Large-scale land acquisitions (LSLA), driven by agro-industrial lobbies and companies – usually in the form of a land use permit signed between the State and a company – have been central in the agrarian history of Myanmar. They have, however, resulted in institutional, economic and social crises and have jeopardized the rights to land and the livelihoods of smallholder farmers across the country.

The literature that documents the issues mainly consists of case studies, which provide key insights into particular cases but often fail to identify the main patterns and trends at country level. To fill the gap, a thematic study conducted by MRLG endeavoured to present an updated synthesis of the genealogy, institutional complexity and the ins and outs of large-scale land acquisition processes for agricultural development in Myanmar. This brief provides a synthesis of the thematic study.

A genealogy of agro-industrial land acquisition processes in Myanmar

From the colonial era to the present, the continuity of large-scale land acquisition processes has been a key feature of agrarian history in Myanmar. The 1894 Land Acquisition Act – a law that continues to prevail - introduced the possibility for the State to secure the allocation of so-called ‘waste land’ for public purposes: that is, to establish agro-industrial plantations. In an attempt to reduce landlordism, the post-independence government nationalized land but continued to promote large-scale agricultural investments on land as State farms and State-owned enterprises. During the eighties, it was on the basis of these State farms that the military consolidated its rule over Myanmar. The establishment of the military-based commercial enterprises (MEC and MEHL) exacerbated that process. The ‘Waste Land Instruction’ was issued in 1991 as a continuity of the 1862 Rules for the Granting of Waste Land and of the 1894 Land Acquisition Act. It instituted a central committee for the management of Cultural, Fallow and Wasteland and became the key instrument used by the military to grant land use permits to companies in order to develop large-scale agro-industrial schemes. The 2012 Vacant, Fallow and Virgin (VFV) Land Law assumes the duties and functions of the former central committee of the Waste Land Instruction of 1991 and promotes the same agricultural development vision and institutions: i.e., the granting of agro-industrial operations on VFV land steered by a cross-ministry central committee.

Institutional framework governing large-scale agro-industrial land acquisition

Despite this historical continuity, the accumulation of rules governing large-scale land deals over time has created an ongoing institutional plurality. Based on a comprehensive review of: i) laws and regulations that have a bearing on LSLA; ii) the different land categories defined by the land administration system; and iii) the statutory authority over these lands, the study identified eight different pathways through which land use permits are granted in Myanmar for large-scale agricultural development. These land use permits have been granted by:

- Military commanders at central and State level
- An authorized department within the Ministry of Agriculture, Livestock and Irrigation (MoALI)
- The Central Committee for the Management of VFV land (CCVFV), directly or after land reclassification to VFV (e.g., grazing, fishery ponds and unclassified forest)
- The Forest Department at the Ministry of Natural Resources and Environmental Conservation (MoNREC)
- The Myanmar Investment Commission, in coordination with MoNREC and MoALI

The study also briefly presents other forms of agricultural investment, such as contract farming, that are taking shape at smallholder farmer level but with large-scale consequences. In practice, these pathways are not well coordinated and are not integrated in a unified land governance framework that could address institutional overlaps and gaps.

Current situation of large-scale agro-industrial concessions

Based on an updated dataset gleaned from different ministries, the study shows that from 1991 until October 2016, there were a total of approximately 5.1 M acres (2.1 M ha) of land allocated to agri-business and individual entrepreneurs, or even to family farmers if the area was less than 50 acres. Given that the study focuses on large-scale land acquisition, the analysis includes only deals involving land areas higher than 50 acres.

The largest share of land – 2.2 M. acres - was allocated by the previous CCVFV and the military commander before the U Thein Sein government (2011-2016), accounting for 43 per cent and 27 per cent, respectively, of the total land area. As of November 2012, the Forest Department was directly overseeing agro-industrial development projects on permanent forest estates in respect of about 1.11 M acres. The granting of land use permits for large-scale development was in full swing between 2006 and 2011 but not in the three years that followed. However, it was noted that the process of granting land use permits started again from 2015 and continues.

2 It is worth mentioning that, in fact, many concessions had already been allocated on the ground before being legalized through a land use permit.
The mapping of the land use permits on VFV land reveals that large-scale agricultural development is distributed across the country but is concentrated in four State/Regions: Kachin (34 per cent), Sagaing (13 per cent), Tanintharyi (12 per cent), Shan (11 per cent) and Ayeyarwady (9 per cent) (see next page).

We found that only 14.89 per cent of VFV land allocated for LSLA (including deals relating to less than 50 acres) is actually under active cultivation, due to the poor performance of land use permit holders. The rest has been left idle. This poses serious questions regarding the efficiency of the large-scale agricultural models being promoted in Myanmar. Interestingly, we found an inverse relationship between the area of the VFV land and the efficiency of the associated land use. This suggests that the smaller areas of land tend to be more efficiently cultivated than the larger ones.

