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## Smallholder Cash Cropping Expansion and the Privatization of Communal Forestland in Southeast Myanmar

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*Papers in the AsiaPacific Issues series feature topics of broad interest and significant impact relevant to current and emerging policy debates. The views expressed are those of the author and not necessarily those of the Center.*

**ABSTRACT** The spread of smallholder cash cropping in Myanmar's south-east is undermining Karen customary land use practices and communal tenure. The ceasefire agreement reached in 2012 with the main Karen rebel group, the KNU, led to a rapid expansion of smallholder cash cropping. Based on field research during 2020–2023 in 19 Karen villages under Karen rebel administration, we found smallholder agriculture to have directly contributed to significant land use change and the privatization of communal forestland. Wealthier Karen villagers and newly-arrived non-Karen migrants are increasingly replacing Karen traditional swidden rice farming and their communal tenure system with that of private household cash cropping plots with land titles. This agrarian change has increased land disparity and economic inequality, and transformed Karen relations to land and the Karen rebel group. These findings point to challenges for community-led forest conservation, the revitalization of the traditional Karen governance system, and ethno-nationalist struggles for federal democracy.

**Keywords:** Smallholders; customary rights; land privatization; insurgency; Myanmar

### Introduction: “Community Grabbing Their Own Land”

“Our biggest challenge now is the community grabbing their own land.” An ethnic Karen (or Kayin) elder who performed as a traditional authority figure alongside the community-elected village headman described to us the process of agrarian transformation underway in southeast Myanmar (Burma)—changes that clearly caught him by surprise. The concept of private property had been a foreign concept to Karen farming villages, who have predominately relied upon their traditional rotational swidden farming practices (known as *ku* in S’gaw Karen language) for their livelihood and cultural practices—marking it as one of the defining features of Karen identity.<sup>1</sup> Farming households manage upland *ku* rice fields on communal upland forests with collective tenure rights according to Karen customs. Villagers, under the leadership of the headman or traditional elder, manage land and forests communally, whereby they follow customary land use traditions with collective tenure arrangements to guide village socio-cultural functions and resource-based livelihoods.

However, decades of war and displacement have caused significant disruptions to Karen traditional farming systems and customary forest management.<sup>2</sup> The Karen National Union (KNU) and their armed wing, the Karen National Liberation Army (KNLA), have been engaged in ethno-nationalist armed political insurgency since the 1950s. Counterinsurgency tactics by the Myanmar military (known in Burmese as the *Tatmadaw*) against Karen rebel soldiers also targeted Karen civilians by attacking their villages and forcibly consolidating them into roadside settlements, which has had profound effects on their traditional land and resource management practices and their food security.<sup>3</sup>

But in early 2012 the KNU signed their first-ever ceasefire and led the country’s peace process during that decade’s national reform period.<sup>4</sup> Much like for other rebel groups in the country,

despite the ceasefire agreement, the KNU continued to maintain their soldiers, territorial administration, and governing capacity. This new political condition initiated a significant uptick in stability and human security in KNU areas and a boost in KNU’s capacity and political will to govern.<sup>5</sup> KNU thereafter opened new offices in strategic areas, which oftentimes replaced *Tatmadaw* bases as they selectively withdrew. In a few cases, greater KNU presence improved land and forest management with cooperation from village headmen and Karen civil society. But in many more cases the establishment of a new KNU liaison office led to the opening of new mines and logging sites facilitated and taxed by the KNU.

Since the ceasefire, new paved roads have been built or dirt roads upgraded. Improved infrastructure increased villagers’ access to markets, which in turn led to more agricultural opportunities with higher farmgate crop prices. The greater political stability and improved infrastructure also prompted the return of many Karen internally displaced persons (IDPs) and refugees to their original villages.<sup>6</sup> However it also facilitated migrants from neighboring districts and states/regions to move into Karen farming villages that have since been made more accessible and safe. These demographic changes led to a spate of illegal land transactions.<sup>7</sup> The diversity of newcomers farmed land they bought from local villagers, traded agricultural products as brokers, or did wage labor for wealthier households’ plantations. Migrants mostly identified as ethnic Mon or *Burman* (ethnic majority in Myanmar) and Buddhist, and thereby followed different cultural norms than predominately Christian S’gaw Karen villagers, although some married locally.

