



ASSESSMENT OF THE GENDER DIMENSIONS OF LAND USE AND TENURE IN LET MAUNG KWAY VILLAGE TRACT, NYAUNG SHWE TOWNSHIP

TENURE AND GLOBAL CLIMATE CHANGE (TGCC) PROGRAM



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Cover Photo: House and garden in Amphat village

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ACRONYMS AND ABBREVIATIONS

CSO	Civil Society Organization
DoALMS	Department of Agricultural Land Management and Statistics
FGD	Focus Group Discussion
GAD	General Administration Department
LTP	Land Tenure Project
LUC	Land Use Certificate
MFI	Microfinance Institution
MIID	Myanmar Institute for Integrated Development
MOALI	Ministry of Agriculture, Livestock and Irrigation
MONREC	Ministry of Natural Resources and Environmental Conservation
NLUP	National Land Use Policy
NTFP	Non-Timber Forest Product
UNDP	United Nations Development Programme
USAID	U.S. Agency for International Development
VTA	Village Tract Administrator

EXECUTIVE SUMMARY

In 2016, the U.S. Agency for International Development's (USAID) Land Tenure Project (LTP) in Burma undertook an assessment of the gender dimensions of land use and tenure in Let Maung Kway Village Tract, Nyaung Shwe Township, the second of the project's three pilot sites. This assessment serves as a companion document to an overall land use and tenure assessment completed at the same site earlier in 2016 and is intended to inform continued programming.

The key points emerging from the Gender Assessment of Let Maung Kway Village Tract are as follows:

1. All land in Let Maung Kway Village Tract is communally held and rights to land are customary. While it seems that the village residents have some formal rights to village settlement land and community forests, they have no formally recognized rights to the lands they use for taungya cultivation, grazing, and foraging outside of their formal community forests. If the communities continue to hold and use these lands without formal recognition, they risk losing this land as others may seek this land for other purposes.
2. Each type of land has different rules of access and use. Rights to use settlement land and taungya land are primarily obtained through inheritance and marriage. Access to forests and grazing lands are based on residency within the village.
3. A few households own individualized holdings of paddy land outside the village tract, near Inle Lake. These families bought these lands a few decades ago.
4. Men and women seem to have equal rights to taungya land as well as paddy land outside the village, but in practice this seems to not always be the case. There are questions of matrilineal/patrilineal practices which determine access and exclusion. Settlement lands are usually inherited by the youngest child or the child that stays within the household to look after their parents.
5. There is a gendered division of labor, with women and men using and accessing land in different ways. Women do agricultural tasks such as planting, weeding, and harvesting; collect firewood; forage in the forests for mushrooms and vegetables; and, do household work, such as cooking, cleaning, tending the vegetable garden, and caring for the children. Men do work such as land development and ploughing, and cutting and transporting wood and bamboo. Men, women, and children graze and care for large animals such as buffaloes, cows, and bullocks. Men earn more than women for agricultural wage work.
6. Men, as heads of households, are the primary decision-makers for major decisions pertaining to all types of land and sale of produce. Women's participation within decision-making varies at the household level. While respondents said that men and women usually make decisions together, they also said that many decisions, particularly around land and agriculture, are ultimately made by the man. Control over money in the household varied, but was more commonly held by men.
7. Landlessness is generally low in the village tract. Villagers consider landless families to be those who have no access to taungya or paddy land. Landless households were reported to have been settlers in the area, and thus hold no customary rights to taungya land, or to have sold their rights to taungya land (although this is technically impermissible).

8. Landless households can lease or borrow taungya land if they have the labor and resources to use it. Rates are lower for village inhabitants. In Kyaung Nar village, ten outsiders have leased land within the village.
9. Landless women heads of households are less able to access land because they are considered unfit to cultivate land on their own and would need to rely on male relatives or hired labor to do the more physically difficult work on their plots, such as clearing or ploughing.
10. Residents of this village tract rely heavily on their village leaders to liaise with government departments and to solve disputes within the community. All of the village leaders within this village tract are men.
11. Women usually do not conduct land-related business, and are rarely involved in interactions with village heads, village tract administrators, and government officials.
12. Women do not participate in public meetings, nor are they represented in official local or government positions. They would like to be more involved in consultations and see more women holding official positions.
13. Practices around inheritance and division of land in case of separation, divorce, or abandonment are unclear and seem to be handled according to customary family practices within the community, but are taken on a case-by-case basis.
14. Poor communication, access to markets, and water shortages are some of the most commonly reported problems reported by both men and women within the village tract. Water shortages have implications for an increased burden of work for women.
15. Poor infrastructure (bad roads) may also negatively affect women in that it further curtails their mobility and opportunities for participation in community decisions and representation outside the village.

I.0 PURPOSE OF THE ASSESSMENT

The purpose of the gender assessment is to better understand the gender dimensions of land use and tenure in Let Maung Kway Village Tract, Nyaung Shwe Township, Taunggyi District of Southern Shan State, which is the second of three pilot sites for LTP.

The pilot activities are intended to help determine how the National Land Use Policy (NLUP) can guide the recognition of community land and resource tenure as well as effective land use planning at a localized level. The pilot involves 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 August 2016, at the start of LTP's engagement at this pilot site, the project team conducted a land use and tenure assessment, the objectives of which were as follows:

1. Assess the status of natural resources and existing land use arrangements with attention to gender and social inclusion dimensions;
2. Identify 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,
3. Examine the types of drivers leading to transformation of prevailing land use and tenure arrangements.

The gender assessment builds on the work of the land tenure assessment, and thus will not reiterate the findings of that report. For these findings, including more general information on land use, resource tenure, and land administration in the Let Maung Kway Village Tract, please see Jhaveri, N., & Thomas, N. (2016). *Land Use and Tenure Assessment of Let Maung Kway, Nyaung Shwe Township*. Washington, DC: USAID Tenure and Global Climate Change Program.

The objective of the gender assessment is to examine more closely the gender dimensions of land use and tenure arrangements within this village tract. This deeper understanding of the ways women and men use, access, hold, and make decisions around land will better inform this and other projects in shaping the intervention in a more gender-responsive manner and prioritizing issues that may affect women and men in different ways.

2.0 ASSESSMENT METHODOLOGY

The assessment methodology involved: (1) desk review of reports from the initial land use and tenure assessment of the village tract; (2) focus group discussions (FGDs) with women from the village tract; and, (3) follow-up conversations with men, village leaders and other key informants from or familiar with the villages. The assessment team used a semi-structured questionnaire guide for both the focus-group discussions and a general list of questions for the follow-up conversations (Annex 1).

