# IMPLICATION OF MYANMAR POLITICAL TRANSITIONS ON IDPS' ACCESS TO LAND AND THEIR HUMAN SECURITY IN KARENNI STATE

**MAW THOE MYAR**

**MASTER OF ARTS**
**IN SOCIAL SCIENCE**

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**GRADUATE SCHOOL**
**CHIANG MAI UNIVERSITY**
**OCTOBER 2020**

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**MAW THOE MYAR**

**A THESIS SUBMITTED TO CHIANG MAI UNIVERSITY IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR A DEGREE OF MASTER OF ARTS IN SOCIAL SCIENCE**

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THIS THESIS HAS BEEN APPROVED TO BE A PARTIAL FULFILLMENT OF
THE REQUIREMENTS FOR THE DEGREE OF
MASTER OF ARTS
IN SOCIAL SCIENCE

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1 October 2020

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Maw Thoe Myar

| | | |
|---|---|---|
| **Thesis Title** | Implication of Myanmar Political Transitions on IDPs' Access to Land and Their Human Security in Karenni State | |
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## ABSTRACT

Myanmar's politics has dramatically transited to pragmaticism under the civilian government in 2011. The political transition was initiated with the positive outcomes that aimed to bring the human security for its citizens. The government has conducted peace building processes with many ethnic armed organizations (EAOs) around Myanmar. Peace building processes have reduced human rights abuses and provided peace in some ethnic minority states. Among them, Karenni State was one of the longstanding conflicts affected areas that has engaged with the peace building process with the Myanmar government in 2012. Peace building process in Karenni State especially provides hopes for the Internally Displaced Person (IDPs). The IDPs in Karenni State have embraced the voluntary resettlement and return process in order to access the land while the peace process is ongoing.

This thesis has studied the broadened dimension of the Myanmar's peace building process at the grassroots level in Karenni State. The concept of political transition is provided to understand the root causes of the ethnic armed conflicts. Moreover, the concept of human security analyzes how the state actors provide the human security to its citizens. This thesis also examines the development of new land laws under the Myanmar political transition and its implications on the IDP's access to land. Theory of access is used to conceptualize the right based access and structural and relation-based access to land of the Karenni IDPs.


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Qualitative research method whereby the empirical data driven from the ethnographic field research along with the various data collection methods such as interviews and participant observation has been employed.

Analysis of the responses have demonstrated that the peace building process in Karenni State is deadlocked due to lack of trust, incapability of peace negotiators, violation of the bilateral agreement, misuse of the power and high centralization. Additionally, the implication of reformed land laws, lack of rule of laws and lack of recognition of the ethnic customary land laws provides human insecurities for the Karenni IDPs. Although Myanmar's political transition and recent reform of land laws has brought solutions to some areas, this study has found that the solutions do not positively work for the Karenni IDPs in terms of access to land. Two IDPs villages of Daw Klaw Le village and Daw So Shay village have shown the distinction of human security and the way to access the land based on the extent of state actor's predomination. Hence, this thesis has argued that the state's predomination on the IDPs' access to land agenda is threatening to IDP's livelihood security; hence, the state's move fails to bring human security to these IDPs.

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| **หัวข้อวิทยานิพนธ์** | ผลของการเปลี่ยนผ่านทางการเมืองของพม่าต่อการเข้าถึงที่ดินและความมั่นคงของมนุษย์ของกลุ่มผู้พลัดถิ่นภายในประเทศในรัฐคะเรนนี | |
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## บทคัดย่อ

ระบอบการเมืองการปกครองของเมียนมาร์ได้เปลี่ยนผ่านไปสู่วิถีปฏิบัตินิยมอย่างเห็นได้ชัดภายใต้รัฐบาลพลเรือนตั้งแต่ปี 2011 การเปลี่ยนแปลงทางการเมืองนี้เริ่มต้นด้วยผลลัพธ์ในเชิงบวกที่เน้นย้ำความสำคัญของความมั่นคงของมนุษย์ที่มีพลเรือนภายในประเทศ รัฐบาลเมียนมาร์ริเริ่มกระบวนการสร้างสันติภาพกับกองกำลังกลุ่มชาติพันธุ์ต่าง ๆ (EAOs) ภายในประเทศ อันส่งผลให้เกิดการลดจำนวนลงของการละเมิดสิทธิมนุษยชนและเกิดสันติภาพขึ้นในรัฐชาติพันธุ์ในบางพื้นที่ รัฐคะเรนนี (Karenni State) เป็นตัวอย่างของหนึ่งในพื้นที่ที่เคยได้รับผลกระทบจากความขัดแย้งอันยาวนานและอยู่ในกระบวนการสร้างและฟื้นฟูสันติภาพร่วมกับรัฐบาลเมียนมาร์มาตั้งแต่ปี 2012 กระบวนการสร้างสันติภาพดังกล่าวนั้นเปรียบเสมือนความหวังของบรรดากลุ่มผู้พลัดถิ่นภายในประเทศ (IDPs) โดยเฉพาะอย่างยิ่งกลุ่มผู้พลัดถิ่นของรัฐคะเรนนีที่อยู่ในกระบวนการจัดสรรพื้นที่สำหรับการย้ายกลับและตั้งถิ่นฐานใหม่ภายใต้กระบวนการสร้างสันติภาพที่กำลังดำเนินอยู่ในขณะนี้

วิทยานิพนธ์ฉบับนี้มุ่งประเด็นการศึกษาด้านมิติที่กว้างขึ้นของกระบวนการสร้างสันติภาพในระดับรากหญ้าของรัฐคะเรนนี โดยใช้แนวคิดด้านการเปลี่ยนผ่านทางการเมืองเพื่อทำความเข้าใจถึงสาเหตุของปัญหาความขัดแย้งระหว่างกองกำลังกลุ่มชาติพันธุ์ นอกจากนี้ยังประยุกต์ใช้แนวคิดด้านความมั่นคงของมนุษย์เพื่อวิเคราะห์การสร้างความมั่นคงของมนุษย์ให้กับพลเรือนโดยตัวแสดงของภาครัฐ นอกจากนั้นวิทยานิพนธ์ฉบับนี้ยังพิจารณาถึงการพัฒนากฎหมายที่ดินฉบับใหม่ภายใต้การเปลี่ยนผ่านทางการเมืองของเมียนมาร์และความเกี่ยวพันของกฎหมายนี้กับสิทธิการเข้าถึงที่ดินของกลุ่มผู้พลัดถิ่นภายในประเทศ นอกจากนี้ทฤษฎีการเข้าถึง (theory of access) จะถูกนำมาสร้างกรอบ