For example, in Kawkareik (or what the KNU refers to as Dooplaya) District, a Myanmar military-led ministry built a new north-south-running road after KNU’s ceasefire to better connect this area to where is known as Three Pagodas Pass, a major border trade check point with Thailand that has long been contested by both the KNU and the Mon insurgent group, the

*“Decades of war and displacement have caused significant disruptions to Karen traditional farming systems and customary forest management.”*

New Mon State Party (NMSP).<sup>8</sup> After the road was complete, migrants—most of whom identified as Mon and, to a smaller degree, Burman—moved into the area in bigger numbers. Trading, farming, and illegal land sales all got a boost from the road, all of which has had impacts on the surrounding forestlands, Karen villagers' traditional way of life, and ethno-political insurgency.

This study describes how during the ceasefire period, Karen villages have yet again been abandoning upland *ku* rice cultivation, but this time for the purpose of commercial cash cropping.<sup>9</sup> As a result, Karen villagers have become less reliant in recent years on their communal forestlands, collective tenure rights, customary land practices, and subsistence food production. Karen villagers and newcomers started to plant different crops for the regional market, especially rubber, corn, cassava, cardamon, and turmeric, in addition to Karen expanding betel nut plantations. As these cash crop booms arrived through exchanges with businessmen from nearby Mon State and Thailand, villagers and newcomers began to voluntarily transform their rotational *ku* rice fields under collective tenure into privately-owned cash crop plots with KNU land titles. We see very few large-scale agribusiness investments by companies in KNU areas as more commonly seen in other parts of Myanmar, however. The transformation in land tenure and livelihoods discussed here is propelled by smallholders in response to complex regional market forces and demand and price fluctuations, which is fundamentally reshaping the political and biophysical insurgent landscape.

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### Research Methods

Field research took place in two phases between 2020 and 2023 in a total of 19 villages predominantly inhabited by S'gaw Karen in territory controlled by the KNU or mixed with Myanmar government and Karen militia forces. Phase One research took place before Covid-19 disruptions and government restrictions took hold in the

Thailand-Myanmar border as well as before the February 1, 2021 coup. During the initial phase we investigated broader questions about agrarian change and drivers of deforestation since the ceasefire. Phase One study sites included a total of ten villages in the districts of Kawkaeik (KNU's Dooplaya), Hpa-an and Thaton (KNU's Doo The Htoo), which were strung along the border with Thailand and in the interior along the Mon State and Karen State borders. Phase Two, building from the findings of Phase One, covered the districts of Hpapun (KNU's Mutraw), Taungoo (KNU's Taw Oo), Kawkaeik (KNU's Dooplaya), and Tanintharyi Region (KNU's Mergui-Tavoy) in a total of nine villages. Phase Two focused exclusively on the expansion of smallholder agriculture and the associated transition towards a private property system.

Karen field research teams comprised of local community youth leaders, field staff from a Karen NGO and from KNU forestry (KFD) and agriculture (KAD). Each district for both phases had its own team of researchers who were familiar with the area and the village headman so to encourage trust among villagers and the research teams. KFD and KAD field staff joined some of our research teams to help build their research and knowledge capacity. Field research teams conducted focus group discussions (FGD) with men and women of varying ages in the village, supplemented by household interviews to get more detailed information from family members. Identifying information, including village names, have been kept anonymous for villagers' safety. Elected village headman, most of whom found the rapid spread of cash cropping alarming, were present during FGDs and encouraged villagers to speak openly. We did not allow any Myanmar government or military officials to be present for any discussions due to security concerns. Our research findings have been shared with KFD and KAD to help address KNU's policy gaps in regulating cash cropping.

