WOMEN, LAW AND EMPOWERMENT

Exploring how legal and policy change in Myanmar have impacted rural women’s empowerment and livelihoods in Kachin

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ABOUT THE RESEARCH

This research was carried out in three townships in Kachin State, Myanmar. In those communities, farmland titling, supported under the Farmland Law of 2012, is an essential step in legally securing individual land rights for farmers and enabling access to cheap government loans for agricultural production. This law was the main identifiable legislation, with related policy, rolled out in support of farmers over the last decade. The research findings suggest this Farmland law has dramatically changed long-established dynamics around land ownership and government-citizen relationships. However, the law has also shaped a dynamic which largely formalizes women’s land access through other family members, entrenching their roles as subsidiary members of their households and subsidiary rights holders. Despite the active participation by many women in their communities, their rights remain caged by traditional values and gender roles. Had the law actively taken steps to promote gender equality, for example by requiring joint titles, which included the names of both spouses, it could have contributed to meaningful transformations in rural women’s rights and land governance.

Figure 1: A female farmer, holding Form 7 land title with her name. © Oxfam in Myanmar
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INTRODUCTION

This research, carried out by an independent consultant in support of Oxfam’s programming and influencing efforts, seeks to consider how specific policies and laws impact female smallholder farmers, especially in remote areas. It was developed to contribute to a larger body of advocacy aimed at influencing the Netherlands food security policy and to gather more evidence about the potential for investing in female small-scale farmers in remote areas. Kachin and Myanmar were chosen for a case study because of Oxfam’s extended work with farmers in Kachin, since 2011, and because developments in Myanmar since 2012 provide a helpful measure to explore how changes in law and policy can empower women farmers.

With these aims and considerations in mind, the research sought to explore the assumption that land registration projects in Myanmar can empower female smallholder farmers, increase their access to formal and informal loans, and that access to these types of finance would further increase their productivity. From this, we developed our central research question: ‘What policy instruments/interventions have supported the improvement of the livelihood situation and empowerment of female farmers in Kachin, Myanmar?

This paper presents our answers to this question. It presents an analysis of relevant land and credit law and policy in Myanmar in relation to women farmers’ rights, as well as presentation and analysis of our findings from field work carrying out in-depth interviews and focus group discussions with 15 men and 16 women in Banmaw, Mohnyin and Moe Kaung Township of Kachin. Throughout this document, we investigate the experience of women farmers and in particular whether the law and its implementation empowers women in Kachin or offers improvements in their livelihood situation.

This document will begin by setting out our research process in more detail. It will then detail a law and policy analysis before presenting the findings from field work and resulting discussions.

RESEARCH PROCESS

RESEARCH METHODOLOGY

This research study used a qualitative methodology to investigate our central research question. Our methods integrated aspects of Oxfam’s Empowerment Framework, in-depth interview techniques and storytelling research methods. We developed these tools through a multi-stage process which will be described in more detail below.

In the initial stages of this project, we held a two-day workshop with Oxfam’s partners and field researchers in which we discussed the main themes for the research as a group and provided training on gender and basic interview methods. We focused on the practicalities of carrying out research on gender, leading group and individual interviews and steps to ensure that both men and women felt safe and supported.

Based on this workshop, two interview tools were developed. The first of these is an individual interview tool divided into two parts. The first part covers the Form 7 registration process
(described on page 9 below), Myanmar Agricultural Development Bank (MADB) bank loans and participation in village governance. It asks broad questions which invite respondents to use their own words and stories to talk about the topics of enquiry, with optional follow-up questions to be used as prompts, if needed. The second part of the tool measures change experienced by the interviewees over the past 10 years, looking at the same themes of land documentation, loans and participation in land governance. When using this tool, interviewers were encouraged to allow the interviewee to recount their story or experience, rather than immediately ask lots of questions. The addition of a second set of questions was largely to ensure that the field researchers (who are not gender experts) were supported to ask for the exact information we were hoping to gather and would feel guided to go deeper into these topics.

We also developed a focus group discussion format, focusing on similar topics to the individual interviews, with the aim of gaining collective or overall opinions of these themes. The respondents were gathered in all-male or all-female groups. This was intended to capture overall experiences or attitudes in the research areas, as opposed to the individual experiences captured in the interviews. In addition, background desk research was carried out, including a legal and policy review of the main policies and laws which are relevant for women farmers in Kachin.

Oxfam’s Empowerment Framework: The interview framework and the subsequent analysis builds on Oxfam’s Empowerment Framework. This framework is a composite index which allows specific characteristics and relevant indicators of empowerment to be defined relative to the context where it is implemented. It uses a range of indicators to determine empowerment, considering that changes which take place at personal, relational and environmental level all have an influence over an individual’s overall empowerment (see Figure 2). This structure allows us to consider the wider social and political frameworks, as well as individual decisions, which shape an individual’s experience.

The framework defines the three levels of power as follows (these are direct quotes from Oxfam’s Empowerment Framework):

- Changes at the personal level take place within the person. This refers to changes in how a woman sees herself, how she considers her role in society and that of other women, how she sees her economic role, and her confidence in deciding and taking actions that concern herself and other women.
- Changes at the relational level take place in the relationships and power relations within the woman’s surrounding network. This includes changes both within the household and within the community, and encompasses markets, local authorities and decision makers.
- Changes at the environmental level take place in the broader context. These can be informal changes, such as in social norms and attitudes and the beliefs of wider society, or they can be formal changes in the political and legislative framework.
This paper uses these criteria to delve deeper into individual responses and patterns across the findings. It should be noted that, due to our focus on land and livelihoods, this particular piece of research did not include the whole range of aspects included in the Oxfam framework, which also covers violence against women, wider access to legal services and participation in politics.

Selection of field study areas

The study was carried out in eight villages in three townships in Kachin (Banmaw Township, Mohnyin Township and Moe Kaung Township). The partners selected these villages and townships because of the research focus on the impact of the Form 7 certificate on female farmers. The Farmland Law has not been implemented in all areas of Kachin; however, in the research sites, the government has issued Form 7 and the MADB loan scheme is active. Thus, these villages were selected as the particular focus for this study, as they allow examination of the impact of the implementation of recent laws and policies.