For the Let Maung Kway Village Tract, the team conducted three FGDs that included women from five of the eight villages in the tract, as follows:

- FGD with eight women in Amphat;
- FGD with six women from Kyaung Nar; and,
- FGD with ten women from the three villages in the southern part of the tract: Kyauk Hnget, Yae Chan Kone, and War Gyi Myaung.

The FGDs included a combination of married, single, widowed, and divorced or separated women between the ages of 15 and 70. The participants included women from both men-headed and women-headed households. The interviews were conducted primarily with Bamar-English consecutive interpretation, with some assistance interpreting some questions to Taungyo.

The assessment team also conducted follow-up conversations with men from the village, some of the village leaders, and other key informants as follows:

- Two key informant interviews with local civil society organization (CSO) staff active in the village tract;
- Key informant interview with the village head of Amphat; and,
- Key informant interview with the village tract administrator, located in Kyauk Hnget.

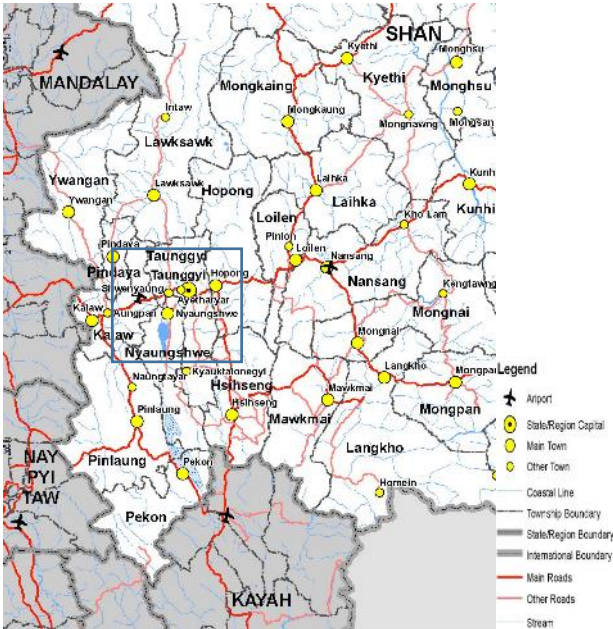
Each key informant interview lasted between 30 minutes and one hour.

The assessment team included: Elizabeth Louis (Landesa Senior Research, Monitoring and Evaluation Specialist), Laura Eshbach (Landesa Attorney and Land Tenure Specialist), Khin Htet Htet Pyone (LTP National Resource Law Specialist), Mr. Htein Lin (Interpreter), and members of the local CSO, Peace and Justice Network, including Ma Nge Nge, U Htun Htun Myint, and Ko Tun Win.

3.0 OVERVIEW OF VILLAGE TRACT

Let Maung Kway Village Tract is in Nyaung Shwe Township and is located in the western part of Taunggyi District of the southern part of Shan State. It lies in the northern and western watershed areas of Inle Lake. Shan State is largely forest, but has undergone net forest loss over the last several years (Wang & Myint, 2016). Southern Shan State has a low rate of landlessness (7.7%) as compared to the national average (23.6%). Poverty in rural Southern Shan is higher than the national average, both on indicators of financial poverty (31% versus 29% of rural population below the national poverty line) and food poverty (9.8% versus 5.6% on the food poverty headcount index) (UNDP, 2011).

FIGURE I: MAP OF SOUTHERN SHAN STATE

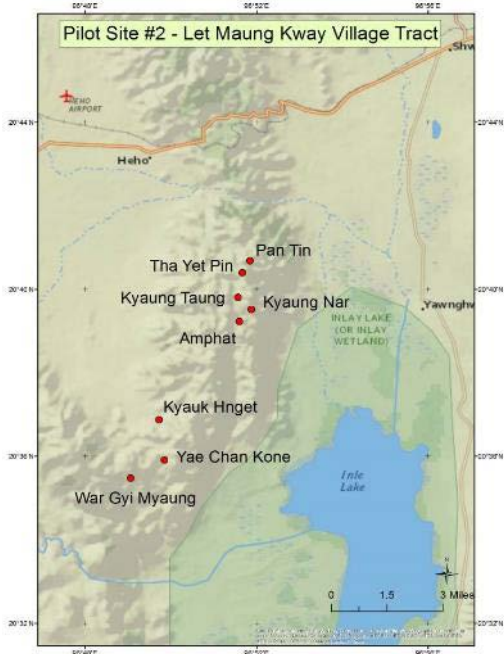


Source: Myanmar Information Management Unit, Shan State Map, Sept 2016

Nyaung Shwe Township has a population of about 189,400, about 91% of whom live in rural areas, with an average household size of 4.2. About 20% of households in Nyaung Shwe Township are headed by women. Amongst the rural population of the township, men have higher adult literacy rate, 94%, compared with women, 84% (Government of Myanmar, Ministry of Immigration and Population, 2015).

There are eight villages in the Let Maung Kway Village Tract: Kyauk Hnget, War Gyi Myaung, and Yae Chan Kone in the southern part of the tract, and Kyaung Taung, Kyaung Nar, Amphat, Pan Tin, and Tha Yet Pin in the northern part. The tract has a total population of about 2,600, according to the village tract administrator. Villages in the northern part of the tract are hilly, less densely populated, and have more land available. In the southern part of the tract, villages are more populated and land is flatter, which serves to make the land scarcer with increased chances of conflict.

FIGURE 2: SCHEMATIC MAP OF VILLAGES IN THE LET MAUNG KWAY VILLAGE TRACT



All the villages are located entirely within lands that are officially classified as Protected Public Forest, which are governed mainly under the provisions of the 1992 Forest Law, the 1995 Forest Policy, and the 1994 Protection of Wildlife and Conservation of Natural Areas Law. Generally designated as such for conservation purposes, Protected Public Forests fall within the jurisdiction of the Ministry of Natural Resources and Environmental Conservation (MONREC). MONREC can and has allocated such lands to businesses for agricultural production (with and without changes to official classification of the land). Local communities that use land within Protected Public Forests in Burma have insecure land tenure: although the land is eligible to be designated as “community forest,” they usually lack officially recognized rights to use the land and continue their access and use through informal permission. Lack of legally recognized rights leaves these communities at risk of losing the land as authorities or circumstances change. In recent years, MONREC has granted formal rights for permanent agricultural use of some forest lands to some eligible villages. However, there has been no such recognition for those practicing shifting or rotating

agriculture (Woods, 2015). While the NLUP does state that customary land use systems are to be recognized by the national law, no such law has yet been passed or implemented.

