

Brief Overview on the status of land and forest governance reform in Myanmar

Presentation at the Discussion on the complex resource politics and its implications for the peace process in Myanmar

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Myanmar at a glance

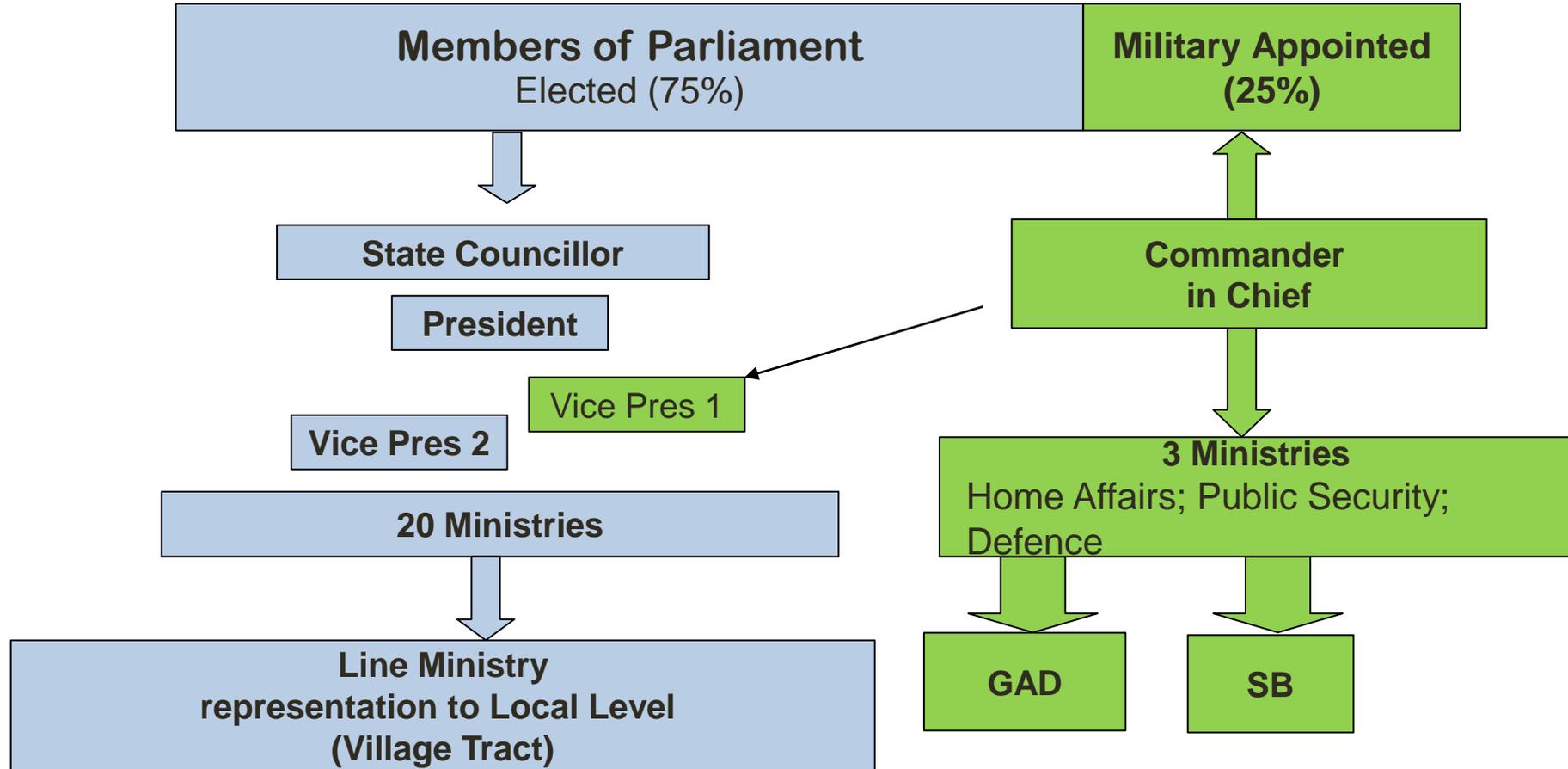
- Diverse Country – 50-60 million people; 40% ethnic
- Buddhist majority with significant Christian population in mountainous areas and small Muslim, Hindu and animist minority
- 70% of pop subsistence based - high dependence natural resources
- 50 years of military rule 1962-2011
- Outdated and contradictory laws - many from colonial era
- April 2016 New Democratic Era has begun
 - **Very strong and active civil society**

However! Many challenges

- Ongoing civil war in border lands and peace process
- Land Issues throughout the country...
- Unsustainable extraction of natural resources
- Very low capacity of govt – culture of ignoring citizens
- Military still largely in charge



Structure of Myanmar Government



The importance of land and forest

- Land (including forests) are a fundamental aspect of rural livelihoods, food security, agricultural development and economic growth and prosperity.
- Land governance reform is urgently needed to ensure security of **land tenure** for equitable development.
- Land is frequently contested and the cause of many conflicts.

