



# The 5Rs in Myanmar:

Five principles for a future federal  
democratic system where rural  
working people can flourish



## A Primer

July 2021

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# Introduction

This primer is about 'the 5Rs' and land and natural resource politics. The 5Rs is a set of five principles: *Recognition, Restitution, Redistribution, Regeneration, and Representation/Resistance*. The primer briefly explores the idea of a working people's program on land and natural resources in Myanmar based on these five principles in the context of a future federal democratic system. Each of these principles alone is supported by international human rights law (links to the most relevant UN documents can be found in Annex 1). But here we outline a working people's land and natural resource program for deep social change based on the 5Rs *taken together*.

By 'working people' we mean ordinary people who have to work in order to 'make ends meet'. The work that many people do to survive nowadays involves both waged labor and unwaged labor. A lot of unwaged work that is essential to survival is done at home, such as cooking and cleaning, child raising, health care, and elderly care. It is the kind of work that makes it possible for some members of the household to go outside the home and undertake waged work. In rural villages a lot of household work is related to producing goods for own consumption and for selling -- such as farming, artisanal fishing, animal keeping, and other artisanal and 'cottage industry' (like handicraft making). This work often relies on the unwaged labour of household members (including children). Sometimes, and if there is money, a household may hire other villagers or someone from outside the village to help them with some of these labors.

Over the past four decades, many important structural changes in the way the economy and governance are organized have occurred all over the world. These processes have not been smooth nor have they unfolded in exactly the same manner everywhere. They have been marked by profound disagreement and conflict over the most basic matters in society -- such as who owns what, who does what, who gets what, what should happen to the wealth that is created in a society, and, who gets to decide. Ordinary people have been hugely affected in fundamental ways. There has been an explosion in the



number of people who are neither full-time farmer nor full-time waged worker. They struggle to survive and 'make ends meet' by piecing together whatever low-paying, part-time jobs they can find wherever it may be.

This is a common situation in many countries today: households reducing or minimizing their own consumption and foregoing formal schooling and health care, with some family members coming and going, piecing together different bits of low-waged labor in nearby towns or distant cities or abroad. Those who stay home tend to farms and gardens if they have land, raise animals or make handicrafts to sell, and raise the children and care for the sick and infirm or the elderly who can no longer work. In using the term 'working people' in

this primer, we hope to capture this kind of situation and the dynamics that propel so many people into it.

In the context of Myanmar and its long history of ethnic conflict, this stress on working people may seem to be missing the mark or leaving out a lot. But bringing into focus working people is not intended to deny or ignore ethnic and other social differences. Rather, it is also and at the same time to make visible what so many people despite other differences have in common -- the struggle to live a life filled with social and economic precarity and hardship and bereft of social insurance or social protections.

Ultimately, at the heart of a truly federal democratic system is a difficult balancing act -- a strategic balancing of socioeconomic class issues and social-political identity issues. Both sets of concerns are complex on their own. Yet *both* are important. All over the world today (not just in Myanmar), there is deep injustice and rightful struggle around both. Staggering economic inequalities are fueling working people's struggles for egalitarian distribution of wealth. Non-recognition or mis-recognition of certain ethnic, religious and sexual groups and of racial and gender differences is fueling 'identity'-framed struggles for recognition.

The two kinds of struggle often seem opposed to each other; we may feel pressure to choose between them. But the 5Rs starts from the belief that neither struggle alone is sufficient for achieving deep social change. Advocating *only* for working people's economic class interests without regard to ethnic identity concerns *or* advocating *only* for ethnic identity recognition without regard for the class position of working people within ethnic communities -- each ignores strategic issues. Class *and* ethnicity (along with other aspects of identity) are both integral parts of a single pillar; one without the other cannot constitute a pillar. Both types of injustice shape exploitation and subordination; and both types of struggles have emancipatory aspects. The 5R approach assumes that it is *possible and necessary* to integrate the emancipatory aspects of both struggles into a single frame.<sup>1</sup> If we don't, we risk impeding construction of a future federal democracy with equal rights and opportunities for all.

Applying the five principles to the 'land problem' is necessary to defend against elitist efforts to thwart democratization of access and control of land and related natural resources. Even well-intentioned responses to Myanmar's land problem can be undermined if they approach the problem with only one or two of the 5 Rs, or any combination less than all 5 Rs. It would be like trying to make a whole puzzle with a hundred pieces of the same shape. Deliberately linking all 5Rs together has the best chance of handling the complexities of the land problem in Myanmar today. It is designed to detect and address the multidimensional character of land-based injustice. Failure to do so will contribute to the process of loss of land and of the right to land for millions of working people all across Myanmar. It risks to exacerbate old and create new grievances, especially among ethnic nationality communities practicing customary tenure systems, thereby further contributing to and prolonging ethnic conflict and war. The stakes are thus very high.

Rich country, poor people -- that is what Myanmar has been. It is rich in natural resources, but the proceeds from access to these resources remain in the hands of a very few -- most of whom are military or military-connected. This must change. Natural resources are essential for human life and the health of the planetary ecosystem. For decades, rural working people across Myanmar have been losing access to land and natural resources because of various processes of enclosure and dispossession -- commonly called 'land grabbing' -- *and* because of the socially differentiating currents of free market relations in the rural areas.

This trend encompasses aquatic resources<sup>2</sup>, forest resources<sup>3</sup>, and land resources<sup>4</sup>. Enclosures and dispossession have been facilitated by many laws that span diverse policy areas and ministries -- economic, investment, mining, forest, fisheries, agriculture, environment, conservation, land and natural resources.<sup>5</sup> Shrinking access to land for working people is especially alarming because land is an entry point for accessing forest and aquatic resources too, and because working people need a *range of access to an array of natural resources* for their economic production *and* social reproduction activities.

## BOX 1

### What is ‘social reproduction’?

“Social reproduction refers to the forms of provisioning, caregiving and interaction that produce and maintain social bonds. Central here is the work of socializing the young, building communities, producing and reproducing the shared meanings, affective dispositions and horizons of value that underpin social cooperation. In capitalist societies much, though not all, of this activity goes on outside the market, in households, neighbourhoods and a host of public institutions, including schools and childcare centres; and much of it, though not all, does not take the form of wage labour. Yet social-reproductive activity is absolutely necessary to the existence of waged work, the accumulation of surplus value and the functioning of capitalism as such. Wage labour could not exist in the absence of housework, child-raising, schooling, affective care and a host of other activities which help to produce new generations of workers and replenish existing ones, as well as to maintain social bonds and shared understandings”.<sup>6</sup>

Yet people are resisting land grabbing. Civil society organizations (CSOs) across the country have studied and rejected laws and policies that facilitate dispossession and displacement. For example, the nationwide network called Land In Our Hands (LIOH or *Doe Myay*) has produced numerous analyses of existing laws and policies -- such as the government’s National Land Use Policy (2014 Draft); the 2012 Farmland Law and the amendments to this law proposed in 2017.<sup>7</sup> In 2018, LIOH spearheaded a nationwide grassroots campaign against the government’s Vacant, Fallow and Virgin Land Management Law.<sup>8</sup> More recently, in defense of customary land systems and practices including shifting cultivation, LIOH has shown how existing laws undermine these and offered recommendations on what is needed to support and promote them instead.<sup>9</sup> CSOs have formulated pro-people alternatives that not only reflect



realities and customs on the ground, but also internationally respected principles that they felt are relevant for them.<sup>10</sup> In one notable example, CSOs from numerous ethnic groups across Shan State joined forces to research and document customary land systems and eventually to produce a joint report with their findings and recommendations.<sup>11</sup> Similarly, a number of ethnic armed organizations (EAOs) have taken part in developing land policies that value inclusion, equity and an ecologically healthy future for all.<sup>12</sup> One CSO network -- the Burma Environmental Working Group (BEWG) -- developed a 'roadmap for resource federalism'.<sup>13</sup> These are all building blocks for a comprehensive national 5R program.