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แนวคิดของสิทธิการเข้าถึงพื้นที่และความสัมพันธ์เชิงโครงสร้างของการเข้าถึงพื้นที่ของกลุ่มผู้พลัดถิ่นภายในประเทศของรัฐคะเรนนี วิทยานิพนธ์ฉบับนี้ใช้กระบวนการวิจัยเชิงคุณภาพ อันประกอบไปด้วยข้อมูลเชิงประจักษ์จากการเก็บข้อมูลของกลุ่มชาติพันธุ์ในพื้นที่ ตลอดจนถึงการเก็บข้อมูลด้วยวิธีอื่น ๆ เช่น การสัมภาษณ์และการสังเกตแบบมีส่วนร่วม เป็นต้น

การวิเคราะห์ข้อมูลชี้ให้เห็นว่ากระบวนการสร้างสันติภาพในรัฐคะเรนนีเกิดสภาวะชะงักงัน อันมีสาเหตุมาจากการขาดความเชื่อมั่น ความไม่มีประสิทธิภาพของผู้เจรจาสันติภาพ การฝ่าฝืนข้อตกลงร่วมการใช้อำนาจในทางที่ผิด ตลอดจนการรวมศูนย์ของอำนาจที่เข้มข้น นอกจากนี้ความเกี่ยวพันของกฎหมายที่ดินฉบับใหม่ การขาดหายไปของหลักนิติธรรม รวมไปถึงการมองข้ามกฎหมายที่ดินอันเป็นจารีตประเพณีของกลุ่มชาติพันธุ์ทำให้เกิดสภาวะไร้ความมั่นคงของกลุ่มผู้พลัดถิ่นภายในประเทศของรัฐคะเรนนี แต่ถึงแม้ว่าการเปลี่ยนผ่านทางการเมืองและการปฏิรูปกฎหมายที่ดินจะนำมาซึ่งการแก้ปัญหาให้กับบางพื้นที่ งานวิจัยชิ้นนี้พบว่าการแก้ปัญหาดังกล่าวไม่ส่งผลในเชิงบวกต่อกลุ่มผู้พลัดถิ่นภายในประเทศของรัฐคะเรนนีในแง่ของการเข้าถึงพื้นที่ หมู่บ้านของกลุ่มผู้พลัดถิ่นภายในประเทศ ได้แก่ Daw Klaw Le และ Daw So Shay ได้แสดงให้เห็นถึงความแตกต่างในแง่ความมั่นคงของมนุษย์และความเหลื่อมล้ำในการเข้าถึงพื้นที่ที่เป็นภาพสะท้อนของพลังอำนาจที่มาจากตัวแสดงภาครัฐ ด้วยเหตุนั้น วิทยานิพนธ์ฉบับนี้จึงเสนอว่า ความมั่นคงของวิถีชีวิตของกลุ่มผู้พลัดถิ่นภายในประเทศเชิงสิทธิด้านการเข้าถึงการใช้พื้นที่ถูกแทรกแซงด้วยพลังอำนาจของภาครัฐ อันนำมาซึ่งการสร้างความมั่นคงของมนุษย์ให้กับกลุ่มผู้พลัดถิ่นภายในประเทศที่ล้มเหลวในที่สุด

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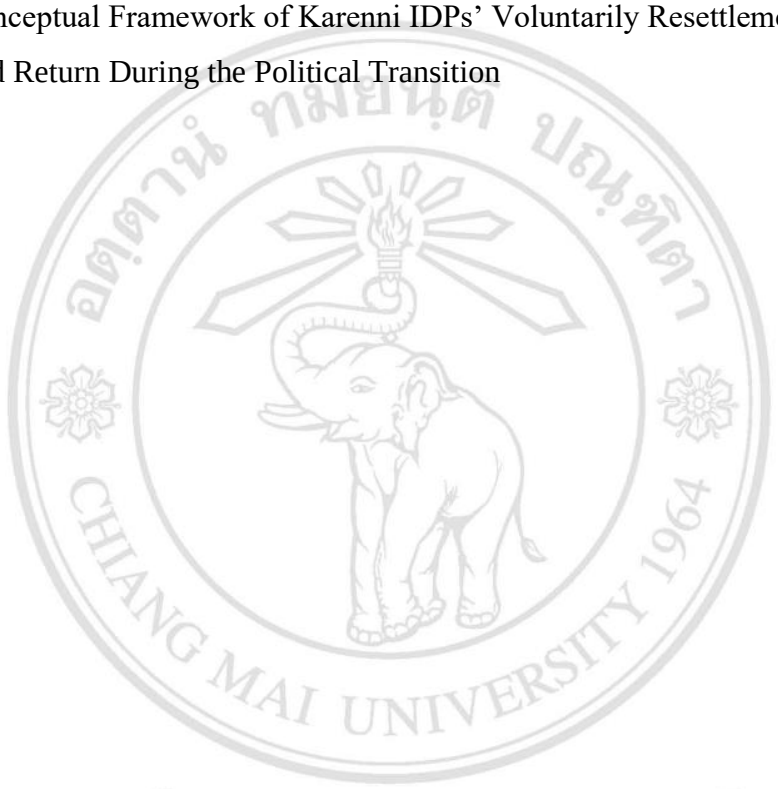
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# List of Abbreviation

| | |
|---|---|
| AFPFL | Anti-Fascist People's Freedom League |
| AA | Arakan Army |
| ANC | Arakan National Council |
| ASEAN | Association of Southeast Asia Nations |
| BGF | Border Guard Force |
| BSPP | Burma Socialist Programme Party |
| CPP | Cambodian People's Party |
| CSOs | Civil Society Organizations |
| CBOs | Community Based Organizations |
| CPB | Communist Party of Burma |
| CMI | Crisis Management Initiative |
| DPN | Delegation for Political Negotiation |
| DDR | Disarmament, Demobilization and Reintegration |
| EAOs | Ethnic Armed Organizations |
| ENC | Ethnic Nationalities Council |
| EU | European Union |
| FPNCC | Federal Political Negotiation Consultative Committee |
| FIL | Foreign Investment Law |
| HDI | Human Development Index |
| IDPs | Internally Displaced Persons |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |
| IMF | Internationally Monetary Fund |
| JICAS | Japan Internal Cooperation Agency |
| JICM | Joint Implementation Coordination Meeting |
| JMC | Joint Monitoring Committee |
| KIA | Kachin Independence Army |
| KIO | Kachin Independence Organization |

