



global witness

## **Guns, Cronies and Crops**

### **How military, political and business cronies conspired to grab land in Myanmar**

#### Executive Summary

*Guns, Cronies and Crops* is Global Witness' first report on the land sector in Myanmar. Following an eighteen-month investigation, the report details how military, political and business cronies conspired to confiscate land from ethnic-minority villagers in order to establish commercial rubber plantations. It examines the toxic legacy of these land grabs on the local population, for whom little has changed since the country's much-lauded transition to civil democracy. The Myanmar government is currently devising its first overarching National Land Policy, an unprecedented opportunity for Myanmar's citizens to protect their rights to land and thus secure a more equitable and sustainable future.

Since ushering in a new era of civilian rule in 2011, claims by the Myanmar government that it is alleviating poverty and improving its human rights record have been plagued by widespread reports of land grabbing. By 2013, 5.3 million acres of land - thirty five times the size of Yangon - had been leased out to investors for commercial agriculture, the majority without the consent of its owners. Rubber plantations alone cover more than a quarter of this area. This rush for land is decimating the livelihoods of Myanmar's people, seventy per cent of which rely on farmland and forests.

With the advent of civilian rule, Myanmar's political system and economy is supposedly being disentangled from the pervasive grip of the *Tatmadaw* (Myanmar's armed forces) following almost five decades of military rule. However, the majority of those acquiring land are domestic cronies with links to the former military government, and land deals continue to be conducted behind a wall of secrecy enabling corruption to flourish.

Focussing on northeastern Shan State, *Guns, Cronies and Crops* details how the Tatmadaw's North East Regional Command collaborated with the district government and private companies to confiscate large swathes of land. These confiscations largely took place in 2006 when, under the veneer of the nationwide 'Privatisation Programme', the Generals were reportedly busy ensuring that, post-transition, they and their associates would retain control of the state's assets and natural resources. Once the land had been confiscated, the army appears to have handed it over to private companies and political cronies. Now villagers' lands are under commercial rubber plantations which have destroyed their livelihoods, pushing them deeper into poverty.

Evidence unearthed by Global Witness reveals that the confiscations were conducted by local regiments under direct orders from the North East Regional Command. In charge at the time, and alleged to have visited some of the confiscation sites, was U Myint Hlaing, Myanmar's current Minister of Agriculture and Irrigation. He is one of the most powerful and controversial ministers in the current government and reported in national media to be ruthless in his dealings with ethnic minority groups. Since

becoming Agriculture Minister, U Myint Hlaing has been widely criticised for pushing industrial-scale agriculture at the expense of Myanmar's smallholder farmers.

Aiding the military, the district-level government was also complicit in the land grabs. Officials from the Land Statistics Department in Lashio accompanied soldiers to conduct the confiscations. Global Witness investigators obtained a government document which lists allocations of 'vacant and fallow land' to a variety of actors in 2010 and 2011. However, field investigations and satellite imagery appear to show that the land being allocated in this document had, in reality, been confiscated three to four years' earlier and already converted into rubber plantations. Therefore, this official document issued by the Ministry of Agriculture and Irrigation (MoAI) in Lashio, appears to be an attempt to retrospectively 'legalise' the land confiscations.

The main beneficiary of the land confiscations described above was the private, domestic company Sein Wut Hmon. As well as taking over land confiscated by the North East Regional Command, the company also directly conducted its own confiscations in three villages between 2008 and 2011. It now controls the largest amount of land of any rubber company in northeastern Shan State, with a total of 4608 acres (1865 hectares) of plantations. Their plantations have all been established on confiscated land spread across eleven villages in government-held areas in Lashio District and the Wa Self-Administered Division.

Sein Wut Hmon colluded with the North East Regional Command and the Land Statistics Department in Lashio in order to gain control of the majority of their land holdings, evidence suggests. A manager of the company accompanied soldiers as they confiscated land in some villages while, in others, officers in uniform presented themselves as Sein Wut Hmon representatives. The officer who led the confiscations, Major Myo Yee, now works for the company.

The confiscations largely targeted hillside land, used by the villagers for *taungya* (shifting cultivation). This form of agriculture is common among the ethnic minorities of northern Myanmar, including the Shan, Palaung and Kachin who make up the communities impacted by Sein Wut Hmon's rubber operations. *Taungya* fields are viewed by the authorities as 'unproductive' and therefore classified as 'vacant' or, put in other words, 'up for grabs'. In the context of decades of discrimination towards ethnic minority groups, this can be seen as an attempt by the Burmese authorities to undermine these groups' means of subsistence and way of life.