In this village tract, customary short-term rotation agricultural practices are the norm. The main lands used for agriculture in this village tract are called taungya lands and are considered by the villagers to be owned by the village with customary access rights granted to each extended family or household. Taungya lands are not irrigated; crops (mostly ginger and non-irrigated paddy) are grown there on a short rotation basis. While some of the villages do have official rights to the village settlement areas and community forests and village-owned firewood plantations through agreements with MONREC, the village tract residents have insecure tenure upon their taungya lands and other public forestland that they use for their livelihoods (including agriculture, grazing and foraging activities), as these rights are not recognized under the formal law.

The team conducting the land tenure assessment reported that the Department of Agricultural Land Management and Statistics (DoALMS) had begun a process of de-gazettement in late 2015, so settlement areas have been reclassified to fall under the jurisdiction of the Ministry of Agriculture, Livestock and Irrigation (MOALI) and become eligible for General Administration Department (GAD) services. De-gazettement only applies to the settlement areas of villages and remaining land would continue under MONREC’s jurisdiction. The details of this arrangement remain unclear. However, it should be noted here that the Farmland Law does not formally recognize communal tenure arrangements over farmland, and thus, conflicts with the customary rights held over some lands in this village tract. This conversion and a subsequent registration of individualized household use rights to that land under the Farmland Law would likely bring up land disputes within the community. Such registration would also make these lands eligible for sale, potentially bringing more outsiders to these communities.

FIGURE 3: HOUSEHOLDS AND POPULATION IN THE VILLAGES OF LET MAUNG KWAY VILLAGE TRACT

Village	Household Number	Total Population		
		Male	Female	Total
Pan Tin	36	72	85	157
Kyaung Nar	35	64	69	133
Kyaung Taung	80	160	191	351
Amphat	55	113	111	224
Tha Yet Pin	39	73	89	162
War Gyi Maung	65	158	143	301
Yae Chan Kone	119	286	187	473
Kyauk Hngat	185	396	428	824
TOTAL	614	1,325	1,300	2,625

Source: Let Maung Kway Village Tract Administrator; as cited in Jhaveri & Thomas, 2016

4.0 GENDER ASSESSMENT FINDINGS

4.1 ECONOMIC ACTIVITIES AND CHALLENGES

The main economic activities of households in the Let Maung Kway Village Tract revolve around agriculture and artisan crafts. Households are primarily involved in cultivation of their fields; agricultural wage work; non-agricultural wage work, like construction in nearby towns such as Heho; animal husbandry; bamboo product fabrication; forest foraging; and, in times of economic need, migration for seasonal agricultural work in the rice-growing areas and long-term migration for non-agricultural work.

In the dry season, when agricultural work is minimal, men and women do wage labor in the rice paddies near Inle Lake, work on preparing their own lands for the next planting season, make bamboo products, and graze their large animals such as cows and buffaloes. There is very little out-migration from the villages, but a few young, unmarried men have migrated to Thailand and return once a year.

The main challenges faced by households are poor infrastructure and poor transportation and communication options which limit their access to markets. They also deal with extreme water scarcity in the dry season. This has been somewhat alleviated by community and household water tanks built through a recent United Nations Development Programme (UNDP) intervention and a watershed management intervention through the Myanmar Institute for Integrated Development (MIID).

4.2 GENDER DIMENSIONS OF LAND USE

4.2.1 Types of Land Use and Division of Labor

According to the respondents, households engage in five main types of land uses: (1) village settlement; (2) taungya; (3) forest; (4) permanent paddy cultivation; and, (5) grazing. Use of land is dictated by the activities men and women typically engage in. Women's main activities include cooking, taking care of children, doing other housework, working in the fields, making bamboo products, grazing and caring for their livestock (mainly buffaloes), collecting firewood and forest products, and tending their vegetable gardens.

Village settlement land includes household plots within the village settlement area that have houses and vegetable gardens; plot and garden boundaries are marked with a live fence. The settlement area is owned by the village. Individual plots are inheritable and family members are allowed to build more housing structures on their plot. Plots cannot be sold. If a household moves, they give up the rights to their plot. Women usually take care of their houses and household plots. Houses shelter buffaloes and cows in the lower floor. Plots also have a separate kitchen structure, water storage, and vegetable gardens. In Amphat village, the household plots are relatively large and vegetable gardens are extensive. Households grow cabbage, ginger, gourds, beans, corn, etc. In Kyaung Nar, vegetable gardens are less extensive. The vegetables are mostly for subsistence but any excess is sold. Women are the primary caretakers of vegetable gardens, with some help from the men. Households also plant bamboo clumps, which they use for bamboo craft, a major livelihood activity.

Taungya lands fall outside the settlement areas but are considered by the villagers to be within the village boundary.

Households grow crops on taungya lands, mainly ginger and dryland paddy, with smaller amounts of winter wheat, corn, and varieties of beans and lentils. Ginger is the main commercial crop. Rice, beans, corn, wheat, and vegetables are grown mostly for subsistence. In some villages, such as Amphat, households are self-sufficient in food



Hilly Amphat village in the northern part of the village tract, surrounded by taungya lands
PHOTO :LAURA ESHBACH/LANDESA

production and only buy oil and meat from outside. Most labor is provided by the households, but households exchange labor and also occasionally hire wage labor from village or outside. Men are paid more than women for agricultural labor. Women do agricultural work such as sowing, weeding, harvesting and threshing. Men do the clearing, ploughing, and land development works.



Land surrounding Kyauk Hnget village in the south is flatter and more fertile
PHOTO :LAURA ESHBACH/LANDESA

Use of taungya land is dictated by local customary practices.¹ Rights to taungya land are not recognized under formal law, but are seen as belonging to the whole community, with rights to exclusive use of certain areas being held by the household or extended family that clears and cultivates the land. Taungya land is inheritable and can be leased out. There are some reports that rights to taungya land have been sold, although the village

tract administrator had no knowledge of such sales. Discussions with CSO staff members revealed that rights to one swath of taungya land is held by one extended family; smaller plots within this swath are held by different households within the extended family. How the land is used and which plot is used may be subject to negotiation within the extended family.