In the selection of interviewees, the researchers used a purposeful sample to include a range of different situations in Kachin. These included:

- Households with/without Form 7 (widowed and married);
- Households with/without formal loans (widowed and married);
- Households with/without informal loan arrangements (widowed and married);
- People of different age ranges, with a focus on participants who are over 30, as they would be better placed to comment on changes that have occurred in the last 10 years.

In total, 16 women and 15 men were interviewed; the real names of respondents have been changed for their privacy and protection. They ranged from the age of 28–53 and included Shan Ni, Lisu, Kachin and Burmese ethnicities as well as Buddhist and Christian religious groups. The sample also included a range of marital and family statuses, including individuals who were married, unmarried, widowed, individuals with children and those looking after elderly parents or with relatives working abroad. The sample predominately includes households who have farmland and who have obtained a Form 7 registration document.

Although the research villages are not currently directly affected by armed conflict, they are part of conflict-affected communities and are classified as ‘mix-controlled’ areas, as both the Myanmar government and ethnic armed organizations claim varying degrees of administrative
control. The official government administrative system is dominant in the research area and as such, union laws and policies are predominately applied. However, some villages are defined by locals as ‘brown’ areas, meaning that while the area is formally controlled by the Myanmar government, in reality different armed groups are also present and have influence. This means that governmental officials would be reluctant to travel to most of the villages in the study area, especially those located in Banmaw Township. As Kachin is a remote and conflict-affected area, access to government services is limited and law enforcement and implementation can be considered as weak.

It is likely that the respondents also use land classified as ‘Vacant, Fallow and Virgin’, according to the Vacant, Fallow and Virgin Land Management Law (VFVLL), as land is commonly classified as such in ethnic regions of Myanmar. However, this was not a feature of their responses to our research. This may be because they are unaware of the government land classifications, as farmers frequently only discover this classification when their land is being acquired for a concession under this law.

**Analysis process**

Following our field work, a variety of methods were used to analyse and understand the findings.

Firstly, major trends and patterns were identified to develop an overall sense of differences between men and women’s responses. This included noting interesting stories, outlier responses or unusual results.

During a second stage, the responses were considered in more detail, in relation to the main research question as well as to the features defined in the Oxfam empowerment tool. At this stage, the aim was to identify and understand some of the deeper nuances, contradictions and complexities of the interviewees’ experiences. This stage looked to identify ‘types’ of respondents (looking at those who had particular characteristics or features in common). The responses were mapped out on an Excel document and measured against key empowerment criteria in the Oxfam empowerment tool, using a simple traffic light system of yes, shared and no for each criterion. From this, it was possible to develop colour-coded maps, which identified key differences in men and women’s experiences as well as common themes and patterns.

Finally, although a lot of new information came out from the field data, the findings have in some instances been complemented by desk research to support understanding or to contribute to wider discussion of the findings and how they fit into the national context.

This paper draws mainly from the individual interview tool. It does not draw heavily from the focus group discussion results, as the notes from these discussions were very short and did not provide enough detail to add new information or insight to the findings.
OVERVIEW OF FINDINGS AND ANALYSIS

The aim of this paper is to answer our main research question:

‘What policy instruments/interventions have supported the improvement of the livelihood situation and empowerment of female farmers in Kachin, Myanmar?’

In order to do this, we will consider the Myanmar context through two lenses:

1. **Law and policy**: this section will provide an overview of the laws and policies which have the potential to impact the lives of female farmers in Kachin. It intends to provide an overview of key pillars of the land law and policy framework in Myanmar, assessing how these instruments have included gender equality and protected the rights of women farmers.

2. **Field study analysis**: this section will provide details of our findings from the field, considering Oxfam’s Empowerment Framework. It considers what our findings suggest about the implementation of specific laws and policies in Kachin, and in particular how they have impacted rural women’s lives.

POLICY AND LAW OVERVIEW

Alongside the recent political transition in Myanmar, the country’s land governance framework has undergone a number of significant changes. This section gives an overview of the main laws and policies that we considered in our initial mapping as having the potential to impact female farmers’ livelihood and empowerment.

Our research initially cast a wide eye over the legal framework and through our assessment process, we identified certain laws and policies that were particularly important to explore in our field research. These decisions were made in a workshop with partners and through law/policy analysis, the results of which are shown below.

With the aim of not overcomplicating this discussion, this is not an exhaustive presentation of the land governance framework in Myanmar.

**Constitution (2008)**

The 2008 Constitution provides a number of key provisions which are relevant for Myanmar farmers. Firstly, Article 37 provides that the State is the ultimate owner of all land and natural resources in Myanmar. Article 348 of the Constitution also prohibits discrimination on the basis of sex. While the Constitution provides protections against discrimination on the basis of sex, it does not satisfy the CEDAW requirements to define and prohibit direct and indirect discrimination against women. Nor does the Constitution (or other Myanmar laws) offer a specific definition of gender discrimination or specific penalties for violating this provision. Other constitutional provisions can also be considered to reinforce restrictive gender stereotypes, for example by referring to women principally as mothers.
Farmland Law (2012)

The Farmland Law (FLL) emerged as one of the most important laws to investigate in our field research. This was because it has been widely implemented across rural Myanmar, and registration under this law offers farmers the possibility to obtain a land certificate which assures a number of user rights and facilitates access to government loans. As such, it has potential empowerment and livelihood benefits for women farmers.

FLL applies in areas of land classified as ‘farmland’ in government records. In Kachin, these are mostly rice farming plots. Once land registration is granted, farmers have user rights that allow them to access, sell, exchange, lease, mortgage and bequeath this area of land. It is not an absolute ownership right as the Constitution states that the government is de jure owner of all Myanmar land. However, FLL does offer farmers a legally recognized document for their land (which was not previously an option).

FLL provides that a household head or household members over the age of 18 can apply for Form 7. The language of the law allows either men or women to apply for Form 7. In practice, government officials rely predominately on the household head system to allocate land titles. This system is based on traditional norms which assume that the oldest male is the household head, unless there is no adult male in the home. This gender bias is further shaped by an implementing environment where institutions and government offices have a male-dominated culture and are mostly staffed by men (Namati, 2016) (Land Core Group, 2017).