At no point before or during the land confiscations did the army, district government or Sein Wut Hmon consult the villagers whose land they took. None of the villagers had hard titles for their land, relying instead on land tax receipts as their only proof of ownership. However, regardless of whether villagers could show receipts, their land was confiscated with almost no compensation paid by the company or military. As a result, some villagers are struggling to feed their families or have had to send their children to Thailand to find work. The company has done nothing to develop infrastructure in the area and not a single person from the local villages interviewed by Global Witness had been employed on its plantations. The confiscated land included ancestral graveyards and spirit shrines belonging to the villagers which are all now under rubber plantations.

At the time of the confiscations, the inhabitants of these remote villages were too scared to protest or even complain about their lost land due to fear of retribution by the Tatmadaw born out of six decades of on-going conflict. Since 2012, the inhabitants of three villages have sent appeal letters to the authorities requesting the return of their land. Not one has received a response.

There are many other political and business cronies involved in land confiscations for rubber plantations in northeastern Shan State. As well as private companies (other than Sein Wut Hmon), the list includes the Manpang People's Militia Force and current Members of Parliament, U Shauk Chang and U Kyin Wong.

The ruling Union Solidarity and Development Party (USDP) appears to also have benefited. Government documentation proves that the Party was illegally allocated 1300 acres of state-owned land in July 2010. This was seven weeks after the USDP formally registered as a political party, by which time it was supposed to have rid itself of all state assets.

This level of collusion, and the accompanying violations of land tenure and human rights, should be of serious concern to potential investors and customers of Myanmar's rubber. At least seventy per cent of the rubber grown in the country is exported. This figure is likely to be much higher for northeastern Shan State due to its proximity to China - the biggest importer from Myanmar and the sole destination of Sein Wut Hmon's rubber. However, the global rubber industry is only just starting to consider the social and environmental impacts of its supply chains. As both the quality and quantity of Myanmar's rubber production increases, tyre companies and other major consumers of natural rubber must conduct stringent checks to ensure that their supply chains are free from corruption and do not drive social and environmental damage.

In 2012, the Myanmar government embarked on a process to formulate a new National Land Policy and Land Law. This is a major opportunity to put an end to the land confiscations blighting the country's reform process and to secure a more equitable future for its citizens. With foreign investors poised to access what is often referred to as 'Asia's ultimate frontier market', getting this right has never been more important. As well as looking to the future, however, true reform must also redress the problems of the past. The Myanmar government must take responsibility for the abuses of the previous era and ensure that impacted communities receive restitution. Otherwise, the toxic legacy of military rule will continue to undermine attempts at poverty alleviation and drive corruption, human rights abuses and land grabs, and could ultimately deter foreign investors.

In February 2015, Global Witness wrote to Sein Wut Hmon's owner and director, U Maung Myint, asking for comment. In his response, U Maung Myint dismissed information given to Global Witness as hearsay, denied that the company had used military connections to acquire villagers' land and insisted that it had consulted with local people and provided jobs and development. Global Witness also attempted to contact the Minister of Agriculture and Irrigation, U Myint Hlaing, and all other groups and individuals named in Guns, Cronies and Crops. None of them responded.

## **Recommendations**

### **The Sein Wut Hmon company must urgently undertake the following actions:**

1. Conduct independent and participatory Environmental and Social Impact Assessments for all the company's rubber holdings, paying particular attention to the impacts on local livelihoods. Publicly disclose the results of these assessments, ensuring they are available to the affected villagers. Use the results of these assessments to inform what remedy the company will put in place for those villagers negatively impacted by its plantations.

2. Establish a transparent and effective local dispute-resolution mechanism, accessible to all villagers affected by the company's plantations in local ethnic languages. Ensure this mechanism is independent and participatory, involving the affected villagers and civil society groups.
3. Return to villagers land which was confiscated. In addition, pay financial compensation at market rate for loss of crops and livelihoods.
4. End corrupt practices, including collusion with the Tatmadaw, to gain control of land in the future.
5. Ensure that future land investments and company operations do not undermine land tenure or violate human rights. This includes implementation of the international standard of Free Prior Informed Consent.