¹ Note that the while there are many communities throughout Burma that use taungya land under “customary rights” to that land, that the customary rights to use taungya land and the customary practices of cultivation may vary from community to community.

Fields are planted in two ways based on a household's resources and availability of labor. Households with more resources and labor use a larger area and rotate three to four plots, leaving them fallow after one season of growing. Those households with fewer resources and labor use two plots, alternatively planting ginger and paddy on the same plot and not giving the plots a chance to be fallow. There are variations in fertility and soil quality of taungya. In Amphat village, the village head indicated all households in the village have access to both more fertile and less fertile lands.

Each village in the tract has 20 to 40 acres of forest referred to as a "firewood forest" or "village-owned firewood plantation." Some of the villages also have "community forests." All of the villages also have public forests in or near them. Currently all firewood and community forests have a green tree felling ban, which in some of the villages, like Amphat, is enforced by the village head with a fine. Women respondents said that there was no external stakeholder enforcing this ban on cutting; it was done by the village to conserve soil and water and prevent erosion. Communities use these forests for collecting dead branches for firewood (generally reserved for older members of the community), or to meet limited community timber needs (i.e., posts for new structures or firewood for community events or charity, as these exceptions to the ban on green tree felling). Households therefore use other forests, usually an hour to 90 minute walk away, to collect firewood. The respondents believed these to be public, government-owned forests. Households also use dead branches from trees planted as fences surrounding household plots in the settlement areas and taungya lands as firewood.

Forests are an important source of livelihood support for women and households. Use of forests is gendered and benefits coming from the forests are also gendered. In forests, women collect firewood, mushrooms, bamboo shoots, forest vegetables and tubers, and other non-timber forest products (NTFPs). The vegetables that they collect serve as an important income source for the women. Men cut and transport bamboo, which is also harvested from clumps in the settlement areas. Bamboo products are a major livelihood activity in the area, and households are engaged in it in the dry season when they are less involved in cultivation. Women mainly work on smaller bamboo crafts, while men work on the larger, heavier products.

Paddy land is not present within the village tract but is found near Inle Lake. In the case of Kyaung Nar village, about five households have bought paddy land about an hour's walk from the village. These are individualized holdings by household and are not subject to customary rights. They can be bought, sold, and used for credit.² Both women and men of these families worked on the paddy land, splitting up some of the agricultural tasks in a way similar to that used for cultivation of taungya land.

Grazing lands are present outside the settlement areas, near the taungya fields and forests. It is unclear from the respondents what the official classification of the land they use for grazing is, but it is likely part of the Protected Public Forest administered by MONREC. Grazing land is accessed by both men and women, and respondents say that care of livestock such as buffaloes and cows is not the exclusive responsibility of any one gender.

² If the land is officially classified as agricultural land, it would fall under the 2012 Farmland Law and be under the jurisdiction of MOALI. Such land is eligible for official registration and issuance of a Land Use Certificate (or Form 7) which grants official, transferable, long-term use rights over agricultural land. A Form 7 can also be used to qualify for credit (short-term agricultural loans) from the Myanmar Agricultural Development Bank. Respondents in Kyaung Nar reported that the paddy land that their families had was purchased many years ago by their grandparents, was not registered with Form 7, but that they had other documentation as evidence of their rights to this land (i.e., Sale-Purchase Agreement, tax receipts). It was unclear from the interview if they had tried to use this land to access credit through official channels. Whereas this sort of land was outside the villages and involved few of the village tract residents, the research team's inquiry on this sort of land was relatively limited during the FGDs and other interviews.

4.3 GENDER DIMENSIONS OF LAND RIGHTS

Rights to land are primarily customary, and each type of land has different rules of access and ownership. Within the villages, access rights are primarily obtained through inheritance and marriage. Men and women seem to have equal rights to all lands, but in practice this is not always the case. There are questions of matrilineal/patrilineal practices which determine access and exclusion.

In this village tract, taungya land is generally held in the form of family rights to exclusively use land, generally split among the family's various households as children grow up and create new households. Both women and men have a clear understanding that they do not "own" their taungya lands. Women and men gain rights to taungya lands through marriage or inheritance. These rights cannot be bought. All children inherit equal rights to taungya land.

There is no clear way to assess if practices surrounding marriage, family, and inheritance are matrilineal/patrilineal and matrilineal/patrilineal. For example, decisions to move to a spouse's village after marriage are based on any one or combination of these factors: 1) which one has rights to more taungya land; 2) if the spouse is an only child and takes care of the parents; and, 3) if the spouse is the youngest child and will inherit the household settlement plot. Marriages occur within the same village and between people from different villages. In the case of divorce or separation, husbands and wives go back to their respective natal villages, still having rights to their natal family's taungya land there. Women and men do not lose rights to use their natal taungya lands if they move away. Although it will likely be divided up among the extended family for use in their absence, the rights are reinstated if they move back.

There are unanswered questions about how children access their parents' land if the parents are separated, as well as the rights of a woman if she is the second wife and how the rights of her children are considered. The customary practice is that the children live with their mothers and access their mother's land, but also their father's land if it is within the same village. If it is in another village, children generally forfeit their rights to the land if they do not live there, but can claim rights if they decide to live in that village at a later date.

Women and men can also access taungya land through leasing in exchange for money. In general though, women do not lease land or cultivate land on their own. In Kyauk Hnget, FGD participants mentioned that ten "outsiders" had leased land. The cost of leasing one acre of land for one year is around 5,000 kyats, although locals pay less and outsiders pay more. Lease agreements are verbal – no documents are given nor papers signed. CSO staff said this also happens in Amphat village, although the FGD and key informant interview in Amphat did not reveal this. Most leasing happens when extended families have fewer households and more land that they are not using.

Taungya land can also be borrowed or loaned without any form of payment. This is usually practiced between relatives. Decisions to lease or loan out land are made after consultation within the family. However, if men do make the decisions about everything in the house, the men do have a final say. Furthermore, as men control the household's money, the money earned from leasing is controlled by the men.

The desire for documents for taungya land seems to be mixed. In Amphat, where the residents consider ample land to be available and households are able to rotate their crops on different plots, villagers say that documents would limit access. In Kyaung Nar and other southern villages, where land is scarcer, flatter, and more valuable, some women expressed a desire to have documents in order to protect their rights to their lands, mainly from outsiders.