The law provides that Form 7, or a Farmland User Certificate, is an individual title. It does provide for joint titling, although CSOs report that there is no space on Form 7 application documents to properly record more than one name (Knapman, 2018). Research shows that some township offices have granted joint applications. However, as joint titling has not been promoted by lawmakers, at best it appears to be a legal loophole accepted by administrative officials. Due to the absence of any specific protections in law, the legal value of joint titles remains unclear.

In the context of this research, our initial premise was that Form 7 offers possibilities for women’s empowerment. In the text of the law, the government does not take direct action to promote or protect women’s land rights, yet it also does not exclude women from putting their names on a Form 7 title. As the title provides significant benefits that were previously unavailable for farmers in Kachin, we considered the law to have potential to impact the lives of rural women and decided to further investigate the implementation of Form 7 in our field study.


In 2012, the government published the Vacant, Fallow and Virgin Land Management Law (VFVLL) and further amended this law in 2018. This law applies in areas classified in government records as Vacant, Fallow or Virgin Land (VFVL). This law, and in particular the 2018 amendment, poses a tenure security risk for farmers, particularly in ethnic communities, as it now requires that farmers living and working on VFVL apply for 30-year concessions to access their land (Nwe Ni Soe & Sung Chin Par, 2019). The law provides a six-month period in which to apply for this concession, and farmers risk eviction, fines or even a penalty of two years of imprisonment if they continue to occupy, utilize or even walk across the land without a concession.

At the time of research, the full impacts of the 2018 law had not affected the field study areas, yet the provisions in this law and the data about VFVL in Kachin suggests that this could present risks to farmers’ livelihoods in the near future. However, this research does not consider
the VFVLL further, as it was not mentioned by our respondents in the field study areas. The impacts of this law on women farmers merits further investigation in future research.

The National Land Use Policy (2016)

The National Land Use Policy (NLUP) was approved in early 2016 after a national consultation process and input from civil society actors. The policy sets out overall principles for land management in the country, including reference to international best practice, provisions on customary land use and women’s rights to land. Chapter 9 of the policy provides that the new National Land Law will ensure that men and women have equal land tenure and management rights, specifying that these could be individual or joint rights. It also provides that both women and men have the right to inherit land and to equal land rights when a spouse dies or couples divorce, and that men and women will have equal rights to participate in community decisions and customary decision-making processes around land.

A working group currently oversees the implementation of this policy; however, at present, it does not seem to have been mandated to challenge any incidences where other laws and practice are counter to the policy provisions. The research did not expect to find that the NLUP has had any impact on the ground for rural women in Kachin because there is no clearly defined process by which the policy, on its own, can have a meaningful impact on rural populations. Given the advancements for gender equality contained within the NLUP, the fact that it has, till now, not been implemented in amendments to law or practice on the ground presents particular lost opportunities for women farmers. However, due to this lack of progress, the research does not consider its effects further.

Agricultural Development Strategy (2018)

The Agricultural Development Strategy (ADS) of June 2018 set out provisions to structure national planning for the advancement of agriculture in Myanmar. The strategy does not create a new legal or policy framework to be followed; rather it sets out guidelines through which donors can contribute in order to ensure coordinated and impactful project development which supports the Myanmar government’s overall objectives.

The ADS includes gender language – naming specific targets relating to women farmers, including women’s participation in the agricultural sector, smallholder farmers’ rights, fair wages and further goals around increased social inclusion. Nonetheless, there is not currently a clear implementation process for this document. As such, this research did not expect to find that the strategy has had any direct impacts on women farmers in Kachin.

National Strategic Plan for the Advancement of Women (2013–2022)

The Myanmar government developed the National Strategic Plan for the Advancement of Women (NSPAW) in 2013. In addition to a wide range of principles regarding gender-equal development, the strategy provides for specific aims to support rural women. This document has a similar legal status to the ADS.

Currently, the plan’s implementation is being discussed through four multi-stakeholder working groups on the following themes: Violence Against Women; Participation; Women, Peace and Security; and Women’s Participation and Gender Mainstreaming. Despite these initial developments and some progress at national level, at the time of the research the working groups are still developing workplans and have not taken any concrete action. As such, our study does not expect to be able to draw links between NSPAW and the situation of women in Kachin.
Convention of the Elimination of Discrimination Against Women (1979)

Myanmar has ratified the UN Convention of the Elimination of Discrimination Against Women (CEDAW), which includes express provision and protections for rural women. Some of these provisions have been translated into Myanmar Law in the NLUP and NSPAW. However, for the same reasons that apply to these two policies, we do not expect to find evidence of implementation of these principles on the ground.

Myanmar Agricultural Development Bank agricultural loans

The Myanmar Agricultural Development Bank (MADB) is the largest financial institution operating in Myanmar’s rural areas. Its focus is to finance agriculture activities and it serves 1.87 million customers (mostly farmers). It is of particular importance in remote areas, where other agriculture extension services, such as cooperatives, agriculture inputs and technical provisions, have limited reach to farmers.

Most farmers can access seasonal crop production loans from MADB, covering capital needs at the start of the agricultural season. To access MADB services, individual farmers must have their Form 7 certificate and the original certificate must be left at the bank as collateral throughout the season. Farmers must go to the bank to take out loans; in many cases this requires travel, which can particularly impact women farmers’ access to these services (Luna-Martinez, Jose De, Anantavrasilpa & Ratchada, 2014).

Observations on law and policy

Based on this law and policy review, as well as the responses from our field sites, the Farmland Law (FLL) is of specific interest to our research, because:

- There has been coordinated action by the government to implement this law across the country, including with township and village authorities.
- The FLL generates specific livelihood and status benefits at household level, through provision of documentation and subsequent access to low-interest agricultural loans through the MADB.
- FLL and MADB were predominately highlighted in our mapping exercises with partners prior to designing research tools for this study.