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## List of Abbreviation (Continued)

| | |
|---|---|
| KEAN | Kayah Earth Rights Action Network |
| KORD | Karen Office of Relief and Development |
| KNU | Karen National Union |
| KCSN | Karenni Civil Society Network |
| KNPP | Karenni National Progressive Party |
| KRG | Karenni Resistance Government |
| KSFU | Karenni State Farmer Union |
| KNOW | Karenni Women Organization |
| KMT | Kuomintang |
| LDU | Lahu Democratic Union |
| MMDAA | Myanmar National Democratic Alliance Army |
| MPC | Myanmar Peace Center |
| MPSI | Myanmar Peace Support Initiate |
| NC | National Convention |
| NCUB | National Council of the Union of Burma |
| NDF | National Democratic Front |
| NLD | National League for Democracy |
| NRPC | National Reconciliation and Peace Center |
| NCA | Nationwide Ceasefire Agreement |
| NCCT | Nationwide Ceasefire Coordination Team |
| NMSP | New Mon State Party |
| NGOs | Non-Governmental Organizations |
| PC | Peace Commission |
| PPST | Peace Process Steering Team |
| RCSS | Restoration Council of Shan State |
| SLRD | Settlement and Land Records Department |
| SSA | Shan State Army |
| SEZ | Special Economic Zone |
| SLORC | State Law and Order Restoration Council |

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| | |
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| SPDC | State Peace and Development Council |
| TNLA | Ta'ang Nation Liberation Army |
| UPC | Union Peace Conference |
| UPCC | Union Peace-Making Central Committee |
| UPWC | Union Peace Working Committee |
| UPDJC | Union Political Dialogue Joint Committee |
| UNFC | United Nationalities Federal Council |
| UNDP | United Nations Development Programme |
| UNHCR | United Nations High Commissioner for Refugees |
| UNTAC | United Nations Transnational Authority in Cambodia |
| USDP | Union Solidarity and Development Party |
| UWSA | United Wa State Army |
| UDHR | Universal Declaration on Human Rights |
| VFV | Vacant, Fallow and Land Management Law |
| WNO | Wa national Organization |
| WB | World Bank |

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# Chapter One

# Introduction

## 1.1 Background

Karenni, the smallest state in Myanmar, populates 286,738 according to Myanmar Census 2014. The state is situated in the Eastern part of Myanmar and suffered from long-term civil war. Despite a signed agreement between the Burmese and British governments in 1875 that recognized Karenni State as an independent nation, immediately upon independence, Burmese troops invaded Karenni State in 1948. In 1957, Karenni Resistance Government (KRG) re-organized as the Karenni National Progressive Party (KNPP) in order to fight for its people's political freedom and equal rights. In 1995, KNPP and the State Law and Order Restoration Council (SLORC), which was reorganized as the State Peace and Development Council (SPDC) in 1997, signed the first ceasefire agreement. However, after three months, the ceasefire agreement was broken because the Burmese armed forces (Tatmadaw) were "collecting porters and launching a major offensive operation, moving three battalions into the KNPP's control areas, restrictions on movement of people and establishment of new villages for Burmese migrant" workers (Bamforth et al. 2000: 45). The conflicts continued until the Myanmar government adopted the political transition to democracy in 2010.

The conflicts between KNPP and the Tatmadaw since 1948 have caused mass displacement and forceful relocation for many Karenni villagers in various forms. The Tatmadaw continuously committed human rights violations including forced recruitment of soldiers, forced labor and torturing Karenni villagers during the fights. In 1996, SLORC ordered that all residents from several villages in Karenni State needed to be relocated to eleven sites: Shadaw, Ywathit, Daw Tama Gyi, Baw La Keh, Daw Tama, Tee Po Kloh, Kay Lia, Mar Kraw She, Maw Chee, Phasaung, and Nwa La Bo (Human Rights Documentation Unit 1998: 200). The fundamental rationale behind this forceful

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relocation was the Tatmadaw's "four cuts" counter-insurgency tactics which aimed to cut off the insurgent's access to food, finance, intelligence and fighting personnel (All Burma Students' Democratic Front 1997). The villagers had to abandon their ancestral lands, property and way of life to comply with the forced relocation.

The SPDC later conducted another forced relocation program in the state, which caused further internal displacement. The SPDC gathered two or three villages and made the villagers to settle one new village, namely "gathered village" by allocating them lands. The relocation sites and allocated lands did not have proper water resource and the lands were not cultivable. Moreover, many IDPs' households did not have enough lands (Bamforth et al. 2000: 57). Against this backdrop, some IDPs had to go back to their original villages for farm. However, the Tatmadaw restricted the villagers from travelling from one village to another. Consequently, the IDPs could not have access for their basic needs. They were prohibited from selling the medicine, batteries and rice for their income and from returning to their original villages to do farming. The future of young IDPs and children in these areas was doomed as they lost hope for formal education.

The IDPs faced miserable living conditions at the various relocation sites. The Tatmadaw treated violently and massive exploitation to the IDPs. The IDPs encountered lack of food security, health facilities, education, electricity and other infrastructures. The Tatmadaw forced Karenni young men to serve in the military, to provide hard manual labor, and to construct roads and other infrastructures without any remuneration. The Tatmadaw also forced the young men to build fences, dig trenches, plant landmines, and station as sentries around the relocation camps. Furthermore, many elders, children and the infants in the relocation sites suffered and died from malaria, skin infections and other deadly diseases (Human Rights Documentation Unit 1998: 201). Under such inhumane conditions, thousands of Karenni villagers fled to the jungle, and some crossed the border to flee to Thailand. According to the Global IDP database, the total number of IDPs from Karenni State was 88,000 in 2004 and many of them were women and children (Global IDP Database 2003: 71).

In particular, the lives of many Karenni women became constrained and vulnerable in many ways due to the long-standing civil war. The Burmese soldiers coerced many young women to marry them. Even, some were raped by Burmese soldiers (Ma and Kusakabe 2015: 333–334). These incidents endangered the lives of women in

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the conflict areas. In addition, in fear of torturing, collecting soldiers and rapes, women could not go far away from their homes. This resulted in trouble for women for their access to public places such as market, church and social gatherings. The lack of Burmese language skills in Karenni women in the villages also caused difficulties for their self-defense and negotiation with the Burmese soldiers in time of clashes. Agatha Ma and Kyoko Kusakabe (2015) found that many Karenni women do not speak Burmese and this language barrier has made the women being afraid of negotiating with Burmese soldiers. Against this backdrop, many women used the coping strategies such as eating less, talking less, and working less.

In these ways, Karenni State has experienced the tragedy under various conflicts and structural threats for over sixty years. People in Karenni State also embraced the different pattern of displacement and forced relocation. Thousands of IDPs and refugees appeared as the result of ethnic conflicts. The continuing fighting resulted in gross human rights abuses and lack of life security for many Karenni people. Overall, Karenni people have lived in the dark, coping with different strategies to struggle for their lives.

