male	Female	Total	Male	Female	Total
1	Pan Tin	36	36	34	37	71	41	45	86	75	82	157
2	Kyaung Nar	35	35	23	20	43	41	49	90	64	69	133
3	Kyaung Taung	80	80	57	88	145	103	103	206	160	191	351
4	Amphat	55	55	39	48	87	74	63	137	113	111	224
5	Tha Yet Pin	39	39	28	48	76	45	44	89	73	89	162
6	War Gyi Myaung	65	65	75	61	136	83	82	165	158	143	301
7	Yae Chan Kone	119	119	141	44	185	145	143	288	286	187	473
8	Kyauk Hnget	185	185	171	217	388	225	211	436	396	428	824
Total		614	614	568	563	1131	757	740	1497	1325	1300	2625

(Source: Village Tract Administrator)

All of the villages are located entirely within “public protected forest” lands that are within the jurisdiction of MONREC. As such, they do not pay any land tax. In 2000, there was an agreement between MONREC and villagers about their customary use of the taungya land. All in all, the relationship between villagers and MONREC has been amicable.

3.1.1 Village Areas

Although accurate information is not available on the land area of each village, villagers estimated that Kyaung Hgnet is approximately 500 acres in size. There is, by and large, less than ten percent landlessness in these villages although there is some inequity in size of household land holdings. Those without land in earlier times cleared forest to create their own lands. There has been limited population growth in the last five years.

Forest Classification in Burma

Forests in Burma are classified into two main types: permanent forest estate and non-permanent forest estate.

For the **permanent forest estate**: there are two types: *forest reserve* that includes protected area system, commercial forests (e.g., plantations for domestic use or export) and local supply reserves near villages for village use; and *protected public forest* that is an alternative to forest reserves for protecting trees and restricting land use in non-reserved forested areas.

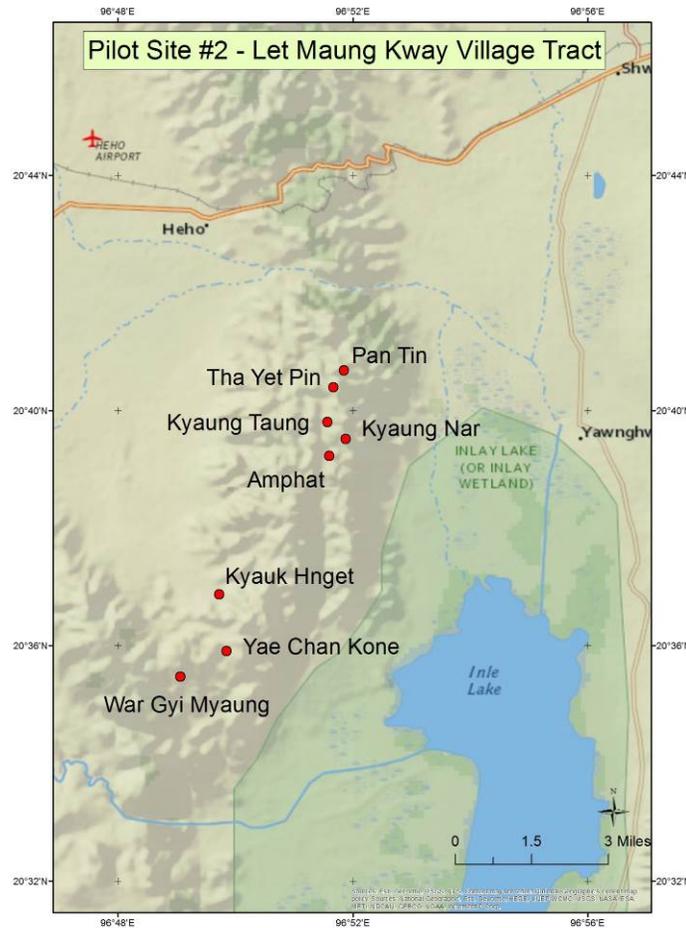
For the **non-permanent forest estate**: there are two types as well, public forests and waste land. *Public forest* (previously known as unclassified forest or other woodland area) covers forests outside permanent forest estate where villagers can harvest timber and non-timber products for subsistence, unless prohibited by law, such as cutting “reserved trees” such as teak (although these rules can be overridden with special permission). *Public forests* would not be targeted for forest plantations normally due to increased conflict with villagers and other departments, especially the Ministry of Agriculture and Irrigation (MoAI). *Waste land* is a land category without clear delineation on purported use or institutional control. This land category is often used by the MoAI to allocate agricultural concessions.