Land conflicts and claims by smallholder farmers

The granting of large tracts of land for agro-industrial development has sparked different forms of land conflicts across Myanmar. These conflicts have increasingly resulted in protests by smallholder farmers [and their supporters] who claim rights over the land. We contend that these claims result from the articulation of four main elements:

- The land dispossession of smallholder farmers, directly by companies, or indirectly
- The growing perception of injustice in land allocation due to the unfair distribution of benefits between the State, private investors and farmers, the weak rules of law and the poor performance of agro-business companies, given that 85 percent of the concession area has remained idle
- The increasing awareness of land rights by Civil Society Organizations, and the media
- The existence of credible alternatives through which to file complaints
Location map of VFV land granted in Myanmar between 1991 and 2016

Sum of land area allotted
- 50 - 500 acres
- 500 - 5,000 acres
- 5,000 - 50,000 acres
- + 50,000 acres

Points show centers of Village Tract Boundary (or township in Kachin and NorthEast Shan State)
Source: DALMS - MoAL, October 2016
Mapping: MRLG, Feb. 2017
An explicit recognition by the government of the prevalence of land conflicts can be seen in the establishment by the Union Parliament, in 2012, of an Investigation Commission for the Prevention of Public Disenfranchisements Connected to the Confiscation of Farmland and Other Lands, also known as the Parliamentary Land Investigation Commission. The Commission was assigned to identify and scrutinize cases considered by farmers to be illegal grabs and to propose solutions to release the land to its original owner.

Based on a careful analysis of the data contained in the reports of the Commission, we suggest that the total area of land investigated that was subject to confiscation is 489,369 acres, out of which 82,437 acres of land were confiscated for agro-industrial development (40,019 acres involving MOALI and 42,418 acres attributed to agro-business companies). One part of this area has been intruded upon by opportunistic claimants and is under effective use by smallholder farmers. However, this figure is disproportionately low in comparison with the magnitude of the issues reported by researchers, activists and the media.

**Recommendations and way forward**

Given the current legal framework, the lack of institutional capacity to implement the regulations as stipulated in the laws, and the outdated status of the information on VFV land, it is necessary to establish a moratorium on new large-scale land acquisition to properly address the following issues:

- A process should be identified to improve the collection, the management and the analysis of reliable data related to land use and tenure, and to LSLAs, in order to inform day-to-day decision- and policy-making. This includes: i) conducting an audit of VFV land grants; ii) conducting an in-depth and comprehensive evaluation of large-scale agricultural development schemes up to now; iii) the improvement of data management relating to VFV land grants and other large-scale agro-investments; and iv) enabling public access to data related to large-scale agricultural development schemes.

- Institutional capacity should be improved in order to avoid abuses of power and to implement the provisions of existing laws and rules. This includes: i) enforcing VFV land management rules in terms of regulations relating to current VFV land grantees; ii) making sure the Central Committee for VFV land management is not simultaneously in charge of land allocation and of the associated monitoring; and iii) avoiding the criminalization of informal occupancy of lands.

- An umbrella land law, based on the guidelines and principles of the overarching National Land Use Policy, is needed. This law would need to revise the definition of land categories, and the procedure to convert land categories, and address the unresolved gaps such as the recognition of customary tenure and mechanisms for conflict resolution and the accountability of authorities involved in land administration.

- Clear procedures to identify and monitor large-scale agricultural land acquisitions in ways that promote responsible agricultural investment should be established. These should embody a respect for smallholder farmers’ customary tenure, the effective participation of women, an appropriate and enforceable legal framework, support and mediation from local authorities, affordable access to credit, and encouragement for the diversification of crops and livelihood activities. A land tax on the VFV land grants should be established to dissuade land speculation (e.g., an annual tax of 5 to 10 per cent of the land's estimated value). This should also include measures to prevent VFV land use permits being converted into Land Use Certificates (Form 7) (as allowed by VFV law after three years of stable cultivation). Indeed, this conversion could be highly problematic as it would nullify all options for supervision and oversight on performance of companies.

- Responsibilities and mechanisms should be determined to re-allocate reclaimed land to farmers, the State or third parties. Land to be returned should be identified, and eligibility criteria specified to identify land recipients. The return of land to local communities and smallholder farmers in need of land should be prioritized over the return to outsider companies. It is also crucial to improve conflict resolution processes at the ground level, for instance drawing on the mechanisms outlined in the agricultural development strategy.

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3 A description of these reports and their limitations is available at: https://mrlg.org/resources/information-disclosure-by-the-parliamentary-land-investigation-commission-in-myanmar/

4 MRLG (2017) Towards Responsible Large-Scale Agricultural Investments in the Mekong Region: Key messages from a regional dialogue. Vientiane, Laos: Mekong Region Land Governance, MPI, Oxfam, IPSARD.
This brief is a summary of the original study:


The document is available on line at: https://mrlg.org/resources/large-scale-land-acquisitions-for-agricultural-development-in-myanmar-a-review-of-past-and-current-processes/

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The Mekong Region Land Governance Project (MRLG) aims to improve the land tenure security of smallholder farmers in the Mekong Region through contributing to the design and implementation of appropriate land policies and practices. It responds to national priorities in terms of reducing poverty, increasing economic development and supporting smallholder farmers, so that they can be secure and make good decisions about land use and land management. MRLG has been operating in Cambodia, Laos, Myanmar and Viet Nam since April 2014.

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For more information on MRLG, please visit www.mrlg.org

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