### Transition From Communal Forestland to Private Farmland

Karen villages in the southeast are undergoing a major transition in land use and tenure rights since KNU's ceasefire. The expansion of cash cropping, in part driven by illegal land transactions, has played a significant role in these changes. Most attention has been given to large-scale land and resource "grabs" by the Myanmar military and crony companies, which is important but does not tell the broader story of agrarian change underway.<sup>10</sup> The commodification of land and privatization of communal forestlands are beginning to have a profound and lasting impact on Karen customary land management, their traditional culture and way of life, their relationship to land, labor, and territory, and relations to the armed insurgency.

The hill forests surrounding Karen villages have traditionally been upheld by collective tenure arrangements. A household asks permission from the headman or traditional leader, who oversees land use in the village, to open a *ku* field for subsistence rice cultivation. No household or other authority figure "owns" this land as it is part of the commons that belongs to the community, although households hold temporary user rights when cultivating a *ku* rice field. Other forestlands, such as spirit forest, watershed forest, and community forest, are also under communal tenure with regulated collective management use rights, with additional support from KNU's Forest Department. If located inside a KNU forest reserve or wildlife sanctuary, however, the KNU suspends communal tenure rights as these forests fall under the full jurisdiction of the KFD, per their Forest Policy.

The recent expansion of smallholder cash cropping has put increased pressure on the ecological integrity of these hill forests and the proper functioning of collective tenure arrangements. The cultivation of *ku* fields rotate every year or two, after which they are fallowed for at least several planting seasons (if not longer)

while the forest recolonizes the site, following traditional cultivation practices. Once the forest reaches a certain degree of regeneration, the cycle starts again with the opening of a *ku* field. Cash crops, on the other hand, are grown in fixed plots as a form of settled agriculture and do not rotate like for *ku* rice cultivation. Households must invest more capital and labor to maintain cash crop plots, especially for the case of tree plantations, such as betel nut and rubber.

A household's cash cropping plot became seen as private property belonging exclusively to that household so long as they continued to cultivate cash crops there. Villagers we interviewed referred to their cash crop plots as "owned" by their household. One villager described how this new sense of private ownership works: "The land that we clear and plant betel nut on becomes our [household] land; how much of the land you clear will determine how much of it you own." Tensions remain, however, with how you decide who originally cleared the forestland and who had the right to do so; most of the converted cash crop plots initially served as the village's *ku* fields under collective tenure which had been cleared and regenerated for decades if not generations. Karen field research teams felt these sentiments marked a new way for Karen to refer to land that had previously always been understood as communal and not belonging to any single household in perpetuity.

The sense of private land ownership goes hand-in-hand with land titles. In our village study sites that have heavily invested in cash cropping, most (and in some villages, all) households possessed KNU-administered land titles.<sup>11</sup> KNU land titles only confer the recognition of their land use rights per KNU's Land Policy (2015) (see *Art. 3.7*), but villagers nonetheless interpret them as land *ownership* documents. Karen villager's common misunderstanding of land titles conferring private ownership and the lack of enforcement of land conversion further encouraged farmers to illegally change commu-

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nal forestland into household cash cropping plots. Households only qualify for a KNU-issued land title if they follow the regulations to convert forestland to cash cropping and the plot is located outside of KNU forest reserves and wildlife sanctuaries. Despite often not following regulations, villagers reported receiving a land title from KAD staff without regard to the legality of conversion. When asked how newcomers obtained private farmland, villagers reported that sometimes they sold them their land plots, often after they received a title, despite KNU regulations forbidding villagers to sell land.

Villagers described several ways they converted land to cash cropping plots. The most common method we found was for households to transform the *ku* rice field they had previously cultivated into their own new cash crop plot. According to KNU's Land Policy, villagers may convert a *ku* field into a cash crop plot, but they must first get explicit permission from the Village and Central Land Committee, the headman, and traditional leader (*Art. 3.7*). In our study sites these authorities had not all granted permission for these land conversions; in some reported cases the headman or traditional leader may have informally allowed the conversion, but for many others they did not seek permission from anyone. Conversion became legal, however, once KAD issued the land title.