Myanmar is now at a new crossroads. The February 2021 coup has made the need to forge new social foundations for a future multi-ethnic federal democratic system of government painfully clear. Now is the time to go deeper into imagining the substantive and inclusive agenda of that future -- e.g., providing deeper substance to a federal democratic system with a clear pro-working people agenda that is gender- and generation-sensitive. We assume that a core value of any positive future would be recognition that each and every person -- regardless of any differences between us -- is born with equal dignity and equal right to access the material, ecological, social and political conditions needed to live a flourishing life.

Diverse kinds of access to an array of land and natural resources is part of what rural working people need to flourish. A 5R land and natural resource program can inspire different people affected differently by land and natural resource injustices to find common cause, and develop alternative land and natural resource policies that protect, support and promote the rights and needs of all the people of Myanmar.

## How is land important for working people?

In many societies land is a crucial part of the material and social conditions working people need to live. We start with all the people who depend on land and nature for their livelihoods, and/or for wage work, and for their households and communities to survive and reproduce as people. Let's call them 'rural working people'.

They may be small-scale farmers or pastoralists (animal herders) or fishers; forest dwellers, agro-pastoralists, or dual fisher-farmers; or they may be just ordinary villagers who live in and near farmlands, forests, lakes, rivers or sea. They live in upland or lowland, inland or coastal areas. They (or members of their households) may have regular wage work in other people's farms, or in off-farm and non-farm livelihood activities such as preparing and selling food in or near their village, living and working in garment factories in cities, or doing cross-border migrant labor on a seasonal or longer-term basis. Their use of land and related nature may be subsistence oriented, or capital accumulation oriented, or a little of both.

But their ability to make a life and plan their future depends on having full recognition and guaranteed respect of their right to a range of access *to the full array of natural and social resources that they need for survival and social reproduction* (see Box 2: What is 'social reproduction?'). Myanmar's rural working people have long used land and nature in many individual and collective ways.

These many ways include: farming and agroforestry; foraging and grazing; fishing; ecological (watersheds, storm surge protection); drinking water; housing and shelter; home gardening and small livestock keeping; infrastructure (paths, roads, bridges, village halls, local markets and gathering places); all the other spaces where village social reproduction activities take place (schools, religious and sacred sites, health clinics, markets); community land reserved for new households and future population growth; and any other uses that enable villagers to access land and derive benefits from it (for example, land



for irrigation infrastructure, such as canal, pump and reservoir). These various ways of using land and nature may involve unwaged work (as explained earlier), but also a lot of waged work too. For example, according to one INGO, more than 80 percent of farming households in the Dry Zone and the Delta hire workers on a seasonal basis to help with the farm work.<sup>14</sup>

All these uses taken together involve a range of access -- for example, on an individual basis; on a household basis; on a village basis; for long-term access; for one-time short-term access; for short-term but regular periodic access according to the season; for waged work; for unwaged work; for walking or for driving; for production activities; for social reproduction activities; etc. A single villager can hold a varied bundle of diverse access rights; and one person's bundle of rights may not necessarily be the same as the next. Whether and how such variations exist depends on the particular history and social relations of a given village.

All these uses taken together also involve access to an array of natural resources -- for example, land that is close to a water source for irrigation; forest for collecting materials to maintain a house; forest for hunting and gathering food; land for farming; land for grazing animals; land for building village health center or school; land for religious purposes; etc.). Here, there can be variations within a given village in which individuals or households have access to which lands or forests or waters at which time of the year and for how long. How these variations are decided can also vary from one village to the next.

#### BOX 2

### Why is 'range of access' to land so important?

Range of access is rooted in belonging to a social community and being part of a local economy and ecological landscape. The range of access to land and natural resources that rural working people across Myanmar need to survive is relatively diverse, flexible and dynamic.

They combine use of *individual* freehold plots with use of *commons*. And they live with a mixture of: *hard* boundaries (homelots for example); *semi-porous* boundaries (for example, one is allowed across boundaries to gather fallen fruit or tree branches, but not to cultivate or let one's animals graze); and *shifting* boundaries (alluvial plains and floodplains for example).

Year after year, villagers dynamically negotiate a whole range of individual and collective rights of access with each other. For example, only some village land is next to a river, which makes it easier to get water for irrigation as well as for household uses. Whoever is able to access that land will have an easier time of collecting water, and also probably benefit in terms of having a better farm produce. So which villagers should use that land, for how long, and on what conditions? What would be the fairest way to allocate use of that land? What would be the least fair way to allocate it? Whether in upland or lowland settings, village practices and customs that exist around range of access have emerged from face-to-face relationships, grounded calculations and social agreements forged over time.

Meanwhile, having a range of access to a diverse array of land and natural resources enables villagers and their communities to survive and cope with crisis and tragedy; it is a factor in reducing vulnerability and increasing resilience. For example, if a family's access consists of one isolated plot of lowland paddy located in the middle of a vast plain, then it may well mean nowhere for them to run for safety in a typhoon. Such a plot will be of little use if their house is damaged by the typhoon and they need access to wood to make repairs, but they have no money either because their harvest was damaged in the storm. Range of access provides the economic-ecological resources and social insurance that people use during emergencies or when they are no longer able to work. And it enables villagers to construct their futures -- whether planning for inheritance to pass on or preparing for life in one's old age.

All this points to a potentially quite elaborate and complex view of how rural working people relate to land and nature -- one that goes far beyond the simplistic formula of '1 individual person-1 isolated and fixed plot of farmland' relationship on which a lot of official land use and management policy and programming -- such as Myanmar's Farmland Law and the Form 7 land use certificate -- tends to be based. Guaranteeing *a basic minimum range of access to an array of land and nature* for rural working people is thus crucial for *both economic production and social reproduction*. In short, the multiple and varied ways that people access and use these diverse natural resources connects them to the past and allows them to live now and plan their futures.

Land is key in *economic production*. Villagers use land to produce food and other crops for own consumption or to sell in the market for cash to buy things they need but cannot produce themselves. They use land for grazing livestock. They generate income by renting out and/or selling portions of land to others. They can rent a portion to a company and then supply the labor needed by the company to work the land in exchange for wages. A single villager or household may use land in all or several of these ways at once: selling part of the land, while renting out another portion, and keeping a portion for growing cash crops and agroforestry (or shifting cultivation), while also maintaining a portion for small livestock and backyard garden to grow vegetables and medicinal plants for own consumption.

But land is *also* key in *social reproduction*. Land is crucial for many life-sustaining and community-building activities: providing nutritious food, clean drinking water and water for hygiene and sanitation; sourcing material and space for housing and shelter; providing spaces for care of children and elderly, for education and health care, and for community and religious gatherings. Social reproduction activities take place in households, communal forests and pastures, gardens and plazas, and village public institutions like meeting halls, schools, health clinics, religious buildings, and markets. Although often less visible than economic production, these activities, and the land and nature needed to accomplish them, are vitally important too.