As our findings suggest that one law in particular has had an impact on the lives of women farmers in the study areas in the last 10 years, this paper intends to focus our analysis on the FLL 2012 (and associated government loan projects) in order to determine how this legal intervention has had an impact on women farmers’ livelihoods and empowerment.
STUDY FINDINGS

This section will present the changes in empowerment and livelihoods reported by interviewees in Kachin. The main themes discussed were:

1. Secure land tenure through Form 7
2. Access to loans
3. Village governance
4. The question of confidence
5. Environmental factors

Land registration through Form 7 as a means for improved livelihood and empowerment of women farmers

‘Now we have had Form 7 for our land, so it means we own it. We have the evidence. We felt like we were just tenants in the past.’ Daw Moe Moe, Mohnyin Township

Legal security or perceived security

According to the FLL, Form 7 provides farmers with user rights to land, but not ownership rights in a legal sense. Regardless, most of the research respondents describe feeling that they have tenure security since obtaining Form 7; they report feeling that they have guaranteed land access, and that Form 7 provides them with protection from displacement. All female and most male respondents understood Form 7 as an ownership right. One male respondent reported that he knew that Form 7 is a user right, but felt the form offers a guarantee of land ownership anyway.

In considering livelihood and empowerment improvements, the perception of having security of tenure is often as important as having legally secure tenure, as this perception will influence choices that a title holder makes about their land and agricultural investments, and these choices will have a subsequent impact on their livelihoods (Point B and Gro Myanmar, 2017); Form 7 has changed the relationship between some farmers and their land in Kachin.

A document in my name

Empowerment criterion: Control over household assets and income (in Oxfam’s Empowerment Framework this is a relational power).

Our findings show that Form 7 is overwhelmingly allocated to male household members. The only exceptions to this were: female widows (two); one case where land was inherited by a woman; and one instance where the woman interviewee described her husband as lacking motivation to carry out the Form 7 process.

This pattern reflects traditional norms which assume the eldest male to be the head of household, as well as social and customary norms in Kachin (and much of rural Myanmar) which consider men responsible for land management. In the interviews, both men and women tended to assume that land registration is men’s responsibility. Daw Khin Wai in Mohnyin said: ‘Only men are always in charge of land-related issues and management. So I don’t participate.’
What are women’s perceptions of the empowerment benefits of Form 7?

**Empowerment criteria:** Self-confidence, opinions and attitudes on property rights, and power within the household (in the Oxfam Empowerment framework these are *personal* powers).

‘My husband led the process. I now feel I own my farmlands.’ Daw Nyo, Mohnyn Township

No women respondents reported feeling that they had been denied rights by not having their name on a Form 7. In fact, most female interviewees described themselves as ‘satisfied’ or ‘happy’ to use their husband’s name on a Form 7. Daw Doi in Banmaw explained: ‘My husband led the process of land registration. I feel happy that Form 7 is under my husband’s name.’ Some women also reported an increased sense of empowerment and confidence whether their name is on the Form 7 document or not.

Many men reported feeling more confident about their role leading the family since obtaining Form 7. These expectations were usually linked to custom and the idea of the household head being a man's role. A number of male interviewees identified Form 7 and the process of obtaining Form 7 as increasing their confidence, enabling them to make better decisions about their crops and strengthening their role as household leader. U Htay in Mohnyn said: ‘Now I can say that I have Form 7, I can do my job better.’ The only two women who spoke strongly about the benefits of Form 7 were both widows who had undergone the registration process and registered land in their own names.

By contrast, most women also shared the idea of having secure tenure of their land; however, they tended to state that Form 7 did not have any significant impact on their household role. For most women, Form 7 was one element of wider environmental change. The benefits they perceived were a part of participation in collective family benefits and larger environmental changes. Daw Wai Aye in Mohnyn reported: ‘I didn’t dare to speak with government officials in the past, for I could be arrested even if what I said was not wrong. Nowadays, things have become more transparent and I feel confident to speak up.’ She did the land registration process on behalf of family members, without her name on the final document.

Does participation in the Form 7 process offer a route to increased empowerment?

**Empowerment criterion:** Individual knowledge about the justice system (in Oxfam’s Empowerment Framework this is a *personal* power).

Our findings show that men mostly undertook the administrative process of applying for Form 7. However, more women took part in the process of applying for Form 7 than have their name on the final document. In interviews, women reported carrying out the administrative process for relatives: usually husbands or elderly parents. Women interviewees mostly undertook this process because their husband or relatives did not have time or capability. Daw Ma Ma in Mohnyn said: ‘I led land registration in my family since my husband was not free.’ The decision to register land in these cases was not made by a woman acting alone, but was based on a collective decision by their household or at the request of another family member. These women felt they benefited through their association to the person and the piece of registered land regardless.

By contrast, while there were two male interviewees who carried out the land registration process on behalf of other relatives, male interviewees overwhelmingly carried out the land registration process in order to register land in their own name or had someone else register
their land on their behalf. U Myint in Mohnyin stated: ‘As household head, I made the decision and led the entire process.’

When considered in the context of studies which show that rural women are time poor – carrying out more unpaid reproductive labour than men, and burdened with much longer work days than rural men (UNDP 2012) – there is a risk that taking responsibility for the Form 7 registration process results in additional unpaid work. Women who carry out land registration on the behalf of other family members could be seen as playing more of a secretarial or support role, rather than challenging cultural norms or claiming rights for themselves.

The empowerment framework posits the idea that there could be some potential empowerment benefits for women who carry out the process of land registration, albeit not in their name. Notably, they gain knowledge about government systems, and by taking part in government processes they build skills such as negotiation with authorities, which can increase self-confidence.

Indeed, male and female respondents who participated actively in the Form 7 process tended to report feeling pride and other positive emotions, whereas those who had not participated tended to be more dismissive saying that they ‘felt nothing’ about not being involved. Daw Khaing in Banmaw said: ‘My husband engaged with the village administrator and government officials to have Form 7. It is not under my name, but I feel secured and satisfied.’

Contrast this with the experience of widow Daw Maw Htun in Banmaw, who undertook the land registration process herself and registered land in her name: ‘I decided to register land and led the whole process myself since my husband has already passed away. Form 7 is in my name. I feel confident after having Form 7, and also to speak with government authorities and village administration.’ While these are not uniform experiences, they suggest trends in the ways that empowerment, confidence and engagement has developed in relation to Form 7.

As women do not seem to be obtaining the same end results through their participation in the registration process, nor leading the registration process themselves, it is difficult to conclude that the roles they played in registering family land can be considered as building confidence and empowerment.