### 1.2 Statement of Research Problem

Myanmar's political transition initiated in 2010 after a long-standing political crisis for more than sixty years. Myanmar held a general election in 2010. Although the 2010 general election was deeply flawed, politics in Myanmar has somehow gradually transitioned into democracy, albeit hampered by the slow trend of changing. Alexander Dukalskis (2017) notes that Myanmar is in a double transition process: the first transition is to shift from authoritarian regime to democratic system; the second transition is to bring peace between the Tatmadaw and the ethnic armed groups.

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Myanmar held the first General Election in 2010 after two decades of authoritarian regime which is the essential element of the democratic transition. The military backed Union Solidarity and Development Party (USDP) led by U Thein Sein won the election whereas Aung San Suu Kyi led National League for Democracy (NLD) boycotted the election citing that there cannot be fair election under the 2008 Constitution. As a first step, U Thein Sein's administration adopted a national reconciliation with NLD. Consequently, the NLD constested the 2012 Myanmar byelection. Moreover, U Thein Sein government has launched several reform processes such as released the political

prisoners, established the human right commission, invited the exile politicians and eased the media censorship. Myanmar gained international attention and received the foreign and domestic investments in order to reform the political and economic development (Bunte 2016).

Peace building process is the second transition of Myanmar that is the inevitable solution for longstanding ethnic armed conflicts. Since 2012, U Thein Sein government called the bilateral ceasefire agreement with the Ethnic Armed Organizations (EAOs). In 2013, the government shifted the bilateral ceasefire agreements to the multilateral negotiations which encompass the majority of EAOs (International Crisis Group 2015). The peace process has significantly provided the substantial political dialogue, civil society participation in peace process, development projects in ethnic minorities areas and improved the human rights. By doing so, the relations between the Myanmar government and many EAOs have unleashed up to a certain level.

Myanmar's political transition seems to bring the positive reform in terms of democratization and peace building process. On the other hand, several issues have emerged as the political transition opens space to raise the public voices and prolong unrest in both national and regional. Among them, land related issues such as land grabbing and land confiscation are important to study that reach to the national political agenda.

The government has enacted the several new laws related to land in order to facilitate the land related issues. In 2012, the government enacted two new land laws such as Vacant, Fallow and Virgin Land Management Law and the Farmland Law in order to secure the rural land tenure and to reduce the poverty. However, the new land laws become the incentives for the domestic and foreign investors or businessmen in order to access the land concessions. On the other hand, new land laws only bring high problematic for the ethnic minorities who are in the uplands or practice the shifting cultivation. Thus, the new land laws have failed to counter the land issues in ethnic areas and do not prevent the customary practices of ethnic minorities (Kramer 2015). By doing so, this study is committed to exploring the weakness of Myanmar political reforms with respect to the land rights of local people in Karenni State.

Karenni State is one of the ethnic states that has engaged with the Myanmar's political transition. In 2012, the Karenni National Progressive Party (KNPP) and the

Thein Sein government signed the state level and the union level bilateral agreements. The state-level bilateral agreement was the preliminary peace negotiation signed in March 2012. The preliminary agreements were mutually made on three points: (1) to cease fighting, (2) to open the liaison offices without arms and (3) to negotiate the time, date and place for the union-level agreement and to form the legal delegation team for the further peace process. In addition, the KNPP proposed 20 points of agreements to be discussed in the union-level bilateral agreement (Myanmar Peace Monitor n.d). Although the KNPP has not signed yet the Nationwide Ceasefire Agreement (NCA), the bilateral ceasefire agreements in regional level have granted business concession to the KNPP, cooperation in natural resources extraction, the border and rural areas development. The ongoing peace-building process seems to bring some hope to end long-term civil war in Karenni State.

This study is concerned about how peace building process in Karenni State also impacts on the Internally Displaced Persons (IDPs)'s resettlement and return process. According to the bilateral ceasefire agreement in Karenni State, both the government and the KNPP have agreed to implement the IDPs resettlement and return process (BNI 2014). The government led two projects for the IDPs resettlement process in Karenni State which cooperated with the KNPP and the INGOs. However, both projects have failed to resettle the IDPs due to lack of durable solution, accountability and responsibility (Johnson and Lidauer, 2014). At the same time, the Karenni IDPs have embraced the voluntarily resettlement and return process. Some IDPs have resettled into the vacant villages while some have returned to their original villages in order to access back their original lands.

The IDPs are the most vulnerable groups who encounter several challenges particular in land related issues. The IDPs remained in the country boundary since the prolong conflicts without any protection and assistance while the international organizations gave more attention on the refugees who cross the border. When the peacebuilding process started in Karenni State, the IDPs are more likely to adopt the coping strategies. Nevertheless, the IDPs voluntarily resettlement and return process have not gone smoothly.

The Karenni IDPs have experienced two main obstacles when they pursue the voluntarily resettlement and return. The first obstacle is the potential threat of new land laws to the IDPs' access to land. Indeed, the 2012 new VFV land management law and

the Farmland law do not consider the IDPs' right to access lands and ethnic customary laws. Meanwhile, as the Karenni IDPs are in the initial situation to adopt the voluntarily resettlement and return process, they are still struggling to rebuild their livelihood security. However, the new land laws and the 2018 amendment law push them to register the lands as well as the customary practices have unclear definition in the land laws. In this way, the new land laws threaten the IDPs' access to land.

The second obstacle is the issue of land confiscation. Land is essential not only for the ordinary Karenni people but also for the Karenni IDPs to acquire the livelihood security. Access to land is also one of the solutions for IDPs to return to their normal lives and to secure their livelihoods. However, another phase of land confiscation emerged during the political transition which threaten the access to land of IDPs. The Tatmadaw confiscated several acres of lands in Karenni State without compensation. When the Karenni IDPs resettle and return, Tatmadaw have occupied the IDPs original lands. What is more, the new land laws do not provide a scope to solve the land confiscated issues, instead, they impose several restrictions to the Karenni IDPs' access to land.

Therefore, understanding the relations between IDPs and access to lands in the context of peace process in Karenni State is significant. Although a few scholars have studied land conflicts in ethnic states (Kramer 2015), not many studies link the IDPs' land conflicts with the ongoing peace process. The relations between IDPs' land rights during the peace process are less attention in current literature, especially for the Karenni State. Although land issues have reached to the national political agenda due to the political transition, there is lack of action to counter the land issues in regional grassroot level. Hence, this research explores the reasons why the current peace process has been sluggish and does not reach the grassroots level in the Karenni State.

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### 1.3 Research Questions

Against this backdrop, this research explores three research questions:

1. How does the peacebuilding process between KNPP and the Myanmar government impact the IDPs' voluntarily return in the grassroots level of Karenni State?
2. To what extent do the land reforms during the Myanmar political transition implicate on access to land for voluntarily-return IDPs in Karenni State?
3. How can access to land provide the elements of human security for Karenni IDPs?