Public policy tends to prioritize land for economic production. The 2012 Farmland Law creates land use certificates, but only for isolated and fixed individual plots officially defined as ‘farmland’. In cases where land is confiscated for ‘public purpose’, the 2019 Land Acquisition, Resettlement and Rehabilitation Act does not cover compensation for “loss or restriction of access to resources such as water, non-timber forest products, grazing, etc” or for social infrastructure.<sup>15</sup> Land and nature used for social reproduction activities may be a blind spot in advocacy too.

When access to land used for productive activities is grabbed, then villagers’ ability to carry out social reproductive activities is undermined. The other way around is true too. If access to land used for social reproduction is grabbed, then villagers’ ability to carry out productive activities is also undermined. Armed conflict may force people to flee their homes to seek safe shelter in towns and cities far from their paddy or *taungya* plots; or if the forestry department takes over their communal forest, then villagers may no longer be able to collect non-forest timber products that they sell or use themselves for food and medicine provisioning or for building homes or schools. In reality the two spheres are indivisible and working people need both to be resilient in the face of adversity.

In short, to be able to survive and flourish, rural working people need at least a guaranteed basic minimum range of access to land and nature for *both* economic production *and* social reproduction.

## What is the ‘land problem’ in Myanmar today and how can the 5Rs help?

Three ordinary villagers -- Naw Paw Eh, Khun Aung, and U Tin Naing -- are in conversation:

Naw Paw Eh is living in a refugee camp in a neighboring country after she and her fellow villagers had to flee their village because of armed hostilities. She lost her farmland and her orchard, as well as her access to the community forest, community streams, and community grazing land. She lost access to the plot for her house, as well as to areas of the village used for religious purposes and designated as sacred land. She also lost the overall sense of belonging to a village community. Her most fervent dream is to regain all of what was lost. But she has heard that an oil palm company has already taken over the whole village.

Khun Aung’s farmland was confiscated by the military and he was forcibly relocated to another village in a different township. There, he ended up on farmland that had been left behind by another farmer, who years earlier had also been forcibly relocated by the military. He had to resort to poppy cultivation in this new village due to lack of other opportunities. He has no formal land claim or land use certificate. He feels very insecure, as more and more land grabbers encroach into the area.

U Tin Naing is a laborer, but he has no regular job. Sometimes he works at construction sites in Mandalay, other times cuts sugarcane in China. He has no land at all. He did not inherit any farmland, and then the community farmland reserve in his home village was grabbed by a company some years ago. When it came time for him to start his own family, there was no land left for him in the village. He lives a transient life, surviving only by hiring out his labor wherever there is work. He wishes he could settle down in his home village and farm, but he has no land.

Naw Paw Eh and U Tin Naing are both without any access to land currently, although how they became landless is not the same. Khun Aung currently



does have access to land but feels profoundly insecure. All three of them need public action (including policy intervention) to address their land issues, but each requires a different type of intervention. Each of them is in a situation where competing claims exist on the same land made by powerful economic and political elites who want it for their own purposes.

These are all zero-sum processes: for one to gain access to land, another must lose access. For Naw Paw Eh to regain access to her village land, the government would have to expropriate this land from the company currently occupying it. For Khun Aung to retain access to the land he has farmed for the past five years, the previous occupant would have to give up claim to that land. For U Tin Naing to have access to a bit of farmland somewhere, someone else would have to give up access to that bit of farmland.



In many cases, it is clear who should gain and who should lose. For example, if a portion of the tiger reserve in Kachin State is declared for redistribution to landless people, then those who currently control the reserve -- e.g. big conservation organization and a big plantation corporation -- will lose access to that portion. In this example, those gaining access should be working people like Naw Paw Eh, Khun Aung and U Tin Naing. Those losing access should be big economic and political elites, whether a family, a company, a big conservation organization, or the military.

In the history of the world, the most highly developed countries today are those that implemented significant land redistribution policies that redistributed lands from a few powerful elites to the landless and land-poor working people. And in *no* case in world history was such a redistributive land policy carried out in a either a voluntary manner or on a small scale. All successful redistributive land reforms required a state to expropriate land from powerful elites, whether these elites agreed or not.

But in *some* cases, there is a dilemma: while a working person may gain access to land, another person of similar class and status might lose that access. Take the case of Khun Aung: if the original owner of the land he is occupying -- also a working person -- now regains access, then Khun Aung loses; but if Khun Aung gains formal rights to the land, then the original owner loses. This difficult situation can only be resolved if either Khun Aung or the original owner can be given access to a comparable land elsewhere -- but that will require a different policy framework.

These stories are hypothetical. But they reflect real experiences of ordinary villagers and how important land is to them. How can we make sense of diverse and competing land interests and claims that actually exist, and at times, even among poor working people? This is a complex question! It is hard to face and difficult to answer. The particularities of the wider Myanmar context must be taken into account. There are many, but the following stand out.

**First**, land holds different social and material meanings for different people and peoples of Myanmar; millions of rural working people depend in different ways and to differing degrees on the country's wealth of land and related natural resources. Not everyone relates to land in the same ways, but all rural working people need a *range of access* to land and natural resources to survive.<sup>16</sup>

**Second**, millions of rural working people have managed to maintain their range of access to land and nature until now, but many millions have suffered *involuntary displacement* for various reasons and to varying degrees (landless and near landless). For some the path into hardship was primarily economic (e.g., commodification), while for others it began with extra-economic coercion (e.g., armed conflict and militarization, resource grabbing, ecological degradation, and natural calamity).

**Third**, millions of completely-landless and near-landless rural working people are compelled into a life of grinding hardship as part of the country's growing army of cheap labor, working long hours for low pay often in the most dirty, dangerous, and difficult ('3D') jobs. While remaining tied to their home villages, many of them find work in different states and regions of Myanmar, a very large number have migrated abroad in search for income to support their families back home. They are the most marginalized in society and least present in advocacy movements.<sup>17</sup>

**Fourth**, the military, one of the main agents of processes of dispossession and displacement, is the single biggest landlord in the country, deriving vast wealth (much of it hidden) and power from access and control of vast amounts of land in all states and regions across the country.<sup>18</sup> Some of this land is grabbed to build military bases and training camps, but a very large part is for commercial purposes, including for the private benefits of some officers, and often in conjunction with local and international companies. It is also grabbed to generate income for individual army units, as they receive little support from the central command and have to be largely self-reliant.

**Fifth**, in consultation with CSOs and villagers, Karen, Karenni, Mon and Kachin ethnic armed organizations (EAOs) have developed land policies expressing their practices, values and aspirations. Without necessarily referring explicitly to ‘the 5Rs’, all these policies in substance clearly are inspired by the five Rs to address the land problem in areas under their control. Some of these policies are published online, such as the KNU Land Policy of 2015.<sup>19</sup> Others are in circulation, but not online, such as the Karenni Land Policy (December 2018), and the Mon Region Land Policy (Draft 2021). These policies are based on research and community consultations and reflect realities and address key policy issues people face on the ground. They have also taken into account relevant international best practices. In addition, these policies are



implemented on the ground in the territories controlled and/or influenced by these EAOs. They also are a vision by these EAOs of what they think a just and fair land policy should look like, and in this way can also inspire other local and international actors. Finally, these EAOs policies have been used as input in political negotiations in efforts to promote peace in the country and as a guidance to develop land related principles in a future Union Peace Accord (process now stalled).

How can we transform the structures that produce widespread dispossession, exploitation and subordination?