Who participates in household decision making about land?

Empowerment criterion: Involvement in household decision making around land (in Oxfam’s Empowerment Framework this is a relational power).

Almost all the women interviewees perceived that they shared decision-making power over family land (notably around registering Form 7) with their husbands and other family members. However, the majority of male respondents stated that they made the decision to register their land alone, or consulted their family before making the final decision themselves on this topic. Although the male and female interviewees were not from the same households, this difference in the responses highlights the complexity of collective decision making; perceptions of roles and influence can significantly differ and be very subjective.

The male respondents did not seem to make choices which ignored their wives’ or other household members’ preferences; however, their responses suggest that they saw decisions regarding land registration as primarily their responsibility. U Thein Htun noted: ‘I led the process of land registration, as my wife was busy with housework. It was not like discrimination though…I make decisions within my family. Sometimes I discuss [my decision] with other family members and they usually accept it.’

This puts decision making about land registration within the greater context of gendered division of labour in rural Myanmar; i.e. women are responsible for tending land near the home,
childcare and household management, while men carry out work on land further from home, and are primarily responsible for land management (Land Core Group, 2017).

**Discussion of findings**

**Why is there such a difference between women’s perception of their empowerment and their legal status?**

**Empowerment criteria**: Self-confidence, opinions and attitudes on property rights, and power within the household (in the Oxfam Empowerment framework these are **personal** powers).

The women interviewees as a whole did not demonstrate a desire to include their names on the family land registration document or an understanding of the value of doing so. This reflects a family structure in which there is interdependence between family members, as a result of which women interviewees seem to lack a sense of autonomy and independence. Implementing an individual titling system like Form 7 is not only at odds with the underlying collective cultural system, but certain individuals (mostly men) within the system are positioned to benefit from this shift, while women mostly find themselves accepting rights which are subsidiary and ultimately dependent on other (primarily male) family members.

Traditional gender norms in rural Myanmar generate certain expectations of the roles of women and men in family relationships. Gaining access to land through a husband’s inheritance is fairly common for rural women, especially in Kachin where land tends to be bequeathed to male children (Oxfam’s ‘Photovoice’ project, 2017). This is further emphasized by language commonly used in Myanmar to describe rural women as workers, while men are more commonly referred to as farmers. The tasks rural women carry out are also less valued within their societies, and as such it is common (and therefore seen as normal) for women to play subsidiary or supporting roles. The implementation of Form 7 titling seems largely to mirror these traditional norms.

**Is Form 7 reinforcing patriarchal systems?**

Currently, women in Kachin tend not to have much more than subsidiary rights to farmland. Their access to land is dependent on their husbands and other (mostly male) family members. As such, rural women’s land access is dependent on maintaining their marital or family status quo. This dependence not only places women at risk of losing their assets, but also creates a situation which weakens women’s decision-making influence in their families. This is not an empowered place from which to access land.

Myanmar is undergoing significant economic and political change. Within this context of change, maintaining a stable marital and family status quo, on which women’s secure access to land currently depends, will likely become more difficult. This also puts significant pressure on women to compromise their preferences for the sake of keeping family members happy, and limits their freedom to end a marriage or decide not to marry. Studies in other areas show that women’s health, confidence and protection from violence are all significantly improved by acquisition of legal property rights (Open Society Foundations, 2014).

Studies show significant variations in asset division on divorce across Myanmar, dependent on religious and ethnic practices (Knapman, 2018). These variations further emphasize that women’s land tenure is not secure, and that rural women’s access to and control over their assets appears extremely uncertain. These are all reasons why women’s land rights are likely to benefit from statutory protection in law and reinforcement through administrative policies and action.
As the FLL provides no legal requirement to register women’s names on Form 7, this titling system does little to transform gender dynamics and is more likely to have the effect of increasing rural women’s dependence on their husbands. It also entrenches existing gender norms by officializing individual land rights for rural men, while normalizing women’s subsidiary rights and land access through their husbands.

Women are not legally empowered by this process and, in addition, they do not notice the fact that they are in a much more vulnerable position than their husbands. The evidence suggests that they have internalized a lower status within the family. Indeed, the interviewees report being satisfied with their current situation, yet for those carrying out this research, the difference in treatment of women and men appears evident.

Through Form 7, women seem to be obtaining a secondary or subsidiary empowerment based on their husband’s rights. This does not provide them with power rooted in their own status, but rather in power rooted in their relationship with a man as a wife or daughter. These rights are reliant on a complex web of social frameworks, relationships and traditions. The real test of Form 7’s ability to protect women’s rights will be how it manages situations when the existing web of frameworks break down and change.

For the government to offer real change for rural women, it needs to develop legal and administrative processes which promote and support rural women’s rights. Legislating for joint titling, which includes the name of both spouses, might be the first transformative step towards empowering rural women.

**Access to investment/loans**

Form 7 facilitates access to government loans which have significantly lower interest rates compared to other available loans. This section will explore our findings on family loans and finances, considering whether these loans offer significant empowerment for women farmers.

**Whose name is on the loan documents?**

‘If it is a loan from MADB, my husband will go and get it. I will [get it] if it is for loan from a cooperative association.’ Daw Khin Win, Mohnyin Township

Empowerment criterion: Control over household assets and income (in the Oxfam Empowerment framework this is a relational power).

Beyond providing land documentation, Form 7 also facilitates access to MADB loans, which have lower interest than other loans in Myanmar. The loan is linked to the Form 7 document and as such, the name on the MADB loan documents is usually also that of the male head of household. In addition, according to the research findings, it is often the same person who interacts with government to obtain Form 7 and to obtain the loan. As with the Form 7 process, some women may undertake the loan process to support family members, even when their name is not on the loan document.