When it comes to settlement and household land, the youngest child or the child that stays and takes care of the parents inherits the house and settlement plot, but if space allows, other children can also

build new dwellings on the plot. In this sense women and men are both equally entitled to the plot. In practice it is not clear if there is a prevalent preference for either gender. Settlement lands cannot be bought, sold, leased, mortgaged, or leveraged for credit.

Questions on paddy lands were relevant only for the FGD in Kyaung Nar, in which the women estimated that five households held paddy land that was located outside of the village. The FGD included two women from these households that had paddy land. To these women's knowledge, their families' paddy lands were not registered under the Farmland Law. Women in the FGD understand that paddy land can be bought, sold, inherited, leased, and leveraged for credit. Women believe that they have equal rights to inherit the land as their male family members. Both the women respondents in the FGD whose households owned paddy lands said that their mother owned the land and inherited it from their parents.

4.4 GENDER DIMENSIONS OF TENURE SECURITY AND VULNERABILITY

There is very little articulation or understanding about women's vulnerability within the household as far as land goes. Even discussions with CSO members and women's advocates mention only that women do not participate in public life and decision-making and that it is an uphill battle to make them participate. Thus, for threats to community land tenure security, women would face risks similar to those of men, with the added layer of vulnerability that comes with not being able to participate in community decisions about the land.

As these particular communities have not yet faced particular land scarcity or land concessions to agribusiness or others, the respondents were unsure of what would happen in such situations. There are questions of tenure security of forest lands currently being de-gazetted to convert them either to agricultural land or land that can be sold to outside parties. This implies a possible loss of access for the entire household, but may impact women more since they do more of the firewood collection and foraging in the forests.

Within households, there are a few ways women could experience additional tenure insecurity. Where a woman's access to land is through marriage, that access is dependent on her staying married to her husband. If they divorce or separate, then her access to land may be taken away without her consent. We are not sure who decides on the need for a divorce, but we can posit that since men make most of the decisions, these decisions to divorce or separate are also made by the men.

4.5 GENDER DIMENSIONS OF LAND DISPUTES

Respondents reported that land disputes in the area occur in relation to taungya and forest land, with more reported in the southern part of the village tract.

Women generally recognize the authority of the village head and the village tract administrator (VTA) to solve land-related disputes and reported that this is the person to whom they would turn to solve a dispute. The VTA reported that the most common type (based upon his experience as VTA and, before that, as village head) was encroachment on fallow land. He knew of one such dispute in the last six months. As VTA, he negotiates between both parties to solve the dispute, looking at the history of ownership of the land in question, usually getting this information from others in the village. In solving a dispute, he reported that he also looks at the needs of each household involved including which household has more land and which household needs land. He said that in general disputes occur between households within extended families and sometimes with "outsiders" encroaching on their lands. When asked what households could do if they were not happy with his decision, he said that

people had abided by his decision so far, but if they wanted to appeal, they had 30 days to go to the township level department officials, a process which he explains to parties upon delivering his decision.

One woman from Yae Chan Kone, a village in the southern part of the village tract, reported that another household used her family's taungya land without their permission. Her father went to the village leader who recognized the customary rights of their family and settled the dispute in their favor. The VTA confirmed that less availability of land in the southern part of the tract is cause for conflict. For example, Amphat has only around 50 households and ample land. In the south, Kyauk Hnget has more than 180 households sharing customary land.

Kyauk Hnget is also near the boundary of another township – Kalaw – and the VTA explained that he has had to deal with boundary issues between the two townships. The main reason for the boundary issues is because a large natural lake on the boundary dried up and is now flat (and maybe cultivable) land. He said that he could not solve the issues so he sent them to higher-up officials like the District Committee Chairperson.

According to women respondents, illegal harvesting of timber is occurring in the village community and firewood forests in the southern part of the village tract, near their villages. The encroachers cut trees to make charcoal. The community has made attempts to curtail the encroachment by posting signs to warn encroachers.

The VTA reported that it is generally men who approach him for help with land disputes, particularly for intra-village land disputes. On occasion, women may approach him to solve such disputes as well, but most of the women reported that they would rely on a male relative (most likely their husband or father) to do so for the household. To date the VTA has not been involved in solving land issues for women-headed households.

The VTA also reported that both women and men approach him to solve intra-household conflicts. Usually these have to do with divorce or domestic violence. He solves them according to village customary rules, though with unusual cases he would solve on a case-by-case basis. For divorce, he says that men usually pay women money. If there are children, women usually get rights to the husband's land. Disputes have so far been only within the village. He has so far not dealt with divorce and land rights of a couple that came from different villages. The assessment team heard in Amphat and Kyaung Nar that if spouses are from other villages, in a case of divorce they go back to their natal households and regain rights to use the household's lands.

The previous land tenure assessment of the pilot site revealed and the CSO staff again explained that women in the village tract know very little about the land laws, a factor that may hinder women's ability to enforce their rights. To address this challenge, a few CSOs in the area have begun to conduct village-level trainings on women's participation, rule of law, and land laws and invite both men and women to talk about the importance of participation for women.

4.6 GENDER DIMENSIONS OF LANDLESSNESS³

Landlessness is rare in this village tract, and thus, it is difficult to draw conclusions about the gendered dimensions of landlessness here. Landless households are considered poorer than other households and that most landless households do agricultural wage work and make and sell bamboo products. Taungya land is available for lease to landless households, but women are at a disadvantage when it comes to leasing because they do not in general take lands on their own. In the FGDs, women said that most

³ For purposes of this assessment, "landlessness" as explained by the respondents means having neither agricultural land nor access to taungya land to cultivate. Almost all of the households in this village tract have some homestead land within the village settlement.

women would rather do wage work than cultivate land on their own because of the high transaction costs of cultivation and they may not have the ability to negotiate leasing arrangements without men.

There are no landless households in Amphat village in the north, but Kyauk Hnget and Yae Chan Kone in the south have a few (about ten and one to two households, respectively). Two possible explanations for the roots of landlessness were reported by the women and key informants. According to the VTA, the landless households from the same ethnic group settled in Kyauk Hnget only a couple of generations ago, which is why they do not have customary rights to land. In FGDs, one woman said that households in Yae Chan Kone became landless because they sold the rights to their taungya land a while ago. One example was when a family member was sick and they needed money.

Within extended families, households with very few members who do not farm all their land also sell rights to other households. However, both the women and VTA said that households are not selling rights to their taungya land at present.