Another related common conversion mechanism we found was households opened a new *ku* field with permission from the headman, as per local custom, but with the secret intention to later convert it into their private cash crop plot despite no authorization. Some of these families who falsely claimed ownership of a *ku* field sold it without permission to newcomers, who then established an agricultural plantation. This behavior fueled illegal land speculation in some of our study sites, much to the consternation of the headman and other villagers.

We routinely found KNU policies and regulations not being followed or enforced. Some villagers claimed being ignorant on the letter of

the law, but others reported they knew the activities were against KNU policy, but after watching people ignoring the rules without any repercussions they too joined them in land conversion. In nearly all cases the headman or traditional leader expressed dismay with these land dynamics and the loss of communal forest land, but in only a few cases did they use their anointed power to try to limit or stop the conversion practice.

With changing cultural norms and greater integration into a market economy, some households with sufficient capital and labor have converted multiple *ku* fields into what became much larger farm plots. These large plantations oftentimes went beyond KNU's allowable maximum limit.<sup>12</sup> This pattern seemed especially prevalent in Tanintharyi Region (KNU's Mergui-Tavoy) from the expansion of rubber plantations.<sup>13</sup> Wealthier households who had obtained several land parcels also reportedly sold some of their land to those coming from outside the village, saying that they could do what they pleased because they owned it. But the other villagers described how they felt betrayed and angry because wealthy families sold the village's communal forestland but only those households profited. In our study village in Kawkareik (KNU's Dooplaya) District, the transfer of land to outsiders became so severe that in 2018 the village headman successfully stopped any further illegal land transactions.

In several of our study sites, wealthier households who managed several plantations hired laborers from poorer households in the village to work on their plantations. The poorer households claimed they could only cultivate a single small *ku* field or at most one small cash crop plot, with little prospect of expanding their fields as they did not have enough cash or labor. These new land-poor households are a new phenomenon in Karen villages, which is a direct result of the expansion of cash cropping and the privatization of communal forestland. Some poorer households who cultivated a cash crop plot reportedly

sold their plot to their fellow village members to make money to help their family make ends meet. Some of these poorer villagers spoke about how they regretted selling the land once they realized how fast their money is spent in a cash economy to pay living costs. These poorer households have sold their labor in and outside of the village for farm work and in resource extraction, and some household members have moved to Thailand to work as migrant laborers.

These new land dynamics are contributing to the rapid loss of communal forestland and increasing land inequity and economic inequality within the village. Previously villagers more-or-less equitably shared communal forestlands based on household subsistence needs and labor availability.<sup>14</sup> But with the transition to a cash economy with the spread of cash cropping and the increasingly popular concept of land ownership buttressed by land titles, there has been growing disparity in land and resource access within villages. The newly-made land-poor villagers expressed concern that the allocation of KNU land titles further entrenched these land inequalities. In contrast, most of those that possessed titled land plots saw their situation as evidence of successful development from the ceasefire. Refugees, IDPs, or others who left during war but who may want to return to their home village in the future would need to buy land (illegally) from those with titled land, further exacerbating land conflict and illegal land sales. Villagers also expressed concerns about what will happen if wealthy households and outsiders continue to expand their plantations and more households become landless and turned into laborers for plantation owners.

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### **Challenges to Ethnic Governance Systems**

The loss of customary land practices and collective tenure arrangements is undermining political struggles for ethnic self-determination and decentralized federal democracy. Recognition and support of customary land rights continues

to be a key rallying point for ethnic civil society. This was best demonstrated at the national level by their advocacy in the Union land law reforms during the 2010s, where they demanded legal recognition of customary land rights and practices.<sup>15</sup> Moreover, KNU's Land Policy holds social legitimacy precisely because of its protections afforded to traditional customs and land use practices, contra Union laws and the constitution. Protections for customary rights and practices also guide ethnic civil society and rebel groups' vision for political federalism, whereby ethnic customary governance systems are seen as informing the future rules and regulations guiding sub-national governments.<sup>16</sup>