**Household decision making on loans**

*Empowerment criterion: Involvement in decision making over expenditure and investment (in the Oxfam Empowerment framework this is a relational power).*

While the documentation aspect of the loan process is very similar to Form 7, the decision-making process around loans shows a marked difference. U Han Swe in Banmaw explained: ‘As I am a household head, I had to decide whether to register our land or not. In our family, we discussed and decided together to get the loan.’
Indeed, the results suggest that women appear to have a stronger voice in managing family livelihoods and expenses. The majority of both men and women interviewees reported that this is a shared process, which takes place through consultation with other family members. This suggests that women might have an important influence over the financial assets in the household, including the potential to make decisions about how money is spent and also over whether the family takes a loan. Both male and female interviewees noted these patterns. Daw Ma Ma in Mohnyin said: ‘In our family, we discussed and decided together how and where to spend the government loan that we received.’ Some interviewees noted more distinct patterns within these trends, including Daw Doi in Banmaw: ‘I made the decision [about] if we should take the loan or not, and then my husband collected the loan. My husband decided where to spend the loan. I also have an influence on decision making.’

As in the case of land management, women’s roles in family finance seems to be linked to traditional norms (Badei Dha Moe, 2016). In our research examples, this traditional role provides women with an influence over household finances. However, some studies show that this role can also have negative implications, such as women having to take on the social shame of seeking loans or repaying debts (Badei Dha Moe, 2016). In either case, the link between women’s traditional roles and the role they play in decision making around MADB loans suggests that there has been no significant change in women’s empowerment as a result of recent law and policy.

Discussion of findings

Are MADB loans improving rural livelihoods?

Daw Htay Htay in Banmaw stated: ‘I feel more confident since the interest of the loan is low.’

Access to finance through Form 7 and the MADB loan also has the potential to have a positive impact on the livelihoods of women farmers. Most of the respondents (male and female) considered that this new access to low-interest loans has provided them with more opportunities. Indeed, the interviewees stated that the loan has supported them to invest in their farm, and they reported spending loans on farming, food and children’s education, as well as on technical farming inputs.

Respondents reported that to make loan repayments, they sell rice and other crops. Some interviewees also reported pawning gold or other valuable items and taking informal loans to repay the MADB loan. This suggests that access to MADB loans has not improved income from their farming livelihoods substantially, although it does seem to have facilitated access to basic essentials for their farms.

Previous research suggests that access to finance does not automatically guarantee better livelihoods for farmers. A study in Mon State showed that many farmers access loans to meet basic needs, such as buying food and planting basic crops. As such, finance is often used for survival purposes and only small numbers of farmers are able to use finance to upgrade quality, expand business and start new ventures (Point B and Gro Myanmar, 2017).

It is difficult to say whether there have been any livelihood benefits from MADB loans, beyond reducing the cost of debt and the impact this has on available income. In this aspect, both men and women seemed to receive similar benefits, although the decisions on how to make use of this available income will depend on the household decision-making dynamic discussed above.
Participation in village governance

**Empowerment criteria:** Influencing and community, participation in community groups, degree of influence in governing of community groups, and participation in public events (in the Oxfam Empowerment framework these are *relational* powers).

**Women’s active role in village governance**

In our study, women displayed greater empowerment in their relationships within their wider communities than in their households. All the women respondents reported attending village meetings at least sometimes and most go regularly. Almost all women reported that they felt confident to speak at village meetings, at least some of the time. In addition, the majority of respondents were also part of a village group, such as a social welfare, loan group or other village management committee.

Almost all male respondents went to village meetings at least sometimes. A similar number of male and female respondents did not feel confident to speak in village meetings. As such, women’s results were more similar to the male interviewees in this aspect of the research. The main difference in these responses related to the type of village activity. Male respondents’ activities tended to have a higher social status than female respondents’ activities. Men reported being pastors, ten-household heads or part of village administration groups, whereas women more commonly reported being part of social or lending groups.

Most respondents (male and female) also noted significant improvements in their relationships with village-level government officials in the past 10 years. They reported feeling less fear due to the change of government (the transition to a civilian democratically elected government) and feeling more able to speak freely. The majority of respondents also reported increased trust, friendliness and transparency in their relationships with government officials. Respondents attributed this change to the fact that they had to meet regularly and work together with village-level officials to obtain Form 7 and MADB loans. Many respondents reported that village-level officials had provided them with information about Form 7 and the government loan process, and also offered support to acquire the documents and loans. This change did not affect relationships with township authorities (and authorities at a higher level) to the same extent. Only a few respondents (all of whom were male) noted a change at these higher levels.

Men were more aware of this relational change with government than women. This is likely to be because in most households, men were responsible for working with government authorities to acquire Form 7 and the MADB loan. Yet, even if they themselves had not met with the village officials or carried out the administrative work, many women reported an improved relationship with government. This may be based on their husband’s perception or their own interactions with government on other issues.

**Discussion of findings**

**Observing differences between the private and public spheres**

Within the household, women’s opportunities for empowerment appear to be limited by traditional and cultural roles and ideals. Within the sphere of village governance, the findings suggest that women can play a more active role in decision making and influencing change in their communities. While none of the women interviewed are involved in movements or roles which challenge social norms (such as women’s rights activism), many of the interviewees expressed enthusiasm about being actively involved in a variety of roles in their village, including village meetings and other social or political committees.

Despite having more limited rights in their households, taking part in village activities seems to support women to build the skills needed to become more empowered, such as self-confidence,
access to information and experiences. This in turn allows them to form independent opinions as well as to have a degree of control over their time. It also suggests that they have enough available time outside of household roles to allow them to become involved in community activities. Indeed, there were some groups of female interviewees who seemed more empowered than others, notably through a combination of their strong ideas and opinions about land and loans processes and their active participation in village affairs. Some women interviewees also came across as entrepreneurial, despite the limitations on their land rights as discussed above.

Women’s participation in village affairs does not seem linked to changes in any specific law or policy. However, it does seem to result from other political changes such as Myanmar’s transition to democracy, which has created a political environment which permits free speech and allows easier relations between farmers and government officials. This suggests the indirect influence of the law and policy environment on women’s empowerment, particularly when women take direct action to engage in community spaces. However, the findings do not show that the current legal or policy framework actively promotes rural women’s participation. The results suggest that women’s participation is largely a product of women shaping spaces for themselves; this is in contrast to men’s participation, which is often sought after and facilitated by other community members and wider environmental factors.