4.7 GENDER DIMENSIONS OF PARTICIPATION IN DECISION-MAKING

Decision-making is the area with the most differences between women and men within the household and beyond. In general, women acknowledge that men are the “heads” of households and make all the important decisions, although they say that women are often consulted in these decisions. Men interact with the markets and handle the money. Men make decisions on how to use the money. Men go to the market to sell crops, mainly ginger. Women are not involved in commercial transactions.

When it comes to decisions about land the women reported that most often decisions about the land, including decisions such as what to plant, when to plant, and whether to lease out land, are discussed within the household, particularly between husbands and wives and between parents and grown children who are working the same land. However, if there is disagreement within the household over what to do, the decision is ultimately that of the head of the household, usually a man. Women heads of households do not necessarily hold the same decision-making authority of their male counterparts: in Kyaung Nar, one woman who had been widowed reported that although she was officially the head of the household, she relied heavily on her adult male children to make decisions about the land because she relies on their labor to make the land productive.

The CSO staff confirmed that women’s participation in committees or in government is almost non-existent in the village tract. Most village meetings exclude women because they are held in the evening when women are busy.

4.8 GENDER DIMENSIONS OF ACCESS TO SERVICES

While there have been some agricultural support services that have been made available to the community, they have not been provided consistently nor has there been an effort to target women. MONREC, in cooperation with international organizations and CSOs, have been the main providers of such services in the village tract.

With support from UNDP, government, and local monasteries, the communities have built water tanks and catchment systems that have somewhat alleviated their water problems in the summer. This directly impacted women, who are in charge of water collection, doing housework, and taking care of the animals.

Some of the villages have received trainings given in the villages on forest management and agriculture and some inputs, as part of project-based interventions. These trainings were mostly attended by the men, even though both men and women were invited.

For example, in the northern villages, a project supported by MIID, MONREC, the International Centre for Integrated Mountain Development, and the European Union has helped to build village-based training centers, seed banks, and water tanks, and has delivered training focused on soil fertility and watershed management. In Amphat, the Forest Department (part of MONREC) used the training center to conduct a village training on bamboo planting. Households were also given ten saplings each. Women at the FGD said that 15 village members attended the training - ten men and five women. Amphat also received buffaloes for each household through a microfinance project in the area. In the southern part of the village tract, the University of Forestry and the Center for People and Forests conducted training on forest conservation in two of the three villages about three years ago. Both men and women were invited to the forest conservation training, but the trainings were attended mostly by men.

The assessment team is not clear on how these services would have impacted women differently from men, although each seems to have taken a household level approach. While women have been invited to trainings and have benefited as members of the household from the saplings and buffalo, in general, it appears that women's needs and priorities are not taken into account when services and trainings are offered. When asked about why many of the women did not participate in the trainings, responses included: (1) that the subject matter of the trainings have been more applicable to men; (2) that the trainings were at times of the day that women had other duties to tend to, such as caring for children or cooking the family meal; and, (3) that even when women are explicitly invited, they do not know they are allowed to participate. Additionally, none of the villages had other services for households or specifically geared to women, such as microfinance institutions (MFIs), livelihood programs, etc. Women had not heard about MFIs nor had they ever been to a bank. Households generally sell assets such as buffaloes when they need money.

5.0 RECOMMENDATIONS

Based on the findings of this gender assessment, several recommendations can be made both for the technical approaches to be used at the pilot site, and for further policy and legal reform that could be undertaken. These recommendations are detailed below.

5.1 FOR PILOT SITE TECHNICAL APPROACHES:

1. In order to ensure that the pilot approach can be better designed and implemented in a way that takes into account women's land uses and tenure, a gender assessment should be completed at the start of the intervention, alongside the general land use and tenure assessment.
2. In delineating village boundaries, the pilot site team should pay particular attention to lands that women use, as this is almost always undocumented and women's uses may not be immediately apparent. Such lands may include village settlement land, forest land (where women collect firewood and NTFPs) and taungya land (where women may be keeping the families' kitchen gardens). If this land is not considered part of the village in the demarcation process, the activities for which women rely upon these lands could be curtailed. One way of doing this is ensuring that when communities are documenting different resource uses, they are divided into male/female, youth/elder, and single/married groups in order to get a full picture of the full range of uses.
3. While including women on the village mapping committees is a positive step in ensuring that women's voices are included in the intervention, getting women to meaningfully participate will require additional efforts as they are unaccustomed to such participation. Some women from the focus groups suggested that all meetings should have two separate groups, one for men and the other for women, so that women can voice their opinions. Such committees would also be better served in ensuring that different kinds of women are represented (different age groups, married and single, women from women-headed and men-headed households, women with agricultural land and women from landless families, etc.).
4. In developing any village land use plans, it is essential that the pilot team carry out a participatory process that proactively includes women.
5. In Let Maung Kway, local CSOs have begun to conduct community discussions and trainings aimed at boosting local women's participation in civic engagement as well as knowledge of land laws among both women and men. Pilot teams should connect with these NGOs to see if they can coordinate in a way that can also boost women's participation in the pilot approach.
6. Creating women-only fora or groups would allow women to articulate and express their difficulties with relation to land access and land use.
7. There is still a very low level of knowledge about laws around land within the villages, particularly among women. Awareness raising and capacity-building are essential to ensuring that the villagers understand the pilot intervention and any potential impacts. Legal education efforts should include a component on women's land rights, and the trainings themselves should be implemented for both women and men. In Let Maung Kway (and any other sites where local organizations have efforts along these lines underway), the pilot team should attempt to coordinate with local CSOs.

8. Village leaders, as the primary dispute resolvers within the village and the gateway for villagers to access government departments, should have additional training on women's land rights under the law as well as best practices in solving land disputes.
9. As pressures on the land increase due to burgeoning tourism and other investment near Inle Lake, and other changes that de-gazettement could bring, there needs to be more awareness created as to how increasing land values, contestation, and pressures would impact women and households. In this context, a clear articulation and documentation of women's rights within customary systems would be necessary.
10. The project should consider helping to create self-help groups or similar fora to offer financial services and livelihood trainings for women.
11. Within the monitoring and evaluation of the pilot approach, the team should ensure that they are collecting and using data that can assist in evaluating whether outcomes for women and men are equitable or not.