This is where the 5Rs come in: as a lens to examine these questions, and a framework to orient options in favour of working people. They are a package deal -- *together* they prioritize the most marginalised and exploited people by addressing economic disadvantage *and* status subordination. As a package applied to land and natural resources, the 5Rs work together to filter out initiatives that enforce exclusion and inequality. And at the same time, they help to gather all those harmed in different ways by structural injustice around a common program. Together, they move society toward a future where *all* -- e.g., especially working people -- have access to the material and social means to live a flourishing life in dignity.

The 5Rs can be used as a yardstick to measure any declaration, law, policy, project or initiatives. They can be used as a playbook to inform and guide strategies and tactics. Strategies are ideas, actions and demands oriented toward overturning structural injustice in the long-term. Tactics are ideas, actions and demands brought into play as we seek immediate relief and concrete gains in the meantime. The 5Rs can help to identify relevant actions, to frame coherent demands, and to detect when adjustments are needed. And they can be used as a mirror to clarify the who, what, where, when, how and why in our organizing work, to anticipate which groups are likely to support our efforts and which are not.

# What does a '5Rs' land program look like?

## Recognition

In Myanmar today many working people have a range of access to land for their production (farming, fishing and grazing, including lands that are part of shifting cultivation systems etc) *and* social reproduction (houseslot, home garden plots, communal forests, communal grazing areas, religious grounds and sacred areas etc.) -- all activities that they need to do in order to live. But this access is diminishing and/or seriously threatened. Their access may be threatened by various military and resource grabbing processes, and/or is diminishing due to longer term impacts of free market relations dominated by powerful elites like rich traders. The threat is particularly severe on the poorest working people, as well as women and young people in rural areas, especially those under customary tenure.

In practical terms, *recognition* means taking steps to protect and support rural working people who manage to remain on the land and the spaces they need to survive (for production and social reproduction as explained above), including areas under customary systems of collective land ownership, use and management, including shifting cultivation. Communities in many parts of the country are documenting their customary systems as an assertion of their right to recognition (see key references in Annex 2). By recognition we mean statutory and customary recognition and protection -- *but with restitution and redistribution* because we do not want to provide recognition only to those who currently have access, nor do we want to maintain unequal distribution of access within existing customary tenure. Recognition is thus also for those who should have access to land according to the 5R principles.

For example, one community member may have 100 acres of land, while another household only 2 acres, and another one without any at all. Recognition-without-redistribution means formalizing this unequal distribution. Or a household started out with 10 acres of farmland, then took

over an additional 15 acres from someone who fled the village due to an outbreak of armed conflict. This household now has 25 acres. Recognition-without-restitution will give justice to the household currently occupying 25 acres, while delivering injustice to the household who was forced to flee their 15 acres and become IDPs. Recalling the seemingly unrelated stories of Naw Paw Eh, Khun Aung, and U Tin Naing, we begin to see how they are inextricably linked: truly resolving one cannot happen without also resolving the others. This overarching logic applies as we move to redistribution below.

## Restitution

Restitution addresses the problem of past injustice due to involuntary and coercive dispossession. It benefits people who were violently expelled from their land or were forced to abandon their lands because of armed conflict, or whose lands were forcibly grabbed by the state, military and companies (for key references on restitution see Annex 2). In Myanmar many people have previously been involuntarily and coercively dispossessed of land and their related access to water, forests, fisheries etc. Even before the coup, some 1.3 million people from Myanmar had become refugees or IDPs, most of them from different ethnic communities in the conflict zones. This includes Mon, Karen, Karenni, Shan, Ta-ang and Kachin communities, and more recently a large number of Muslim refugees from Rakhine State, who self-identify as Rohingyas, as well as many ethnic Rakhine Buddhists. In late June the UN stated that since SAC took power on 1 February, its military actions have displaced another 230,000 people.<sup>20</sup> The number has increased since then. In recent years IDPs and refugees mobilized to try to articulate a clear vision of what restorative justice means to them and what they feel is required for restitution to happen (see for example the August 2019 position paper by IDP and refugee committees from Mon, Karen, Karenni, Shan and Kachin).<sup>21</sup>

In practical terms, restitution means restoring access to land for both production *and* social reproduction -- starting with the most vulnerable and distressed living in harsh conditions -- e.g., IDPs and refugees, and people displaced by megaprojects, big conservation projects, and natural disasters. Land restitution

requires that what is restituted is not only farmland or houselots, but rather the full range of access to an array of land and resources, and the social infrastructure that working people need to benefit from such access (such as village health clinics, schools and playgrounds, places of worship and cemeteries, transportation routes for villagers' mobility etc.), must be restituted.<sup>22</sup>

## Redistribution

Redistribution is for working people who, for various reasons, need land for production and social reproduction (plot or space in the village for housing, access to community forest, common grazing land, and so on). They may not have any land at all, or they may have too little. They may have some land, but that land is of poor quality for production. Or they may have a bit of land for production, but then lack access to land and space for social reproduction activities. Redistribution is the measure needed to reverse deep inequalities, as a step towards ensuring that societies are built and continually reproduced on a wide and inclusive social foundation (for key references on redistribution see Annex 2).

Many households are in this dire situation for various historical reasons. These reasons include dispossession through market relations: poor farmers lose out to traders due to high cost of farm inputs and low prices of farm produce; or to moneylenders because debt interest is too high and just one crop failure is enough to force peasants to lose their means of production. Gender and generational reasons are also prevalent: women usually do not get their own access to land, and young people have to wait for their farmer parents to retire and subdivide their land to children (but even so, usually most children do not gain access to land), or because the traditional community land reserve allocated for future households were grabbed from the community. Many working people end up with no farmland, no houselot, no access to forest/grazing, etc. Many are in urban, or peri-urban and even in rural areas. Allocation of access to land cannot be based on the principle of 'land to whoever can afford to buy', because this is how the military and crony capitalists amass vast tracts of land. It must be based instead on the





principle of 'land to those who work it (e.g. farmland) and for its many "use values" (e.g. houselot and home food garden plot)'.

In practical terms, redistribution means redistributing public land and big private estates (e.g. big oil palm plantations, large rubber plantations) to *impoverished landless and near-landless people*. All successful land redistribution in the world historically involved the central state expropriating big private estates and distributing state lands to working people. Clear priorities about which lands to redistribute and which people to benefit must be discussed and agreed. In identifying which lands to target for redistribution, care must be taken in relation to lands currently under customary systems and lands currently claimed by displaced persons and communities. In customary lands, parts of the land of those with very large land claims will have to be shared with those without land or with too little or poor quality land. Targeted for redistribution would be lands controlled by a single individual or entity (private or public) above a pre-set 'land size ceiling' (see more on this below).

## Regeneration

Regeneration is about strengthening the ecological foundation and requirements for ensuring the biological health and survival of future generations. Regeneration is the opposite of extraction; it approaches the human-nature relationship completely differently -- as one that must be based on co-production, reciprocity, and reproduction of the land and natural resources used. The global climate crisis makes painfully clear the limits of extractivism and the importance of regenerative approaches.

In Myanmar regeneration could have two parts -- both essential. One part starts with a moratorium on any new projects that damage local ecologies



and harm people (see for example Arakan Oil Watch publication 'Breaking the Curse: Decentralizing Natural Resource Management in Myanmar, February 2016, which calls for a moratorium). It then proceeds to identifying *and rolling back* the most ecologically damaging, degrading, contaminating, and destructive land/ocean uses (various mining and drilling; large-scale dams; toxic monoculture plantations; etc.).