In this research, I argue that Myanmar's political transition has brought hope to find solutions for the long-standing ethnic grievances for all ethnic groups. However, the peacebuilding process does not reach to the grassroots level in Karenni State. I find that the key reason is that state has dominated the peace process and the land through the land law reform, the IDPs resettlement and return process, which has excluded other actors' participation.

### 1.4 Research Objectives

- To broaden dimensions of the understanding of the Myanmar's peace building process at the grassroots level.
- To investigate related issues of IDP's access to land and land reform
- To explore the Karenni IDPs' different elements of human security to accessing the lands in terms of voluntarily resettlement and return process

### 1.5 Research Methodology

This research is an ethnographic field study with qualitative methods including key informant interviews, individual interviews, life story interviews and participant observation in gather the empirical data. This section begins with research sites, followed by the detail of data collection methods, unit and level of analysis and thesis structure. As my study covers from the macro to micro levels, the research is a multi-sited ethnography.

#### 1.5.1 Research Sites

Two villages were chosen for my fieldwork sites: Daw Klaw Le village in Shadaw Township and Daw So Shay village in Demawso Township. Both villages are where Karenni IDPs villages embraced the voluntarily resettlement and return.

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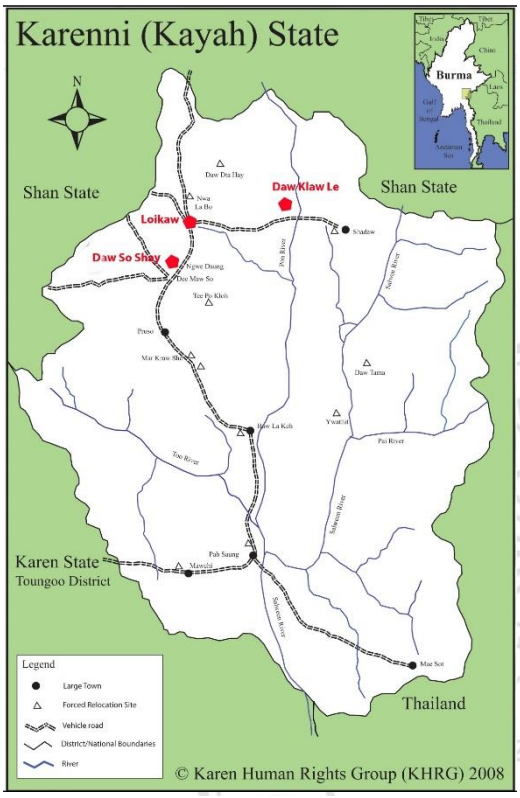


Figure 1.1 Research sites: Loikaw, Daw Klaw Le village, Daw So Shay village

### 1.5.1.1 Daw Klaw Le Village

Daw Klaw Le is situated in Shadaw Township in the Northeast part of Karenni State. The original Daw Klaw Le village was the biggest village in Shadaw Township which had over 100 households. Historically, the original village was settled more than a century ago. Majority of the villagers belong to Kayah ethnic group and their religion is Animism, locally known as Ta Khon Tai. The village is located in the mountain lands. Thus, the villagers collect non-timber forest products (NTFPs) to support their livelihood. In addition, the villagers practice shifting cultivation. They grow rice and vegetables. The village's culture, livelihood, and religion are intimately associated with the lands, the mountain and the forest. The villagers' land management is based on customary practices. They preserve the forest by using the customary belief that praises the spirits of the big trees, streams and the land. According to their belief, men are superior because men are responsible for worshipping the sprit. The villagers believe that only men can directly connect to the spirits, because men have natural power. Women are not allowed to touch to the big trees or spiritual areas. In the past, there were no formal transportations to connect the village to the outside world. Many villagers spent most of their lifetime staying only in the mountain and forest. They built houses by using bamboo and timbers from the forests. There were ample natural resources to cover their livelihood security. Those customary practices are still active in Daw Klaw Le village.

Since 1960s, Daw Klaw Le villagers were impacted by the civil war. Some villagers started to displace to other villages, to the jungle or to the refugee camps on the Thai side of the Thai-Burma border when the fighting between Tatmadaw and the KNPP occurred. When conflicts abated, those villagers would return to the village. However, in

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1995, the military ordered the whole village to abandon the village within seven days. Consequently, villagers embraced the different patterns of displacement. Some villagers rejected to go the government relocation sites. Some fled into the jungle and other regions such as Shan and Karen States, while the majority fled to the refugee camps. After the clearance operation, the Tatmadaw burnt the whole village, farmland and local livestock including cows, hens, and pigs, and planted landmines to deter the villagers coming back. Due to the ongoing instability, the village remained vacant until 2013.

Shortly after the KNPP and the government signed the second bilateral ceasefire agreement in 2012, the peace process brought hope for IDPs in terms of resettlement process. Since 2013, the current village headman U Say Reh and his friend U Soe are the ones who led the rebuilding of Daw Klaw Le village. Initially, they planned to rebuild the village as a pilot project within five years. In the beginning, only five households returned. They welcomed the people who are the same ethnic and the victims of war. Even though those IDPs are the newcomers which come from different places of Karenni State, they all have the same experiences of displacement patterns and livelihoods difficulties. They experienced untold hardships in the jungle, wandering within Karenni State, moving in and out of at least two to three villages. Finally, they gathered and resettled in Daw Klaw Le village with the help of U Say Reh. At the time of writing, Daw Klaw Le has 37 households and 197 population.

#### 1.5.1.2 Daw So Shay Village

Daw So Shay village was originally situated in Lawpita village tract, ten miles distant from Loikaw, the capital of Karenni State. Most villagers belong to Kayah ethnic group with some belonging to Kayan, Kayaw and Pare ethnic groups. In past times, the village accommodated more than a hundred households on 2,000 acres of land that was used for housing and farming.

Daw So Shay village was also one of the villages that suffered under the Tatmadaw's four-cuts counterinsurgency tactics. According to some villagers whom I met during my fieldwork, the Burmese military committed human rights violations during the conflicts including forced recruitment, torture, looting the villagers' properties and rape. A key informant woman said,

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> "When I was in the old village, the military dragged our village headman and tortured him that they dropped the strong alcohol into his nose and beat him accusing him as the spy of the ethnic insurgency. We faced a lot of difficulties and I was deadly afraid" (interview with villager, F, 12/05/2019).

As the conflicts continued, Tatmadaw ordered the villagers to vacate their villager within a very short given time as part of the four-cut policy. Tatmadaw burnt the village and planted the landmines. One of Daw So Shay villagers who involved during the forced displacement told me his experience:

> "I still remember. The military gave us for one week to move all the villagers to the government relocation site. The Army threatened us not to come back. They said if we come back, they will shoot. So, we had to leave our lands, houses and cows. Every household had cows but we had to leave them all" (interview with villager, M, 12/05/2019).