5.2 FOR ADDITIONAL POLICY AND LEGAL REFORM:

1. Any laws on land should include clear statements about women's equal rights to land. While such statements are included in the 2016 National Land Use Policy, they are not present in previous land laws such as the 2012 Farmland Law. Respondents reported that this creates confusion among those administering land (both Department of Agricultural Land Management Statistics officials and village leaders) and uneven application of gender equality principles.
2. Amendments to the 2012 Farmland Law and rules to allow joint registration of agricultural land and establish effective monitoring mechanisms for implementation should be advocated.
3. Comprehensive data on the *de jure* and *de facto* enjoyment of women's secure rights to land should be collected. The data should be used to identify the particular vulnerabilities of women-heads of households with relation to land access and land use and to create laws and policy targeted at supporting them.
4. Laws should be revised and clear and accessible mechanisms for land administration and management should be established and maintained in order to implement the land tenure and management rights that women have as stated in the NLUP (particularly, section 75).
5. Clear guidelines on inheritance, leasing, and sale of land, with particular attention to women's intra-household vulnerabilities in case of migration of male members, divorce, and separation, should be created.
6. Rural women's participation and representation in all aspects of land related laws, policies and programs, including land-related decision-making bodies, legal aid, and registration initiatives, should be ensured. One option would be to create quotas for women on all committees at the village level and above to enable women to participate and gain the support of men in their communities.

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ANNEX I: UNDERTAKING A COMMUNITY-LEVEL ASSESSMENT OF GENDER DIMENSIONS OF LAND USE AND TENURE: A GUIDE QUESTIONNAIRE FOR FIELD ENUMERATORS

Focus Group Discussions with Women:

TOPIC	POTENTIAL QUESTIONS
Types of land and land use	<p><i>What activities are women involved in the village?</i></p> <p><i>Can you tell us, what types of land do you have in this village?</i></p> <p><i>How is each type of land used/what is each type of land used for?</i></p> <p><i>Are there activities/lands from which women are excluded? If so, why is that? What prevents them from doing this activity? Or from using those types of land?</i></p> <p><i>Are there any activities that women do together or for each other? Do women cultivate in groups? Or do women go together to collect forest resources? Or do women work on other's lands in exchange for work on their lands?</i></p>
Female-headed households	<p><i>Are there many female headed households in this village?</i></p> <p><i>How many?</i></p> <p><i>If yes, how have these women become heads of household? (i.e., they are single, or their husband migrated, or husband left them, or husband died)</i></p>
Land holdings and documentation	<p><i>Do most people in this village own land? Only a few families, several families, many families?</i></p> <p><i>Do women own land? If yes, how common is it? If not, why not?</i></p>

	<p>Under whose names are these documents typically issued? <i>Head of household, husband, an adult, husband and wife, the eldest, etc.</i></p> <p>Do you know women who have documents in their name or jointly with their husbands? <i>Probe to see how common it is (only a few, some, several, many, most, do they tend to be female headed households, or a certain type of women?)</i></p> <p>Have you ever seen or heard about LUCs?</p> <p>If they are aware of LUCs,</p> <ul style="list-style-type: none"> • What are LUCs? Do any households in the village have LUCs? When did they get them? How did they get them? <i>Get their understanding of the process of regularization</i> • Do you think LUCs are important/helpful? What is the benefit of having an LUC? • Have you ever seen or heard about LUCs that include a woman's name? <i>Probe to see how common it is (only a few, some, several, many, most, do they tend to be female headed households, or a certain type of women?)</i> • Does it make any difference for the women if their names are included in the LUCs? Please describe. <p><i>We are exploring whether it affects women's participation in decision-making or ability to use, lease, mortgage or sell the land.</i></p>
<p>Avenues by which women acquire land</p>	<p>How do households who own land typically acquire it?</p> <p><i>Though intrafamily inheritance, through government grants, by purchasing it</i></p> <p>How do women become landowners?</p> <p>Inheritance from her (birth) family</p> <ul style="list-style-type: none"> • Can women inherit land from their (birth) families? How common is it? Please describe the process. • Do women get equal amounts of land as their brothers? • Does it matter whether women are married or not? • How does a small farming household divide land if there are several children? Do any children get preference if the household has only a small plot for example but has 4 children? • At what age do women generally get married here? Does the girl's family usually give anything to the boy's family or receive anything from them? What is exchanged? Does land figure in these exchanges?

	<ul style="list-style-type: none"> • What happens to land owned by women if they marry and leave the village? <p>Inheritance from her husband</p> <ul style="list-style-type: none"> • Can women inherit land from their spouses? How common is it? • Does it matter if they are legally married? • Does it matter if he has more than one wife? <p>Access to land through government grants</p> <ul style="list-style-type: none"> • Can women get land through government grants directly to them? How common is it? Are there specific types of women more likely to benefit from government grants? Are there women who are excluded from government grants? <p>Access to land through the market</p> <ul style="list-style-type: none"> • Can women purchase land? How common is it?
Access to land	<p>Can households lease land? Can they sharecrop? Can they borrow land?</p> <p>Are women able to lease land? To sharecrop? To borrow?</p> <p>If leasing is an option,</p> <ul style="list-style-type: none"> • How common is leasing? In general and for women. • What do people tend to do with the land they lease? • Are the leases generally seasonal, yearly, or long term? • Are these agreements typically documented or just verbal? • What happens when there are tenancy related disputes? Are those common? How are these disputes typically resolved? • Do women have the same options/opportunities when it comes to leasing land? <p>If sharecropping is an option,</p> <ul style="list-style-type: none"> • How common is sharecropping? In general and for women. • What do people tend to do with the land they lease? • What does a typical sharecropping agreement look like? • Please describe who contributes what, what is the expected sharing agreement, and what happens if the crop fails.