**The government of the Republic of the Union of Myanmar should:**

*In relation to the Sein Wut Hmon company;*

6. Ensure that the evidence presented in this report is investigated, affected villagers receive restitution and perpetrators of the land confiscations are held to account and, where appropriate, prosecuted.
7. Fully support and publically endorse the Sein Wut Hmon company's efforts to conduct independent and participatory Environmental and Social Impact Assessments.
8. Fully support and publically endorse the establishment by Sein Wut Hmon of a transparent and effective local dispute-resolution mechanism which is independent and participatory, involves the company and local government authorities, and has civil society oversight, at all stages. This process must be completed satisfactorily and have the capacity to meet demands from local villagers for the return of land, and/or compensation at market rate for loss of land, crops and livelihoods.

*In relation to governance of large-scale land concessions and land reform policy;*

The following recommendations apply to the National Land Policy (being finalised at time of writing) and the Land Law which must both meet the following requirements;

9. Recognise and protect legitimate collective and customary land tenure and user rights, including *taungya*, across all laws. Adequate safeguards should be put in place to ensure land conflicts do not occur in the future.
10. Undertake a participatory national land-use planning process in line with the National Land Policy in order to develop a formal framework that guides decisions about existing and future land allocation, use, management and protection. This needs to include recognition of collective and customary land and user rights and identification of the areas most agronomically and economically feasible for rubber and other commodity production. Draft land use plans should be made available for review and comment by smallholder farmers, civil society, government representatives, and the private sector. Finalized land use plans should be made freely accessible to the public and government authorities, in all relevant languages.

11. Ensure that Environmental and Social Impact Assessments are undertaken for all land investments prior to contracts being secured in order to prevent deforestation and other environmental impacts, and prevent forced evictions. Ensure such assessments are sufficiently rigorous to prevent projects from going forward if the negative impacts are too great. Harmonise such assessments with existing environmental laws and related regulation and ensure the results of such assessments are made public.
12. Strengthen the capacity and assign decision-making powers to the Land Acquisition Investigation Commission. Establish legal and judicial recourse for the protection of land and user rights in order that socially unjust decisions around the use of land may be challenged by affected communities.
13. End all land acquisitions that do not offer compensation to affected communities in line with international standards.
14. End the Tatmadaw's formal and informal involvement in allocating and confiscating land. Where land confiscated by the military remains unused, ensure it is returned to its original owners. Where the land has already been put to use, the military should pay compensation at market rate for loss of land, crops and livelihoods.
15. Adopt and implement the UN Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests and make these standards legally binding.
16. Adopt the standard of Free, Prior and Informed Consent as defined in the UN Declaration on the Rights of Indigenous Peoples – to which Myanmar is a signatory – for all communities potentially affected by rubber and other commodities.
17. Establish and enforce a moratorium on the allocation of any further large-scale land concessions until the above actions have been implemented.

#### **Myanmar's Development Partners:**

*To development partners directly assisting with the National Land Policy;*

18. Support the adoption of a National Land Policy which meets the standards listed above (recommendations 9 to 17). Publically withdraw support should the final Policy fail to meet these standards.

*To development partners providing development aid to the Ministry of Agriculture and Irrigation;*

19. Ensure that funds are dedicated to programmes which strengthen land tenure security for smallholders and do not undermine legitimate tenure rights or violate human rights. Place conditions to this effect on all future disbursements.

*To all development partners and International Financial Institutions;*

20. Use leverage with the Myanmar government to ensure that the evidence presented in this report is investigated, affected villagers receive restitution and perpetrators of the land confiscations are held to account and, where appropriate, prosecuted.
21. Undertake a comprehensive analysis of land governance issues before designing development programmes in Myanmar's land or agricultural sectors. Specifically this should:

- be founded on an evidence-based baseline of the national land sector in order to track real progress.
  - be based on a broad, participatory dialogue between the government and wider stakeholders, including civil society.
  - be guided by indicators based on international standards and, in particular, be consistent with the UN Voluntary Guidelines on Responsible Governance of Tenure of Land, Forests and Fisheries.
22. Ensure that all development support provided to the land and agricultural sectors strengthens land tenure security for smallholders, and does not lead to human rights violations or environmental damage.

**Stakeholders in the rubber industry considering investing in or purchasing from Myanmar should:**

23. Conduct stringent due diligence to ensure that supply chains and investment chains are free from harms associated with land tenure, human rights violations, environmental damage or corruption. Ensure that the due diligence process is independent and conducted with the participation of civil society groups in Myanmar. Where potential harms are identified, do not proceed with the investment or purchase.
24. Where possible, tyre companies and other major consumers of natural rubber should source rubber from Myanmar's smallholder farmers.

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