In response to these land commodification pressures, Karen environmental activists have been championing the revitalization of the traditional Karen *kaw* governance system. The *kaw* system is based on traditional rules and customary practices and is grounded in community-led approaches to communal land and forest management. Karen civil society and KNU officials have been demarcating ancestral *kaw* territories, primarily in Hpapun (KNU's Mutraw) District, to protect their ethnic territory from military intrusion and to preserve their cultural traditions.<sup>17</sup> Rather than continue to wait for a political resolution to the war and a federal constitution, designating *kaw* territories today is seen as building the foundation for bottom-up customary forest governance and federal democracy in practice. The shining example is the Salween Peace Park in Hpapun (KNU's Mutraw) District that supports community-led conservation and customary rights and practices.<sup>18</sup> The indigenous park was initiated in 2018, after which its president and founder, Paul Sein Twa, has won the prestigious Goldman Environmental Prize and the UN's Equator Prize for his efforts.<sup>19</sup>

Despite these commendable achievements, the transition of communal forestland to privately-owned cash cropping plots is creating new challenges to the *kaw* governance system. This may even challenge the ways in which political federalism could operate in southeastern Myanmar.

***"In response to these land commodification pressures, Karen environmental activists have been championing the revitalization of the traditional Karen governance system."***

Many we spoke with worried that their traditional knowledge and ceremonial practices are being jeopardized with the loss of communal forestland and no longer cultivating traditional crop varieties in their *ku* fields. Headmen and elders explained how they are figuring out how their roles and responsibilities in the village must adapt to a cash cropping economy.

Community-centered, bottom-up approaches to forest management practices, such as revitalizing the *kaw*, provide new hope

for preserving forests and supporting customary rights and practices. These community-led approaches to communal forestland management can form the basis for how land and resources in ethnic states are governed under a future decentralized federalism that is culturally appropriate and equitably just. But first more attention and support is needed to better account for and regulate the privatization of village communal forestlands and the loss of customary land rights and practices and ethnic governance systems.

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<sup>1</sup> See Rajah, A. 2008.

<sup>2</sup> South, A. and K. Jolliffe. 2015.

<sup>3</sup> Sydney, C. 2019.

<sup>4</sup> Since the coup in February 1, 2021, some of these dynamics I describe here have been highly disrupted yet again in KNU areas where there is intensified fighting.

<sup>5</sup> Jolliffe, K. 2016.

<sup>6</sup> Karen Human Rights Group (KHRG). 2020; South, A. and K. Jolliffe. 2015.

<sup>7</sup> South, A. et al. 2018.

<sup>8</sup> South, A. 2003, pp. 143–144.

<sup>9</sup> On a recent study on transitions from shifting cultivation to cash cropping in the tropics, see Martin, D. et al. (2022). For a quantitative study that employs remote sensing in southeast Myanmar on the transition from shifting cultivation to cash cropping in Tanintharyi Region, see Pyone, KHH. et al. (2023).

<sup>10</sup> On “smaller-scale” land grabs through smallholder accumulation processes in Myanmar, see Woods, K. 2020.

<sup>11</sup> For those households who are farming (illegally) inside KNU forest reserves or wildlife sanctuaries, they did not possess a land title, per KNU policy.

<sup>12</sup> For most households the limit would be 5 acres for non-rice crops or 20 acres for paddy rice (*Art. 3.7.3*). For a business or commercial farm enterprise—which for some cases we studied may apply, depending on how defined—then 50 acres is the maximum allowed (*Art. 3.7.4*)

<sup>13</sup> See also Woods, K. 2020.

<sup>14</sup> Women-headed households would fair less well, however.

<sup>15</sup> Ra, D., & Ju, K. K. 2021.

<sup>16</sup> Woods, K. 2019.

<sup>17</sup> So far, more than 300 *kaws* have been demarcated, covering an area of more than 2 million acres.

<sup>18</sup> Paul, A., Roth, R. and P. Sein Twa. 2023.

<sup>19</sup> See <https://kesan.asia/salween-peace-park-program-3936/>

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