At that time, most of the villagers decided not to move to the government relocation sites. With the help of Catholic missionary priests, they chose instead to resettle to a new area on the outskirts of San Pya Chouk Maing village. The remaining minority moved to different areas including refugee camps, government relocation sites and kinship villages. This study was unable to secure accurate information about which villagers, and how many people moved to certain relocation sites. Their new resettled area, named New Daw So Shay Village, customarily belongs to San Pya Shouk Maing villagers, and it is two hours walking distance from the original Daw So Shay village.

In the beginning, there were about fifty households who moved to the new resettled village. The household number decreased later because some of them left to resettle again among eight of their kinship villages. In 2018, the Home Affairs Ministry of Myanmar government officially recognized the New Daw So Shay village by giving the household registration certificate. Figure 1.2 shows the historical to the present transition of Daw So Shay Village:

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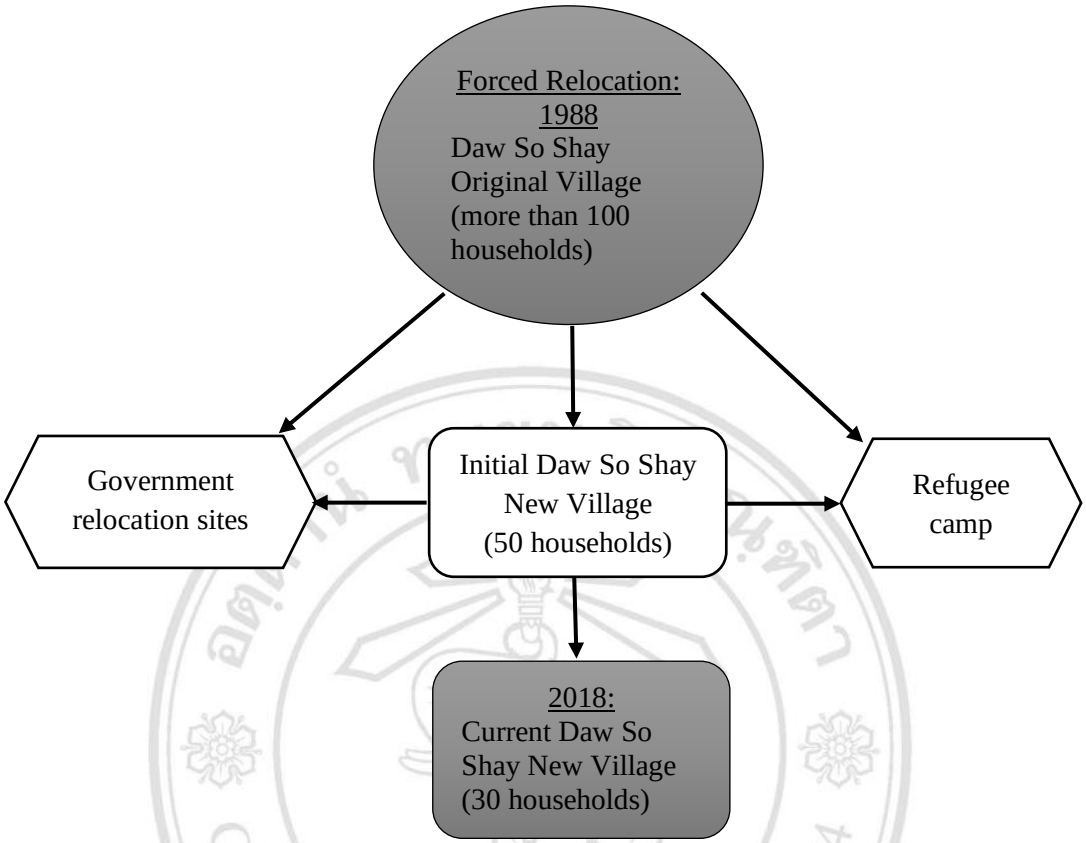



Figure 1.2 Displacement and voluntarily resettlement of Daw So Shay Village

As this research focuses on voluntarily IDPs, these two villages who have experienced different voluntarily resettlement and return processes are appropriate for study. First, Daw Klaw Le village is situated in the mixed administration area of Shadaw Township. The majority IDPs, including Daw Klaw Le original villagers have voluntarily resettled in the Shadaw Township, where no one dominates or interferes in their choices on resettled areas. As long as the peace process is still on the process of negotiation in Karenni State, the governance in the mixed administration area remains under mutually governance. For instance, both sides agree to restrict the issuing of the certificate of right to use land or Form (7) in order to preserve the land for the refugees, IDPs and the KNPP family's members. Moreover, the Tatmadaw and the former state government have returned the confiscated lands in Shadaw Township to the original owners since the peace process in 2012.

Further, Daw So Shay village is situated in Demawso Township and the villagers have returned to their original village for farming in Loikaw Township. Loikaw Township

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is under the area of government's governance. The Tatmadaw have confiscated their used farmlands under the security reason without compensation and Daw So Shay villagers have faced lawsuit and imprisonment. Hence, Daw So Shay villagers have faced livelihood difficulties under the government's governance areas in terms of access to lands. Comparison of these two villages, enables an analysis of how the peace process brings the right to access the land for IDPs and the impact of state actor's predominance in the IDPs resettlement and return process in terms of access to land.

### 1.5.2 Data Collection

Fieldwork for this study used techniques such as key informant interviews, in-depth interviews with semi-structured questions style, life history interviews and participant observation. Along with participant observation, I conducted several informal discussions and conversations with the villagers and other key informants. The duration of the data collection was one month during which I visited the two village sites and capital city Loikaw.

#### 1.5.2.1 Key Informant Interviews

In-depth interviews with semi-structured questioning was employed with 10 key informants. In-depth interviews are "designed to explore issues in detail with the interviewee, using probes, prompts, and flexible questioning styles (both in terms of the ways in which questions are asked and the order in which they are delivered)" (Henn Weinstein & Foard 2006: 160). This technique, by probing and prompting, enabled the gathering of sensitive information of the conflicts, detail in peace building process and insecurities issues in terms of access to land.

Firstly, I met with the three key informants from the governmental bodies in Loikaw including NRPC member, Kayah State Minister of Natural Resource and Environmental Conservation and the speaker of Parliament in Kayah State. In order to understand the current peace process between the NRPC and the KNPP, I interviewed with the advisor of the NRPC. He provided me the detailed information of the current peace process in both national and local level and fruitful information of the challenges or deadlock of the peace process. Then, the Minister of Natural Resources and Environmental Conservation and the speaker of Parliament also provided me the

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information about the IDPs resettlement process, land conflicts and land tenure security in Karenni State.