Both *public forest* and *waste land* are at the disposal of any government department, although permission must be received from the local Land Management Committee, which both the Forest Department and State Settlement and Land Records Department of MoAI belong to. MONREC policy on public forest is that it is forestland at the “disposal of the state.” (adapted from Woods & Canby, 2011, 16-17).

Although residents of villages in A and B groups said there had been no out-migration, villagers of C group said 50% of their residents had moved down to the plains area because of water availability problems. There is a small level of seasonal migration to Kachin State during the slack season.

The village tract administrator, U Yee, has been in this role for about ten years and lives in Kyaung Hnget. The village tract clerk is presently U Tun Yar Zar Win from the General Administration Department (GAD). None of the villages have electricity, although many villagers have cell phones which they charge with small solar panel setups. The larger villages have monasteries, a clinic (with midwife), a kindergarten, and a primary school (from 2006). The villagers believe education is very important and, after some pressure, were recently able to get a middle school donated. In general, it appears there is a reasonable level of gender equity in terms of household chores (men support women in cooking and child care).

Figure 2: Schematic Map of Villages in the Let Maung Kway Village Tract



3.2 LAND USE AND TENURE CONDITIONS

Although the villagers used to practice shifting or swidden cultivation (*shwepyaung taungya*), in recent years they have moved towards a short-rotational fallow system. *Shwepyaung taungya* is made up of a spectrum of rotational agroforestry practices that do not involve nomadic activity by farmers but rather involve the cultivation of a set of land plots on a sequential basis (Springate-Baginski, 2013). It is typically a complex practice involving knowledge of a wide range of crops that are intercropped. On average, in Let Maung Kway, families have three to five plots per household but the size of these remains unclear.

To a larger or smaller extent, the villages in Let Maung Kway grow upland rice (red), ginger, a mix of canola (for oil), maize, groundnut, pigeon peas, and a smaller range of vegetables/beans (pumpkin, potatoes, cauliflower, lima beans, brown beans, butter beans, snow peas, cabbage). They are unable to meet their household food needs primarily because of the lack of water for agricultural production. Ginger, for some, has been grown for generations, but some only started growing it five years ago. The ginger (and some turmeric) is sold in the market in Aunbang for a small profit. Other products are sold in nearby market towns such as Heho, Tauntan, Kountai hot spring, and Wajimiao (for bambooware sales). Pigeon pea cultivation is on the rise because it is profitable. Some grow banana or avocado in their *taungya* fields for the market. They also grow tamarind trees both for shade and to sell the

tamarind in the market. The rice is for their own consumption; given that rice is grown on a rotational fallow basis, they have to buy rice (golden rice from Bagan) to meet their household food needs. Besides growing crops on their taungya land, they also have small home gardens for household vegetable production such as French beans, long beans, mangoes, bananas, and oranges.



Cattle grazing in Let Maung Kway Village Tract

PHOTO: NAYNA JHAVERI/TGCC

Although they would like to diversify crop production, they are unclear what the options are given the water situation and the acidic condition of their soils.

Villagers also raise chicken, pigs, and cows/buffalos. In some villages, each household has a buffalo (an indication of considerable income status). There is no specific grazing area; livestock can roam freely. Agents come to the village to buy pigs.