The other part involves encouraging and expanding ecologically beneficial uses including agroecological farming systems. Many already existing examples and initiatives could be amplified and initiated in more areas. See for example agroforestry practices -- such as shifting cultivation in communities across Myanmar such as those set up by Metta Development Foundation<sup>23</sup>; 'Farmer Field Schools' in agroecology in Kachin and Shan State<sup>24</sup>; and the territorial approach of the Salween Peace Park by ethnic Karen communities.<sup>25</sup>

Regeneration means that (re)establishing working people's range of access *without also* challenging and changing the logic of the global industrial agro-food system -- e.g. chemical-based, synthetic fertilizer-dependent, using anti-biodiversity seeds and technology -- will undermine farmers in the long run, and contribute to further climate change. This means that building agroecological farming systems and food sovereignty is not possible without a 5Rs program. At the same time, land redistribution, restitution and recognition won't matter in the era of climate change without a regeneration plank. Regeneration without recognition, redistribution and redistribution -- such as the planned Lenya National Park in Tanintharyi Region -- are simply 'green grabbing' (land grabbing in the name of protecting the environment and mitigating climate change). Agrarian justice without climate justice is neither enough nor desirable, neither is climate justice without agrarian justice. In short, the '4<sup>th</sup> R' (regeneration) fused with recognition, redistribution and restitutions equals 'agrarian climate justice'.

## Representation

Democratic representation at all levels is vital for democratic decision-making (e.g., both individual and collective). Apart from the fact of widespread and persistent calls for such historically, the benefits of democratization should be self-evident: more democratic and inclusive processes can lead to better and more legitimate outcomes. In practical terms it could mean:

recognizing civil society organizations representing different kinds of rural working people and taking their views and knowledge into account in land and land-related decision making;

recognizing customary authorities and taking their views and knowledge into account in decision making processes that affect their lands and territories (see, for example, how Village Land Committees are recognized and integrated into the administration of the KNU Land Policy);<sup>26</sup>

recognizing existing EAO land policies and authorities and taking their views and knowledge into account in decision making processes that affect their land and territories (see links above).

## Two additional core measures

These are the five Rs. But in order for the 5Rs to work together and not at cross-purposes, they must be 'sandwiched' together by two core measures:

- 1 a 'guaranteed minimum access' to land for all working people for production (farm plot) *and* social reproduction (houseslot and others, as mentioned above), which is crucial for survival especially in times of crisis; and
- 2 a society- and system-wide 'land size ceiling' or the maximum size of land that an individual or corporation can own.

Why must the 5Rs be sandwiched between these two measures? *Without a land size ceiling*, powerful actors will be able to buy or grab land as much as they want and can, leaving nothing for working people even when on paper the latter is guaranteed a minimum access. *Without a guaranteed minimum*

access, even where there is a land ceiling, an egalitarian distribution of land access will not be ensured. The minimum access and the land size ceiling must go together.

These two measures have been the 'heart' and 'soul' of all successful land reforms in world history. This is what distinguishes mainstream land policy -- which often mainly brings rights and benefits to companies and large investments -- from a *social justice* land policy -- which brings rights and benefits to those who work and live on the land in an equal way. To illustrate, the formal land size ceiling in the Philippine land reform law of 1987 was set at a low 5 hectares -- the maximum total that any owner can own. Many Philippine elites tried to evade this ceiling. But not all efforts to evade succeeded all the time; in many cases evasive actions were detected and stopped. And by law the burden of proof was on the elites, not on the working people. This greatly helped to reduce large-scale land acquisitions.

Applying these two core transversal measures with recognition, restitution and redistribution is crucial for addressing inequalities and ensuring that working people have access to the material and social conditions needed to build a good life. Deploying any one of the five principles in isolation from the others will result in a negative overall outcome and more conflicts, including armed conflict, as land grabbing and unjust land policies are one of the grievances for EAOs and a key driver of the decades old war. Elites often consciously deploy a single R as a tactic to divide working people, making it easier to rule over them all. Recall the stories of Naw Paw Eh, Khun Aung, and U Tin Naing -- imagine that the lands they are talking about are actually interrelated, and imagine just deploying a single R: whose R? what happens to the other two who didn't get Rs? Linking all five principles with a land access 'floor' (guaranteed minimum) and 'ceiling' (allowable maximum) and deploying them together is protection against divide-and-rule and enables all working people to move forward.

# What are the main obstacles to equitable land access?

To understand the virtues of a 5R land program, let's look at the challenges to working people's range of access to land and nature. There are three main ones.

## Commodification

### BOX 3

#### What is commodification?

A commodity is anything that is bought and sold for money.<sup>27</sup> Behind every commodity is a historical process where “elements of production and reproduction [came to be] produced for, and obtained from, market exchange and subjected to its disciplines and compulsions; capitalism is distinctive as a system of generalized commodity production”.<sup>28</sup>

*In farming*, commodification of land, labor and inputs is happening. Land is being turned into a commodity through the introduction of private property rights systems and laws, where land is made ‘alienable’ -- e.g., can be bought, sold, rented or leased. Historically, commodification follows the enclosure of lands that used to be held in common by villagers: “land used by peasant communities for grazing their livestock, collecting firewood, fishing and hunting, and other activities that provided a necessary complement to the subsistence they gained from cultivation”.<sup>29</sup> Farming increasingly depends on hired wage labor provided by a growing ‘army’ of cheap labor. This ‘army’ of cheap labor is made up partly of rural working people with some land but who must still hire out their labor to survive, and partly of rural working people who have been completely dispossessed.<sup>30</sup> Inputs purchased from dealers such as GMO seeds, synthetic fertilizers, and chemical pesticide, displace

native seeds, species and traditional agroecological knowledge that villagers used to cultivate, save and share among themselves.

*In fishing*, commodification is turning the right to fish into an 'object' that can be bought and sold called an 'individual transferable (fishing) quota' (ITQ).<sup>31</sup> The ITQ system is not about actual fish that are eventually bought and sold. It is about the legal right to a share of what state authorities predefine as the total allowable catch limit. Expansion of the ITQ system in fisheries is proceeding alongside industrialization of fishing, enclosure of ocean spaces for big business, and a 'resource conservation' agenda controlled by big international environmental organizations (big ENGOs), who believe that conservation of nature requires privatization in order to prevent 'over-fishing' by some (e.g., poor fishers using local knowledge, ecological practices, artisan fishing gear) and to allow 'efficient' fishing by others (rich 'absentee fishers' with big boats/ trawlers, hired labor, industrial technologies and practices). In Myanmar it is common for the government to auction off fishing rights in certain areas, and the winner can then demand people who want to fish there to pay tax. For farmers in the Irrawaddy Delta for instance, who mainly farm but do a little bit of fishing to improve their diet, this has become too expensive and impossible.

*In livestock-keeping*, commodification is changing how livestock is kept. "Pastoralists are livestock-keepers who specialize in taking advantage of variability, managing grazing itineraries at a variety of scales so that livestock feed better than without a herder".<sup>32</sup> Commodification is seen here in the rise of 'absentee' livestock owners (they own the herd, but do not do the work of herding) and in increased use of hired wage labor to do the actual work.<sup>33</sup>

Where villagers once helped each other to build houses, plough fields, harvest fish and hunt for food, such kinds of reciprocal labor practices are dying out. Labor reciprocity is giving way to commodified labor power. Traditional rural social reproduction activities are dying out too. Securing fuel for cooking now means buying commercially bundled firewood instead of gathering firewood from the community forest. Rather than using land to grow the food that one consumes, food is purchased in the market and land is used instead for commercial exchange and profit. Production and social reproduction



are increasingly entangled with economic market fluctuations for inputs and outputs.