Historical Context of Land Alienation

Multiple Forms of alienation

- Formalised acquisition for infrastructure
- Formalised acquisition for “investment”
- Government quota scheme confiscation
- Military Acquisition
- Taking Use of Vacant Land (uplands)

2012 Parliamentary Committee set up to investigate and resolve land grabbing

- Challenging complexity
 - How to resolve? Laws not appropriate for Cust Tenure.
 - Different layers of claims

Some priority areas for reform.

- Recognition and protection of broader community land / forest use
- Recognition and protection of **customary tenure** and traditional agricultural practices including shifting cultivation.
- Enable communal land registration
- Clarify “Public Purpose” land acquisition and develop transparent and adequate compensation mechanisms.
- Moratorium on land concessions and large infrastructure development.
- Resolve outstanding land conflicts
- Harmonising laws

Current land / forest governance framework

We should not underestimate the significant challenges ahead!!

“Viewed as a whole, therefore, the legislative framework governing land acquisition is skewed disproportionately in favour of the State, the military and companies with close relations or otherwise favoured by these entities, and pays virtually no attention to the rights of people and communities whose lands may be of interest to those seeking to acquire it.”

Displacement Solutions 2015. p.15

Understanding Complexity – Land Govn.

Currently a failure to recognise and protect diverse rural livelihoods

- Forests are the property of the Forest Department
- Subsistence use of forests are not recognised except in the case of firewood collection – not timber.
- River based fisheries overwhelmingly privatised
- Some limited recognition of community forest, but must be registered and then usage restricted
- No recognition of customary (informal) land arrangements.
- Shifting cultivation is illegal and fallow lands acquired by investors as part of economic development strategy
- No recognition or protection of the NTFP resources for communities – considered as property of the State.

Understanding Complexity – Land Govn.

Very Low Government capacity

- Culture of ignoring community interests
- Military still has significant control - GAD

Land Use Certificates

- Only permanent farmed / occupied land
- System begun with Farmland Law 2012
- Rushed process 1,000,000 land titles in 3 years leading to mistakes and wrongful claims
- Government cadastral maps haven't been updated since the Colonial era

Lowland farmers vs Upland ethnic minorities

- Different issues, laws currently don't support upland farming systems

Massive land conflict all around the country

- Many land conflicts are a vestige from previous socialist and military era land grabbing

At times can be very complicated to solve

- Elites or military have benefited from land grabs and don't want to return
- New farmers are farming old land as tenants

Land conflict exists at various levels

- State / farmer; farmer / farmer; Military / farmer; upland / lowland; Ethnic Armed Group / Military.

National government attempts to resolve are very slow

- Land reinvestigation committees
- Lack of capacity / guidance - laws

Possible Solutions Do Exist!

National Land Use Policy 2016

- Developed with unprecedented level of public consultation
- Implemented Jan 2016 - under previous government
- Document not perfect, but offers guidance on a number of key areas
 - Recognition and Protection of Traditional, Customary and Ancestral Land and forest tenure rights of ethnic nationalities
 - Customary tenure defined (as recognised by community)
 - Independent body to adjudicate historical land conflicts
 - Recognition of equal rights of women to own land
- Not Legally binding
- Political Will to implement is major stumbling block

Current Status of Land Reform

- Nov 2016 Special Commission revisions - NLUP
 - undermine and cut back key provisions from the National Land Use Policy
- 2017 - 5 Major land laws undergoing revision
 - However only minor amendments, not dealing with issues
 - Limited consultation process
- 2018 - Development of National Land Use Council

National Land Use Council

- Mandated under NLUP
- Belatedly developed in February 2018
- Cross-Ministerial body overseen by vice-president 2 creates formal mechanism for discussion on land / forest governance across multiple ministries
- Chaired by MoNREC
- One Technical Advisory Group
- 3 Working Committees
- First Meeting in April 2018
- Almost identical structure to LUSAC Committee