Secondly, I interviewed with another key informant from the KNPP in order to deepen my understanding of the peace process from different perspectives. He also explained about the agreement of land reservation between them and the state government, challenges of the peace process and the IDPs resettlement process. In addition, He provided not only the Karenni history and the experiences of civil wars, but also the current challenges at both state and national levels.

Thirdly, I met with each key informant from four local NGOs who work for land issues in Karenni State: the Karenni State Farmers' Union (KSFU), Law Home, and the Karenni Womens' Organization (KnWO). In this, I learned the current land issues in Karenni State in detail, the customary tenure system and solutions. The KSFU is the main organization is working for farmers' land rights, including the disputes of Daw So Shay village. These interviews further broadened my understanding, not only in relation to the IDPs voluntarily resettlement, but also the IDPs' challenges in order to access the land.

The final groups of key informants were the two village headmen from the two villages. The village headmen from both villages, themselves conflict-affected victims, shared with me the history of the villages, the experiences of forced relocation and the challenges of the resettlement and return process. Due to their political experience, they expressed their perspective on the different pattern of displacement, land tenure rights and struggle to access the land tenure security as well as the customary practices. Table 1.1 shows the participants' demographic.

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#### 1.5.2.2 Individual Interviews

I conducted individual interviews to 15 informants from different background including member of Parliament, member of NRPC, member of KNPP and the villagers. Individual interviews aimed to get the different perspectives, thoughts and feelings about the conflict, displacement, peace process and the current land conflicts from each individual.

#### 1.5.2.3 Life History Interviews

I conducted three life history interviews, two from the target villages and one-woman activist, to complement in-depth key informant interview method. "A life history portrays an individual's entire life, while a personal experience story is a narrative study of an individual's personal experience found in single or multiple episodes, private situations, or communal folklore (Denzin 1989 cited in Creswell 2007: 75). I conducted three live history interviews from the two targeted villages and one from women activist. Each had been directly impacted by the civil war, displacement, and land confiscation and experienced challenges to their livelihood and life security. This method extrapolated more stories from the villagers regarding their experience of displacement and current struggle to land conflict.

Table 1.1: Participants' Demographic Table[1]

| **Interview Type** | **Gender** | **Identified By** | |
|---|---|---|---|
| Key Informant Interviews | M | Government official | Minister of Natural Resources and Environmental Conservation |
| | M | Member of Parliament | Speaker |
| | M | NRPC | Advisor |
| | M | KNPP | Vice-Chairman |
| | M | KNPP | Technical advisor |
| | M | CSO staff | Law Home |
| | M | CSO staff | Karenni State Farmer Union |
| | M | CSO staff | Karenni Women Organization |
| | M | Village headman | Daw Klaw Le village |
| | M | Village headman | Daw So Shay village |
| Individual Interviews | M | Member of Parliament | Representative of the National Assembly |
| | M | NRPC | Member of Technical Support |
| | M | Village' elder | Daw Klaw Le village |

[1] To ensure anonymity, participants' details are restricted to interview types and gender.

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Table 1.1: Participants' Demographic Table (Continued)

| **Interview Type** | **Gender** | **Identified By** | |
|---|---|---|---|
| Key Informant Interviews | M | Villager | Daw Klaw Le village |
| | M | Villager | Daw Klaw Le village |
| | F | Villager | Daw Klaw Le village |
| | F | Villager | Daw Klaw Le village |
| | F | Villager | Daw Klaw Le village |
| | M | Villager | Daw So Shay village |
| | M | Villager | Daw So Shay village |
| | M | Villager | Daw So Shay village |
| | M | Villager | Daw So Shay village |
| | F | Villager | Daw So Shay village |
| | F | Villager | Daw So Shay village |
| | F | Villager | Daw So Shay village |
| Life History Interviews | F | Villager | Daw So Shay village |
| | F | Villager | Daw Klaw Le village |
| | M | Villager | Daw Klaw Le village |

#### 1.5.2.4 Participant Observation

"Participant observation is another strategy for gathering information about a social interaction or a phenomenon in qualitative studies" (Kumar 2011: 125). This method is vital to get ethnographical data because observing their activities by involving among the informants and spending time with them help me comprehend social interaction of the targeted groups. When visiting the two targeted villagers, I accompanied villagers to their farmlands. I observed their daily activities and how gender division occurred in the social events or other activities. I also participated in the Kay Htoe Boe Festival and had lunch with the villagers that helped to organize my fieldwork.

#### 1.5.2.5 Secondary Data

I collected secondary data from different sources of existing literatures including books and study materials from Chiang Mai University library. I also accessed data from

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the related literature, books, articles, and journals, reports from the NGOs, UN agencies, government and newspapers and news from websites. I gained the copies of the official documents from the state and non-state actors in order to examine these documents' information and the information from the primary resources.

### 1.6 Unit and Level of Analysis

When analyzing my field data, I categorized the unit of analysis in multiple groups. First of all, the opinions of individuals and their experiences was taken as prior unit of analysis. It is important to make individuals from different groups as unit of analysis because it enables findings to be generalizes and to interpret the data. Other units of analysis were villagers collectively, government body as a group, ethnic armed group as one and NGOs as a group. All of these units of analysis were taken into account for data analysis so that the interaction and relationships between all units of analysis can be accurately interpreted.

For the level of analysis, I have macro and micro levels. I have a macro level analysis because my research also aims to explore the policy changes during the political transition in the national level. The political situation and peace process during the transition period is highlighted at this level. The national level policy review helps me understand the impacts of such policy on the IDPs' livelihood and their access to land. On a micro level, I analyzed situations in the grassroots level especially regarding the relocated IDPs. Exploring the relationship between the macro and micro levels analysis enabled me to learn deeply about the causal affects from the macro to the micro.

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### 1.7 Thesis Structure

This thesis has six chapters. Chapter One has research background, statement of the problem, research questions and main argument, research objectives and the research methodology including study site, data collection methods, and unit and level of analysis.

Chapter Two has two parts: a literature review and the conceptual framework. In literature review, I discuss three concepts: (1) human security; (2) political transition; and (3) theory of access. The conceptual framework guides to analyze the relationship of the three concepts and detail explanation of how three concepts work together.

Chapter Three examines the ongoing peace-building process between the KNPP and the current government in both national and local level. This chapter starts with the history of ethnic conflicts and the rationale behind the peacebuilding process during the political transition in 2010. The chapter continues to investigates the challenges and the outcomes of the peacebuilding process. Finally, the chapter provides the analysis of the factors and the rationale of the ongoing peacebuilding that has not reflected yet to the local level in terms of IDPs resettlement and return.