The question of confidence

This section reflects on some of the other aspects of personal confidence which arose in the interviews. Overall, participants feel a greater sense of confidence, both in terms of their land tenure security and livelihoods, since acquiring Form 7. The answers suggest that there are a number of other factors which play into this confidence and which lead to differences in men and women’s confidence levels. This section will explore these factors and consider how they interact with the Farmland Law processes.

Routes to confidence and empowerment

The first factor which impacts confidence in both male and female respondents, is leadership roles. Respondents who play leadership roles in their village (or had done in the past) tended to feel more confident overall, to speak more in meetings, or to have more opinions about their situation. This was particularly true for male respondents. The types of leadership roles mentioned include village administration, leaders of loan cooperatives, social affairs committees or pastors. Respondents who played an active role in dealing with the government’s land registration process tended to report having confidence to speak in meetings. This was truer of male respondents than female respondents. There is a strong gender dynamic to this type of empowerment as, due to social and cultural traditions, men are more likely to be appointed to leadership roles in the first place.

It was mostly men who reported this type of dynamic, but one woman’s quote helps to illustrate this idea. Daw Khin Nyunt in Mohnyin noted: ‘Since I became part of the village committee, I became more familiar with government officials, confident to speak out and [I] also got experience. I feel that the village gave me this assignment because they believe in me. So I always think that I should be there and try my best.’

The second aspect of this confidence is social reputation (or reputation among peers). Respondents who held or had held key roles in their village, such as administrators, elders or pastors, noted that their opinion was often sought by others in their village. As such, they were more likely to feel that their opinion influenced decisions in village meetings. Only male respondents referred to this type of social reputation. One male respondent said that if he was not at a village meeting, someone would come to ask him to attend. This suggests that having a
particular social standing within a village or community builds a social reputation, which generates respect from others in the community, and as such builds a person's self-confidence in their own voice and opinions. Again, these opportunities are more likely to be available to men, and only men talked about this idea of social reputation.

U Han Swe (secretary in village administration for 17 years) stated: ‘I feel confident to ask questions or make suggestions in meetings. It is like sharing what I know with the others. I am one of the village dignitaries.’ He also bemoaned current, younger village leaders, saying: ‘People who are junior to me do not follow instructions. The way things work nowadays is too liberal, and they don’t listen to us anymore.’ U Myint also commented: ‘Village administrators are quite young these days, so we elders need to give them much advice.’ This comment shows his social influence over others; even though he is not currently a formal leader, he still has a social status which allows him to influence those currently in leadership roles.

These quotes also link to age, which is the third major factor influencing the confidence of respondents (both men and women). Younger people tended to be less confident and more likely to say that they were not confident to speak in meetings or in household decision making. Male and female respondents also commented that they felt more confident since gaining experience and growing older. U Min Min Soe said: ‘I now feel more confident to make decisions in my family. One of the reasons for this is that I got older.’ A more elderly former male village leader said: ‘The older I get, the more confident I am to make decisions with my family.’

This idea of a correlation between age and experience occurs more frequently for men, but also occurred among women. This quote from Daw Win Aye in Mohnyin shows not only the impact of age on confidence, but the changed social status of women whose children have grown up and who have more free time: ‘Now I can participate in farming activities since my kids are older. We have more experience as we get older. As I grow older, I feel more confident.’

Some younger respondents, however, who lacked influence over household decision making or land registration, were very active in village affairs. These younger interviewees reported regularly attending village meetings and sometimes playing leadership roles in village committees or groups. These respondents came across as the most entrepreneurial, with a desire to actively create change in their lives.

Both young men and women showed similar levels of confidence, whereas older men tended to be more confident than older women. This increased confidence in older generations suggests that age is a factor which impacts empowerment. While older age is positive for both men and women’s confidence, it is more positive for men’s confidence.

Age also appeared to be a determining factor in decisions around who was the head of household for land registration purposes. In one case, an older woman was registered instead of her adult son; while in the case of widow Daw Moe Htwe (mentioned above), her elderly father registered the land in his name, despite his daughter being the main active family member on their farm. This reflects other research which demonstrates the correlation of age and power in Myanmar, notably highlighting that younger women face discrimination both from older woman and male colleagues (Agatha Ma, Poe Ei Phyu & Catriona Knapman, 2018). While more research would be needed on this dynamic, the results suggest that age is also an important factor in land registration and decision-making processes.
Discussion of findings

Do rural men and women have equal opportunities to build confidence through their roles?

These findings highlight connections between gender and power. They show us gender as a social construct, notably the relational nature of self-confidence – where playing a leadership role or being seen to play a role by others in your community – in turn builds confidence. Many of the interviews showed that a sense of social responsibility, and its mirror of social expectation, tended to push men into roles where they would further build their confidence and empowerment. For men, household head responsibilities and election to village leadership positions enabled them to build a stronger social reputation in their families and in their villages. All these factors contributed to them developing confidence in their own ideas, the skills to express those ideas, and the feeling that their ideas and opinions have value in meetings or in their households. These factors build up an individual’s overall empowerment, and the responses show that this is a cyclical and continually self-actualizing dynamic, which largely benefits men.

This building of empowerment through social roles, as well as the age factor, suggests that empowerment is linked to experience. As more men are engaged in gaining experience – and especially experience relating to land governance – more men develop confidence in their ideas and perceptions on this topic. As women tend to have less experience on land governance issues, this is reflected in their confidence levels, even when they participate in village meetings and leadership roles. To build confidence, the findings suggest that there is more value in practical exposure, such as working with government officials to obtain documents, rather than passive exposure, such as attending village meetings as a passive participant.

Obstacles to empowerment

Both men and women also noted various factors which would prevent them from taking on roles which build confidence. Many of these were also linked to traditional gender roles and responsibilities.

The interviews suggest that restricted travel opportunities are a factor which prevent women participating fully in government administration. More than one interviewee stated that a man carried out certain roles because a woman was unable to travel to government offices or had no access to transport. One man reported travel as one of the reasons he applied for Form 7 instead of his wife: ‘As household head, I made the decision and led the entire process. The name on Form 7 is the household head. One of the reasons [for this] is that it is more convenient for men to travel.’