When the logic of economic markets, competition and profit starts to take hold, many villagers increasingly find themselves barely able or unable to break even. Mi Sadao is a farmer. She buys the inputs she needs to farm, but her farm output barely or rarely can cover the costs; even if the harvest is good, the price she gets for her produce is usually or always too low. Modest 'shocks' -- a dip in prices of produce or a spike in food prices -- can bring immediate distress to the household. Bigger shocks -- such as total crop failure due to a storm or disease -- can spell disaster.

Most villagers become vulnerable. They become hard-pressed to accomplish what is required just to survive from day-to-day, never mind turn a profit. As pressures grow, they may turn to survivalist nature extraction strategies -- reducing their own consumption, intensifying gathering non-timber forest products, or shortening fallow periods, or expanding their tillage either by enlarging



non-fallow plots or by encroaching into community reserve land or communal forest. They may intensify their non-farm and off-farm wage work and livelihood activities, taking on (more) '3D' jobs. Some may leave home in search of wage work to add to the household income. In some areas, such as in Shan State where opium can be cultivated, they may resort to poppy cultivation.

But not everyone has the same access or capacity to do these strategies. Does a villager have access to enough land to grow food for themselves and to sell in the market? Or enough land to farm and also to sell or rent out to someone else if need arises?

Depending on the answer, some fare better, while others fare worse. Deepening market entanglements impact different people differently. Communities are not homogeneous; neither are extended families or individual households. Commodification has the effect of speeding up social differentiation -- within households, within villages, within the whole society. It can also sharpen how people see and feel about differences between us, including differences in gender, age, skin color, ethnic background, religious belief, sexual orientation etc.

#### BOX 4

### What is social differentiation?

Social differentiation "is a dynamic process involving the emergence or sharpening of 'differences' within ... the population".<sup>34</sup> It is about the changing kinds of relations between people and groups of people -- for example, between farmers and non-farmers; between those who have land and those who don't; between those who have a small plot of poor quality land and those who have a bigger area of good quality land; between women farmers and men farmers; between elderly farmers and younger farmers; between women based in the countryside and women based in cities; and so on and so forth, in the context of developing commodity relations in the rural economy.

But most villagers will 'sink' (with some sinking faster than others), and just a handful of others will 'rise' by expanding their profit-making ventures on-farm and off-farm.

Among the 'risers', some accumulate land by buying up land from poorer distressed farmers who may be forced to sell during a crisis. Others amass finance capital through moneylending; or through expanding commercial business operations, like merchant-trading of farm inputs (commercial seeds, fertilizers and pesticides) and farm outputs (wholesale and retail, processing and distribution of farm products); or through providing commodified services such as transportation or warehousing. They become the wealthy people in the village. One or two of them may be able to do more than one of these different kinds of profit-making activities. They become the village elite -- increasingly able to control the terms by which village working people access land and credit or sell their land and labor.

In this way, the rise of the few is linked to the sinking of the many. This inter-linking of the fortunes of rich and poor is the 'main event' -- the core dynamic that sets in motion a more complex process of social differentiation -- within households, families and villages. Other factors can make us lose sight of this 'main event' and interpret it using the lens of status subordination alone (e.g, differences between villagers based on gender, race, ethnicity, religion, etc.). But how a person responds to market fluctuations depends on the material *and* social conditions in which he or she is living and the material *and* social resources they can mobilize.

## Extra-economic coercion

'Extra-economic coercion' refers to powerful elites deploying (or threatening to deploy) coercive power -- e.g. armed forces (and including paramilitary or militia groups) and courts -- to force people to give up part or all of their range of access to land and nature. Powerful elite actors use violence and the threat of violence to cut ordinary working people off from the range of access to land and nature that they need to survive. It is fundamentally about the grabbing of resources and displacement of people.

BOX 5

## What is ‘displacement’

Displacement means the partial or complete loss of access to the array of land and corollary natural resources that are necessary for livelihoods and social life. In real life, displacement occurs in combination with the deepening economic pressures of market relations just described (e.g., in relation to commodification processes).

War, armed conflict, and militarization are one form of extra-economic coercion. But extra-economic coercion can take many forms. Top-down state policies and laws, programs and projects can also cut working people off from their resources and may be backed up by state coercive power should people resist.

Examples include: ‘fortress conservation’ projects declared to protect wildlife, forest, marine resources, biodiversity (but not people); or prohibition of certain kinds of production and social reproduction activities such as poppy growing, bush burning, animal grazing or artisanal fishing or artisanal mining (considered illicit, destructive or inefficient); or ‘mega-development’ initiatives such as large-scale hydropower projects (dams and transmission infrastructure) or oil and gas extraction and transmission infrastructure (such as ports and pipelines); or extractive projects that destroy, pollute and contaminate, such as when mine’s tailings pollute and render un-usable nearby peasant farms or sources of water for drinking and laundry of a village. Extra-economic coercion may also connect to severe climatic disturbances (storm, flood, drought, earthquake) when people who had to flee their homes are barred from regaining their full range of access.

Extra-economic coercion happens inside and outside statutory law. It may be clearly illegal in some instances, but it may be perfectly legal in others -- e.g., based on laws that permit depriving ordinary villagers’ access to land.

The Vacant, Fallow and Virgin Land Management Law (VFV Law) -- which many people deem illegitimate -- is a good example. It can be used in a legal way (e.g., by the letter of the law), and it can be used in an illegal way (e.g., its own technical and administrative procedures are not followed in a land confiscation). And, the VFV Law has even been used in an 'extra-legal' way! Amidst armed conflict and militarization, the law has been used by private business actors in Kachin State, for example, to persuade people displaced by war to sell or rent their land directly to them 'before the government takes it under VFV'. Trapped for years in IDP camps, economically distressed IDPs are pressured to give up their political claims to land in exchange for short-term economic benefits. According to the government, by early 2013, almost 2 million hectares of farmland, wetland, and forested land had been reallocated for concessions under the VFV Law.<sup>35</sup>

Yet extra-economic coercion has *varied* outcomes. Some people might lose farmland, but not house plots. They may lose house plots, but not farmland. Others might retain farmland, but lose access to watersheds and forests, rivers and streams, grassland or grazing areas. Still others may retain partial or even complete range of access, but the quality of the land, water, forest has been destroyed or degraded. Some lose all the access they once had to any land and nature in the territory. Remedying this problem requires taking into account *all* the variations of who has lost what range of access to which resources.

## Reforms that prevent deep social change

Deep social change does not come easily; it is hardest to achieve precisely in those places where it is needed the most. This is because those who benefit the most from how things are well entrenched in a deeply unequal power structure and will not give up their privilege and power voluntarily. They may try to make transformative public action appear unfeasible. They will try to divide working people and make it harder for them to build alliances. They will avoid or block progress toward one R, by invoking another R.

As a result, even well-meaning reforms can have the effect of impeding or preventing real change and reinforcing the hold of ruling elites on the economy and the political system. Precisely in such settings, many mainstream actors who are conflict-averse may try to focus on 'delivering' just one R in the name of 'do-ability' -- that is, they hope it is achievable without 'conflict'.