Within any given village, the boundaries are very clear among the villagers, as well as between villages, with natural markings or fences marking the area. The boundaries between villages are clear and close together. As such, there is little room for further expansion of villages. There is a significant amount of fencing seen in all villages – this is primarily for safeguarding crops. There is presently no documentation of land allocations per household. There is no active land market in this area, although given the development of tourism around Inle Lake, it is only a matter of time before the market develops. For those, with excess land, however, there are outsiders who use these lands, at times paying a rental fee.

In late 2015, officials from DoALMS came to the village with MONREC to begin the process of degazettement. Villagers were told that the land near the village is to be denoted as farmland and the remaining hillside land is to remain under MONREC's jurisdiction. The details of this arrangement are not clear; moreover, the smaller villages such as Pan Tin and Tha Yet Pin have not, so far, been part of this degazettement process even though they are expecting to undergo the same land classification process. Given that these villages are less than 50 households, it may be the case that their expectations will not be met.

Presently, under MONREC oversight, there is no concern about security of access/use of their current taungya lands, but they are worried about the possibilities of private sector companies being able to obtain concessions in the future. They would like their children to have secure land rights and welcome the DoALMS's moves as well as the pilot project objectives.

In all the villages, there is very little knowledge about the laws relating to farmland or forestland rights nor about the public consultations on the National Land Use Policy (NLUP). The village tract administrator and village clerk were aware of the NLUP.

There is no overall village-level land management committee or coordination. Households make independent decisions about cropping on their household plots. The main difficulty they face is the lack of water and poor soil fertility. Only animal manure is used to fertilize the soils. At present, there is a project by the Myanmar Institute of Integrated Development (MIID), in conjunction with the International Center for Integrated Mountain Development, focusing on improving soil fertility and watershed management in the face of climate change. The project has formed three committees (water, sustainability, soil) to develop their work program. Although rainwater storage tanks have been

constructed in most villages through support from the United Nations Development Programme, monasteries, the government, and their own funds – these are still inadequate and only meet household water use. In recent years, climate change has led to less rain, hotter weather, and rain arriving later and in heavier bursts. This has created problems for ginger that is planted in March; the land remains dry for a longer period. Even so, there is no conflict over water use.

Each of the villages has a small community forestry area nearby; these were established in 2004. Under MONREC's management, they are about 20-60 acres to each village which provides firewood in an attempt to support better overall forest conservation. Formal agreements for community forestry certificates (30-year term) were established with MONREC (then known as MOECAF) in 2006. However, the community forest areas in the smaller villages were not provided by MONREC but by independent organizations. MONREC has provided support by donating seedlings and disseminating technical advice. In C group villages, charcoal production was carried out until about five years ago. As a result of education by MONREC, they no longer cut trees but instead replant areas with jackfruit, mango, and avocado trees. Firewood is collected by both men and women.



Cut firewood in Let Maung Kway Village Tract

PHOTO: NAYNA JHAVERI/TGCC

3.3 LAND ADMINISTRATION AND FOREST MANAGEMENT

U Yee, the village tract administrator, is the main point of contact for villagers on land administration and management issues. He has been village tract administrator for about ten years and won again in the early 2016 elections. Both he and the village clerk were reasonably knowledgeable about the land-related legislation as it impacts Let Maung Kway.

3.3.1 MONREC

On forestlands under MONREC's jurisdiction, it supports afforestation activities as well as community forestry primarily to protect the watershed of Inle Lake. Most of the deforestation took place about ten years ago. Over the years, certain species of acacia or eucalyptus have been planted in villages. The aim is to conserve 10,000 acres within the Inle Lake watershed in northern and western areas. In Nyaung Shwe, some 20,721 acres are under community forestry certificates.

MONREC works directly in the villages carrying out educational activities, providing seedlings and disseminating technical advice. They also work through organizations such as MIID and Ecodev (on bamboo plantations). Some plantations are allowed but not for teak cultivation.

More recently, MONREC has become involved with DoALMS in the degazettement process. It is unclear what their role is precisely. Some say they have been helping villagers with crop cultivation; this may be to support the identification of areas for land-use certificates down the road.

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