	<ul style="list-style-type: none"> • What happens when there are sharecropping related disputes? Are those common? How are these disputes typically resolved? • Do women have the same options/opportunities when it comes to sharecropping?
<p>Tenure Security</p>	<p>What happens to a women’s access to land if she is divorced, separated or abandoned? What about her children?</p> <p>Scenario 1: Mr X decides to leave his wife, what happens to the wife’s access to land? What happens to her children?</p> <p>What happens to a woman’s access to land if her husband takes another wife? What happens to her children?</p> <p>Scenario 2: Mr X has a wife. Mr X decides to take another wife. How does this impact Wife 1 and Wife 2’s access to land? Do the children of Wife 2 have the same rights to inherit land? Please describe.</p> <p>What happens to a woman’s access to land if her husband migrates?</p> <p>Scenario 3: Mr X migrates for work, who takes control of the land? Please describe.</p> <p>What are the cases in which women can lose access to their households’ land? Is this a reason of concern to many women in this village?</p> <p>Are there situations that would lead the entire household to lose access to the land they are currently using? Please describe. Who are the households most likely to be affected by this? Are households in this village worried about this?</p>
<p>Participation in Decision-making</p>	<p>In this village, if a man wants to sell or mortgage the land, and his wife does not want that, what happens? Can he sell or mortgage without her permission?</p> <p>And what happens if a woman wants to sell or mortgage and her husband does not agree, can she still sell/mortgage the land? Can she do it without his permission?</p> <p>What happens when a man has migrated out for work for 3 months and his wife needs money urgently. Could she decide to mortgage or lease the land? Does she have to ask him first? Does she have to ask other male relatives (Father-in-law, Father, Brother, etc.)? What do you think would happen if the woman mortgaged the land without asking her husband first?</p> <p>Could the husband mortgage or lease the land without his wife’s permission if she were away working or visiting relatives and he needed the money?</p> <p>Would the same hold if we were talking about selling land?</p>

	<p>Do men consult with their wives in decisions related to the land – for e.g., what to grow, how much fertilizer to use, when plant, how much labor to employ, etc.</p>
<p>Land Administration</p>	<p>Who is the official or the office in charge of land related matters in this village? <i>Please explain. Who are they? Where are they? What are they responsible for?</i></p> <p>Do women interact with them? If not, why not?</p> <p>Have you seen a woman as a village leader or government official? What do you think about increasing women’s participation in leadership positions? What do you think about a woman being in that role.</p> <p>Does the village tract have a head (Village Tract Administrator)? Who is s/he?</p> <p>Do you know who is in the Village Tract Development Support Committee? What are they responsible for?</p> <p>Do you know who is in the Village Tract Farmland Management Committee? What are they responsible for?</p> <p>Are women involved in the Village Tract Farmland Management Committee? If so, how many?</p> <p>If they are involved, what do women do on the committee?</p> <p>If not, what are the main barriers that prevent women from joining the committee. Should more women be involved in land committees? Why?</p>
<p>Land Disputes</p>	<p>What types of land-related disputes tend to occur in this village?</p> <p>If there is a land-related dispute, where can people go to resolve that problem? <i>Please describe if this is a person or a committee. What they are called? Who appoints them? Do people trust how the disputes are settled?</i></p> <p>If people are not satisfied, can they take their cases to the court? If not, why not? Probe about cost, length of time, etc.</p> <p>Are there women in the local dispute resolution body?</p> <p>What are the land-related disputes that tend to affect women?</p> <p>Do women approach this local persons/committee when they are involved in a dispute? If not, why not? Can they resort to the courts?</p> <p>For disputes within the home between husband and wife or between brothers and sisters, how do they address them? (examples – man leaves wife, does not allow her to use land, other examples?)</p> <p>If a female headed household has a problem with their land or needs help with their documents, how would she get help? Could she go</p>

	<p>directly to the official? If not, who would mediate on her behalf? Male relatives? Others?</p>
<p>Women's Access to Services</p>	<p>If people need to borrow money, what do they do? From whom can they borrow? Are there banks or microfinance institutions? Do they have group arrangements to help each other, like the Self Help Groups? Or do they only rely on friends and relatives? Are these loans for emergencies only or can they borrow to build a house or expand their production?</p> <p>Can women borrow in the same way? That is, if there are banks or MFIs, are women also using their services? Do women rely on SHGs?</p> <p>How do women save money?</p> <p>What about agricultural extension? Does the government or do NGOs provide training? What type of training? For whom?</p> <p>Do they provide fertilizer, seeds, seedlings, small animals, etc.? What do they provide? To whom?</p> <p>Do women receive training too? Is it for different activities than men? What are women trained on?</p> <p>Do women receive fertilizer, seeds, seedlings, small animals, etc., too? Is what they receive different from men? Please explain.</p> <p>Is the government provided any assistance to help the most vulnerable? Please explain. E.g., Food for work, cash payments, subsidized food, pensions for widows and disabled people, schools for vulnerable children, health services for women.</p> <p>Are there any services for which you need to have an LUC to apply? For example, to receive extension services, to get loans, to obtain an ID or a Proof of Address, to enroll kids at school, etc.</p>
<p>Landlessness</p>	<p>Are there households who do not own any land? Is landlessness a problem that affects a specific group of people?</p> <p>How did they become landless? What happened?</p> <p>If those without land were dispossessed (if the land they had in this village was taken away),</p> <ul style="list-style-type: none"> • Explain what happened. (find out nature of dispossession – conflict, land grab, natural disaster, debt, mortgage, family dispute, crop failure) • Did they receive any sort of compensation for these lands? • Are they trying to get these lands back? What is the process to get land back? <p>If those without land are not from this village,</p>

	<ul style="list-style-type: none"> • Did they move here because they were displaced? If yes, please describe when and where did it happened and how did they become dispossessed?
Challenges	<p>What are the biggest challenges that people in the village face?</p> <p>What are the biggest challenges that women in the village face?</p>

Follow-up Conversations with Men and Other Key Informants:

QUESTIONS
<p>What are the economic challenges in that area?</p> <p>What are the types of land in village? <i>E.g., Agricultural, Garden, Forest (Firewood, Taungya, Agriculture), Community Forest, Concession, Plantation (rubber)</i></p> <p>Who owns what and what people understand as ownership?</p> <p>To what extent is this documented and with what type of documents?</p> <p>How do they differentiate between small, medium and large farms?</p> <p>Are there land-related taxes people pay (or agricultural taxes)?</p> <p>Who decides what they can grow and how is that enforced?</p> <p>Is that area affected by migration? By displacements?</p> <p>How did the NLUP process unfold in this area? To what extent did people participate in the process?</p> <p>Is there a gendered division of labor in animal husbandry, crops, etc.? Please explain.</p> <p>What are the main economic activities for households in this village? <i>Own agriculture, agricultural wage work, non-agricultural wage work (types), animal husbandry, migrate for seasonal ag work, migrate for non-ag work, bamboo craft, any other traditional occupations, petty business etc.</i></p> <p>Is there a difference between what men tend to do and what women tend to do?</p> <p>Are there households who do not own any land? Is landlessness a problem that affects a specific group of people? How did they become landless? What happened?</p>

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