Although interviewees did not give specific reasons why women were less likely to travel than men, this is likely to be linked to traditional ideas of what is appropriate behaviour for women. As parts of Kachin are still active conflict zones, this is also grounded in fears of violence, threats to personal safety and gender-based violence. By contrast, some interviewees (particularly an elderly widow) noted that government officials came to the village to facilitate the Form 7 or loan process. This meant they did not need to travel, and this step by the government allowed the process to be more equally accessible to men and women.

Several women noted that childcare responsibilities limited their involvement with farming (and also with the Form 7 process and other activities relating to government relationships). Traditions suggest (and other research demonstrates) that women have a heavier household cleaning and cooking burden, which impacts their available time for activities outside the home (UNDP 2012). Nonetheless, most women interviewed had time to attend village meetings regularly and did not highlight their responsibilities as a particular burden. Another situation
which limited more active involvement was ill health. One man noted that he had carried out the Form 7 process because his wife was ill.

Similar to the findings on land governance and loan management, these examples show the strong impact of tradition on Kachin men and women, suggesting again that laws and policies have done little to change these practices.

**Environmental changes**

Finally, the Oxfam Empowerment Framework considers environmental factors which can influence individual empowerment. These are: access to quality legal services, changes in gender stereotypes and the possibility for a group to have an influence on politics. Most of our interviewees alluded to these types of environmental changes, and especially the political changes which have taken place in Myanmar since 2010. In particular, our respondents in Banmaw Township repeatedly stated that the change in government is the principal reason for changes in their circumstances compared to 10 years ago.

Across both sites, interviewees reported no longer feeling fear about speaking publicly. They also reported a feeling of trust in government authorities as a factor which had an important influence on their increased confidence. Much of their improved confidence in the overall political system seems connected to the Form 7 process, which has given respondents a feeling of having secure land access, as well as closer relationships with local government officials. However, as noted above, this trend was more common for male than for female respondents.

The interviews do not suggest that this political change has had much of an impact on social ideas about gender in Kachin, particularly regarding traditional roles. The interviews largely demonstrate a sense of confidence in the permanency of traditional systems and traditional gender roles. Although both male and female interviewees have developed opinions about changes in their land and livelihoods situation, not one interviewee expressed an opinion about women’s rights, nor did any woman or man express frustration about the opportunities and limitations of their gendered roles.

While these fixed roles seem to be an obstacle to empowering women in rural Myanmar, some research shows that certain social changes are creating shifts in gender attitudes in the country. For example, research by the Land Core Group shows that out-migration of men results in increased roles for women in land governance (Faxon and Knapman, 2019). Similarly, research by Karen Human Rights Group (KHRG) shows how men's absence from villages during conflict created opportunities for women to occupy leadership positions in Karen State (although this changed again after the ceasefire in 2012), (Karen Human Rights Group, 2016).

In our sample, many responses from both men and women indicated that gender-restrictive stereotypes shape their attitudes and beliefs, which acted as obstacles to women’s empowerment. These ideas were particularly centred around the role of household head, which has already been explored above. However, others showed viewpoints that suggested they thought men were more qualified or experienced to take on certain leadership roles in the village, or which denied any gender differentiation or discrimination. Given the findings, it seems that these attitudes have an important impact on the roles women play in agriculture, and in particular their opportunities to gain empowerment through agricultural and land management systems.

Political changes have also created an environment which has opened up rural Myanmar to outside investors. In some parts of Kachin, this has meant that land previously belonging to farmers has been granted to companies as concessions. Case studies on investment in Myanmar show that when outside investment comes into a rural area, male out-migration rises significantly and household dynamics tend to change (Pierce, Hurtle & Bainbridge, 2018). As the case study areas were not impacted by these dynamics, it has not been explored widely in this paper, but it is likely that this has an impact on women farmers more broadly in the country.
These environmental factors contribute to some of the overall shifts and changes which this research has observed; however, these wider changes do not yet seem to have penetrated cultural values to have an influence on gender roles and tradition.

In this respect, it is helpful to remember that the language of law and policy does not provide specifically for gender equality or for processes which would transform traditional roles. Given the far-reaching impact of the Farmland Law in rural Myanmar, ensuring that law and policy and supporting administrative systems actively promote women’s empowerment could have the effect of enabling empowerment for rural women and transforming entrenched discrimination.

FINAL REFLECTIONS

Would women farmers be more empowered if the Farmland Law had prioritized gender equality?

The results of this study suggest that the Farmland Law, alongside the government’s coordinated efforts to ensure its implementation against the backdrop of broader political change, seems to have transformed relationships between local government and farmers, as well as providing the option of affordable agricultural loans, which were previously impossible to access. In short, the findings suggest that this is a law which has had an impact, and this impact has dramatically changed long-established dynamics around land ownership and government-citizen relationships.

However, the Farmland Law has also shaped a dynamic which largely formalizes women’s land access through other family members, entrenching their roles as subsidiary members of their families and subsidiary rights holders. Despite the active participation by many women in their communities, their rights remain caged by traditional values and gender roles. These traditional values are reinforced in the Farmland Law, which does not ensure that rural women have equal property ownership rights or equal access to finance. This situation seems to arise from both the absence of gender-transformative provisions in the Farmland Law, coupled with the gendered discrimination already present in Myanmar’s administrative systems and traditional cultures. As such, the law disregards the active participation of women in farming, rural livelihoods and village activities.

Had the law actively taken steps to promote gender equality, for example by using language intended to empower and strengthen rural women’s rights, or by requiring joint titles which included the names of both spouses, it seems likely that it could have transformed rural land governance. In doing so, it would have empowered women farmers to have control over their productive assets and to have more equal family relationships. In this respect, joint titling is not an end goal but rather one contribution towards strengthening rural women’s empowerment. Indeed, it is not just a case of amending the law itself, but of developing a system in which officials and implementing institutions are gender aware and able to support women farmers in Myanmar and developing a broader context which supports rural women.

Moving forward, this is an important consideration for Myanmar Parliamentarians. As the dynamics of rural Myanmar change, it will become increasingly important to value the roles that rural women are playing in the agricultural economy. Due to its country-wide influence, the Farmland Law can play an important role in shaping the future of rural Myanmar. Recognition of rural women’s land rights will become vital to shaping a rural Myanmar that is able to support the growth, change and transformation needed to meet new political and economic goals.
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