Do-ability may sound like a good thing; and conflict may sound like a bad thing. But conflict comes in many forms and shades (not all involve physical violence). And nowhere in the world has meaningful substantive change in favor of working people ever come without conflict. In the end, 'do-ability' means letting fear of the unknown decide the limits to change, instead of supporting people who are in and most affected by an unjust situation to forge change through collective action. Taking the route of 'do-ability' is likely to result in scattered top-down partial reforms offered to a select few 'beneficiaries', instead of a comprehensive system-wide reform in favor of all who suffer hardship.

Unfortunately, on burning issues like landlessness and dispossession, 'doing what is do-able' has become a default response for many governments and NGOs globally. Examples include initiatives to formally register individual land parcels for a few hundred landless people in one place or to resettle several dozen IDP households to new lands in another place. If exclusion and marginalization are widespread and the people suffering come from diverse walks of life, such approaches based on the logic of do-ability, means more losers than winners and risks (re)igniting poor-on-poor conflict.

When the politics of do-ability take over, political demands and struggles for social justice tend to lose their class character and system-change orientation, their irreverence and subversiveness, and their momentum. Yet history shows that when wealth and power are concentrated in the hands of a few, these demands and struggles are essential for disrupting business as usual and for pushing reforms in a deep social justice-oriented direction. The difficulty is that scattered, minimalist reforms are being deployed to prevent system-wide change. They are undertaken in place of system-wide reforms. If we don't contest them, do-ability schemes -- often carried out through partnerships between government, military, international and local NGOs,

bilateral and multilateral agencies, and UN organizations -- become routinized and normalized. They end up replacing social justice oriented, system-wide reforms, and reinforcing the overall unjust status quo, and undermining the demands and struggles of working peoples and those representing them, such as CSOs and EAOs in Myanmar. As mentioned above, these struggles and demands are inseparable from their efforts to obtain political change and end the decades old armed conflict. This has happened in many parts of the world.

For example, recognition is increasingly privileged as *the* legal remedy to the land problem, often taking the form of land titling and formalization programs. In practice, legal recognition programs tend to privilege individual private land claims, regardless of that they look like on the ground. They tend to be partial, focused on isolated and fixed plots of land (for housing or for



sedentary farming) taken out of wider ecological and social context, thus depriving recipients of a range of access to the full array of diverse lands, water, forests, fisheries that they need for production and social reproduction (as described earlier). Such programs are never based on unconditional recognition. They come with strings attached that aim to shift to modern, capital intensive sedentary farming or ranching. They can be dangerous for working people *in the absence of changes to the larger political-economic context favoring commodification and extra-economic coercion*.

Another version of recognition -- that is, 'recognition without redistribution or restitution' -- is less extensive than the one described above. But it is more dangerous for rural working people. It calls for formally and legally recognizing customary tenure and the individual land claims within it -- *but without recasting pre-existing land-based social relations therein*.

On the one hand, rural communities are usually socially differentiated. This can be seen in various ways, including the land-based social relations: some may have more lands than their household labor can actually work, while others do not have land or have too little land. Some hire outside labor to work their excess land, while others sell out their household labor power to compensate for the deficit in their income due to having no land or too little. Formalization of customary tenure for such a community and the individual land claims therein -- without recasting unequal land-based social relations -- will necessarily formalize inequality. The claims of poorer members of the community, with less political clout to assert their claims, may be cancelled or overruled by more well-to-do and politically connected members of the community. The potential future claims for land by landless or land-poor members of the community are undermined as well.

On the other hand, formal recognition that is solely concerned about the 'here and now' is also problematic. However well-meaning, giving recognition to whoever are the current occupants may in fact be legalizing and legitimizing a previous injustice of forcible displacement and dispossession, if it turns out that the land had previous occupants who were forcibly expelled or had fled military operations and became IDPs. *Failing to investigate* to find out if

those spaces are contested or not by IDPs who were earlier displaced, could result in legalizing recognition of access for one social group at the expense of earlier claimants and previous occupants. Ahistorical recognition can also lead to the elimination of the long-standing tradition of 'community land reserves' that are elements of existing moral economy among villagers where future households are assured of access to land and resources.

Advocacy by government and international development organizations and NGOs for 'recognition without redistribution' or 'recognition without restitution' -- whether in the context of customary tenure systems or not -- represents a grave threat to landless and land-poor members of these communities.

Yet this issue also raises another important issue. In many rural towns and villages across Myanmar, and particularly in many ethnic states, one encounters settlements made up of low-waged working people not originally from that place. Many are migrants from other rural areas of the country including the Dry Zone and the Delta. But others are not. Some may have fallen victim to extra-economic coercion, while others may have migrated as a result of commodification processes. Where exactly they came from and why and how they ended up where they currently are, are questions that warrant further investigation. We may hear a lot of stories, but unfortunately, to date, little if any systematic research has been done on Myanmar's *domestic* migrant population. Yet Myanmar is by no means alone in having a sizeable population of low-waged domestic migrants. One major change resulting from the global economic restructuring of the past several decades has been the huge growth globally of a 'precarious migrant workforce' -- working people from rural households and villages gripped by agrarian crisis, whose social-economic fortunes are 'sinking' from economic pressures as market relations take hold. Some may have a bit of farmland, but poor quality and/or not enough to actually survive. And many, for various reasons (as explained earlier), are landless. To cope, they leave home in search of waged work -- anything to contribute to the household income back in their village. Many of the working people leaving crisis-ridden rural areas end up as very low-waged, super-exploited migrant workers outside the country. Yet many others end up in low-waged work inside their home countries too.<sup>36</sup> They need justice too.



If the only institutional instrument to address land injustice is recognition in isolation, or restitution in isolation, or even recognition and restitution but without redistribution, then a significant number and diverse range of people who also need social justice-oriented corrective measures will be left out. This is why taking the 5Rs together as a program is so important.

Here it is important to be clear: land injustice is not a technical issue; it is a social and political issue. It cannot be 'solved' using some prefabricated, one-size-fits-all technical tool that 'falls from the sky' and implements itself. Nothing like this could ever succeed. Building and carrying out a land programme that can effectively address the long-standing and multi-dimensional character of land injustice in Myanmar is a social and political task that will require careful investigation and genuine consultation, and real dialogue and at times probably tough negotiation.

But this is why the 5Rs is so important: it offers a set of principles that can guide and keep the process on track in the direction of social justice. As the basis for a programme, the 5Rs package is well-suited for addressing structural injustice in relation to land and natural resources and peoples' range of access to these because it can address the actual depths and complexities of the problem. The 5Rs program gives equal weight to land used in both production and social reproduction -- the two spheres that make survival and well-being possible -- and gives equal weight to different manifestations of structural injustice. Finally, and of crucial importance for a country as Myanmar, the 5R program addresses the aspirations of millions of people in the country, especially in ethnic regions, which has seen over 70 years of armed conflict, thereby contributing to peace. The lack of right to land and unjust and unfair land policies are among the key grievances and drivers of conflict in Myanmar. Failure to implement the 5R programme will contribute to conflict and provide further fuel for the decades old war. The working peoples of Myanmar deserve solutions that address all of the problems that they have identified, and not just a few selected by others.

# Annexes

## ANNEX 1

UN Committee for World Food Security 'Tenure Guidelines'

<http://www.fao.org/tenure/voluntary-guidelines/en/>

UN Committee on Fisheries Small Scale Fisheries Guidelines

<http://www.fao.org/voluntary-guidelines-small-scale-fisheries/en/>

UN Declaration on the Rights of Indigenous Peoples (UNDRIP)

[https://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](https://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf)

UN Basic Principles and Guidelines on eviction and displacement

<http://www.hlrn.org/img/publications/international%20handbook.pdf>

UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP) <https://undocs.org/en/A/C.3/73/L.30>

## ANNEX 2

### **Key references on Recognition:**

ECDF, 2016, 'Our Customary Lands: Community-based sustainable natural resource management in Burma', A report by the Ethnic Community Development Forum, available online at: [https://www.burmalibrary.org/docs22/ECDF-2016-07-05-our\\_customary\\_land-en-red.pdf](https://www.burmalibrary.org/docs22/ECDF-2016-07-05-our_customary_land-en-red.pdf)

MRCLTDC, 2018, 'Studies of Customary Land Tenure in Mon Region: Case studies based from 639 participants attended in 19 public consultation meetings held in 11 townships in Mon State, Southern Karen State and Northern Tanintharyi Division', A report written and published by Mon Region Customary Land Tenure Documentation Committee. For news about this report, see: <https://rehmonnya.org/archives/4595>

SSERLP, n.d., 'Our Customary, Our Life: The customary land and resource systems of the ethnic peoples of Shan State', A report by the Shan State Ethnic Right to Land Platform.

TNI, 2019, 'There is no vacant land: A primer on defending Myanmar's customary tenure systems', available online at: [https://www.tni.org/files/publication-downloads/tni\\_p\\_customary\\_land\\_online\\_060319\\_0.pdf](https://www.tni.org/files/publication-downloads/tni_p_customary_land_online_060319_0.pdf)

### **Key references for Redistribution:**

For analysis of landlessness in the Delta and Dry Zone, see <https://www.gret.org/wp-content/uploads/GretPolicyBriefLandless190603final.pdf>)

For testimonies of how landlessness due to various reasons including gender and generation pushes people into precarious cross-border migrant labour situations, see [https://www.tni.org/files/publication-downloads/migrant\\_worker\\_english\\_full\\_report\\_a4\\_26nov2020\\_final.pdf](https://www.tni.org/files/publication-downloads/migrant_worker_english_full_report_a4_26nov2020_final.pdf)

For an example from the region (Philippines) of a redistributive land reform (targets and priorities) and how implementation of it unfolded, you could start with this working paper from 1998 <https://econpapers.repec.org/paper/emseuriss/19017.htm>

### **Key references for Restitution:**

[https://www.tni.org/files/publication-downloads/voluntary\\_return\\_restitution\\_and\\_the\\_right\\_to\\_land\\_for\\_idps\\_and\\_refugees\\_in\\_myanmar.pdf](https://www.tni.org/files/publication-downloads/voluntary_return_restitution_and_the_right_to_land_for_idps_and_refugees_in_myanmar.pdf)

<https://www.tni.org/en/article/no-camp-closure-without-restitution>

[https://www.tni.org/files/publication-downloads/voluntary\\_return\\_restitution\\_and\\_the\\_right\\_to\\_land\\_for\\_idps\\_and\\_refugees\\_in\\_myanmar.pdf](https://www.tni.org/files/publication-downloads/voluntary_return_restitution_and_the_right_to_land_for_idps_and_refugees_in_myanmar.pdf)

## Endnotes

- 1 Here we take a big cue and much inspiration from American political philosopher Nancy Fraser, see Fraser, N., 2003, 'Social Justice in the Age of Identity Politics: Redistribution, Recognition, and Participation' in N. Fraser and A. Honneth, *Redistribution or Recognition? A Political-Philosophical Exchange*, London: Verso.
- 2 See Barbesgaard, M., 20 November 2018, 'A landscape of ocean and land-control grabbing in Northern Tanintharyi, Myanmar', Working Paper, Amsterdam: TNI, available online at: <https://www.tni.org/files/publication-downloads/workingpaper.pdf>; and TNI, March 2017, 'Myanmar's Next Great Transformation: Enclosing the oceans and our aquatic resources', available online at: [https://www.tni.org/files/publication-downloads/tni\\_pb\\_myanmar\\_online\\_100317.pdf](https://www.tni.org/files/publication-downloads/tni_pb_myanmar_online_100317.pdf)
- 3 See the 2016 report entitled 'Green Desert: Communities in Tanintharyi renounce the MSPP Oil Palm Concession', co-authored by the organizations Tarkapaw, TRIP NET, Southern youth, Candle Light, Khaing Myae Thitsar, Myeik Lawyer Network and Dawei Development Association, available online at: <https://progressivevoice-myanmar.org/wp-content/uploads/2017/01/Green-Book-English-Final-10-1-2017.pdf>. The Ridge to Reef Project is discussed in Chris, L. 18 July 2018, '“If the national park comes how will we survive?”' in *Conservation Watch*, available online at: <https://medium.com/conservationwatch/if-the-national-park-comes-how-will-we-survive-e660c46968a>. See also news article by Thu Thu Aung, 25 September 2017, 'Locals to Protest UNESCO Natural World Heritage Designation at Hkakabo Razi' in *The Irrawaddy*, available online at: <https://www.irrawaddy.com/news/burma/locals-to-protest-unesco-natural-world-heritage-designation-at-hkakabo-razi.html>
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- 5 TNI, 08 May 2013, 'Access Denied: Land Rights and Ethnic Conflict in Burma', available online at: <https://www.tni.org/en/publication/access-denied-land-rights-and-ethnic-conflict-in-burma>
- 6 Fraser, N., March-April 2014, 'Behind Marx's Hidden Abode' in *New Left Review*, NLR 86, p.61.
- 7 See LIOH, January 2015, 'Comment on the Draft National Land Use Policy', available online at: <https://lioh.org/?p=714>; and LIOH, August 2017, 'Response to the Bill to Amend the Myanmar 2012 Farmland Law', available online at: <https://lioh.org/?p=709>
- 8 See various organization and network statements and a link to the public campaign against the VFV Law on the LIOH website, available at <https://lioh.org/?p=517>. See also a report on the national workshop LIOH held to facilitate network members to come together to analyse the existing laws and 'voice out their desires', available at <https://lioh.org/?p=144>

- 9 See LIOH, December 2020, 'Brief Analysis on Legal Frameworks of Myanmar for Shifting Cultivation', available online at <https://lioh.org/?p=1204>
- 10 See 'LIOH's Position Paper for an Umbrella Land Law', October 2020, available online at: [https://lioh.org/wp-content/uploads/2020/10/LIOH\\_on\\_NLL\\_ENG\\_20201013.pdf](https://lioh.org/wp-content/uploads/2020/10/LIOH_on_NLL_ENG_20201013.pdf)
- 11 The report is forthcoming.
- 12 To date, the Karen National Union (KNU), the Karenni National Progressive Party (KNPP), the New Mon State Party (NMSP), and the Kachin Independence Organization (KIO), respectively, have all taken in part in land policy making processes involving CSOs and village communities in their respective territories.
- 13 See Burma Environmental Working Group (BEWG), 2017, 'Resource Federalism: A roadmap for decentralized governance of Burma's natural heritage', <https://progressivevoicemyanmar.org/wp-content/uploads/2017/10/ResourceFederalismWEB.pdf>
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- 15 See Hnin Wut Yee, 8 January 2020, 'Myanmar's Land Acquisition, Resettlement and Rehabilitation Law 2019 – One Step Forward, Two Steps Back?', presentation at 1<sup>st</sup> International Conference on Environment and Sustainable Development, Yangon, available at: <https://www.myanmar-responsiblebusiness.org/pdf/2020-01-MEAA-Land-Acquisition.pdf>
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