Chapter Four provides the history of land governance including the military regime governance and the democratic governance. It also includes the drivers to the process of democratization system and the land reform. Following, is the political transition that seems to bring the human security in terms of democracy performing and peacebuilding with EAOs. In addition, the chapter provides an analysis of the customary law and tenure on land management system in Karenni State. Land laws reforms are also analyzed in terms of the implication of the policy reforms that impact on the Karenni IDPs. This chapter concludes with a review of how the development of new land laws provide the structural threats to the IDPs' access to land and the customary practices of Karenni people.

Chapter Five examines the Karenni IDPs' different elements of human security in terms of access to land under voluntary resettlement. The elements of human security explored include housing and shelter security, food security, economic security, cultural and societal security. It is followed by the different livelihood's security of the two villages by comparing the state actors' predomination.

The Final chapter is conclusion. It begins with chapters' overview. The conclusion chapter also explains the research limitations and gives suggestions for future related studies.

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# Chapter Two

# Literature Review

## 2.1 Introduction

This study aims to ground the linkage between access to land and human security in the context of political transition based on the Karenni IDPs' case studies. To conceptualize my case study, three basic concepts are utilized: political transition, human security and theory of access. Accordingly, relevant literature is reviewed to provide the basis for designing the research.

Firstly, the concept of human security explores how it works in the context of Myanmar' peace building process amidst of political transition. This concept helps to understand how the civil wars in Karenni State contributed the human insecurities which emphasizes on the Karenni IDPs.

The second concept is the political transition. The concept of political transition explores the dimensions of the understanding of peace-building process in the Karenni context. The political transition helps analyze the characteristics and phenomenon of Myanmar's peace process through the democratic transition. It enables an understanding of the challenges and deadlocks of the peace-building process in Karenni State that impact on the IDPs' voluntarily resettlement and return. Moreover, the interrelation of two concepts: human security and political transition show how state actors as security provider contribute human security and insecurity to its citizens in terms of access to land for the Karenni IDPs.

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Third, the concept of theory of access is utilized to investigate the relation between IDPs' access to land and impact on the IDPs' human security. Theory of access focuses on land access that explains how Karenni IDPs access and re-access to their land, and the vitality of access to land for their survivals. It also enables an analysis of how the land reform during the political transition impact on the IDPs' access to land.

This study focuses on two IDPs villages to understand how the human security and theory of access interrelate. The interrelation between human security and access to

land argues that state actors' predomination on the IDPs' access to land and peace process in Karenni State is resulting in human insecurity.

### 2.2 Human Security Concept

A concept significantly related to the Myanmar's peacebuilding work in Karenni State is human security. Human security as a concept emerged in the 1990s. It challenges the traditional state-centric security paradigm where the state is the ultimate security referent. Under the traditional state-based security paradigm, security refers to state's survival and the way for the state to survive such as balance of power. People are secure only if their state is free from external invasion. However, a state free from external threats does not mean that its people are secure. United Nations Development Programme (UNDP) published the *Human Development Report 1994,* which is the classical human security text. This report asserts that the safety and living standards of human beings should be prioritized, and human beings should be free from various insecurities (UNDP 1994: 25–33). Further, the Commission on Human Security emphasizes that empowerment of people is the means to increase people's capacity to address various threats (Commission on Human Security 2003: 10). States with other actors including civil service organizations (CSOs), NGOs, and international organizations become the security-providers. In this way, the concept of human security emphasizes is people's need for protection and empowerment; placing individuals as the main security referent, which is in stark contrast of conventional national security based on the state-centric nature.

Human security has two definitions. The first is freedom from want. The freedom-from-want definition focuses on chronic threat to human survival, daily life and dignity. These threats can be from natural disasters, diseases, environmental degradation, hunger, unemployment, human rights violations, political repression and economic crisis. The Japanese government has embedded freedom-from-want element in its foreign policy, exemplified by the Japan International Cooperation Agency (JICA)'s financial and technical assistance to Southeast Asian countries. The second definition is freedom from fear. This definition is associated with threats from sudden and hurtful disruptions to people's daily lives, safety and rights including transnational organized crime, genocide, and anti-personal land mines (Henk 2005: 93; Paris 2001: 90–1). The Canadian

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government supports and promotes human security from this aspect; participating many peacekeeping, peacebuilding, and peacemaking missions and provided funding to create the International Criminal Court and the United Nations Trust Fund for Human Security (Axworthy 2012: 185).

Since independence in 1948, security concerns in Myanmar are internal with ongoing civil wars between the military government and ethnic groups, rather than external factors (Jones 2014). There are several reasons for these internal conflicts. Kramer, 2015 states the main grievances of the internal ethnic conflicts well,

> "… lack of space in the political decision-making processes, the absence of economic and social development in the ethnic areas, the repression of cultures and religions due to the Burmanization[2] and unrecognized of ethnic land rights" (p. 359).

The case of IDPs combines the issues of freedom from fear and freedom from want. First, civil wars can cause heavy casualty and coerced movements. In other words, IDPs' security and rights are challenged and harmed. Second, after conflict-affected people are internally displaced, they encounter livelihood difficulties in different forms. The new sites may lack shelter, water, job opportunities, farmlands and education. These livelihood difficulties can directly cause other problems such as food insecurity, health deterioration, and environmental degradation. Many of these livelihood difficulties can be categorized under freedom from want.

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**2.3 Political Transition**

Several scholars have defined political transition as the shift from one political scenario to another situation that usually refers to the process of political change in terms of democratization and building a better system of governance. According to Mely Caballero-Anthony (2005), political transition is the notion of movement from one political condition to another different condition which leads to the rise of democratic consolidation. Leonardo Morlino (2014) also notes that political transition is the event or process which starts from one political instability or the fall of a non-democratic system

[2] The term Burmanization is common in Myanmar politics. The term is used to indicate the Burmese nationalism which attempts to manipulate all ethnic minorities in Myanmar.

and ends with "at least the installation of a minimalist democracy" (p. 2). From both these scholars, political transition can be understood as the process of change in political situation from one system with dictatorial and tyrannical tendencies to another system that allows individual freedom and public participation in the system.

Many factors can lead to the political transition and scholars who study political and democratic transitions have different opinions in categorizing the factors of transitions. Stanley Wiechnik (2017) points out general approaches which scholars use to identify such factors: *social structural* approach, *top-down approach*, *bottom up* approach, and *hybrid combination* approach. According to Wiechnik (2017), *social structural* approach refers to when there is the unavoidable political change incurred by both the political elites and the general populace; *top-down* approach refers to when the political transformation is initiated by the elites resulting from paradigm shift in their political views; *bottom-up* approach refers to when the general people perceive the need of political transformation and push in terms of movements or revolution. The hybrid combination approach is the mixture of these three approaches with the involvement of multilateral stakeholders in the transformation process

Wiechnik's hybrid combination approach to the cause and process of political transition can be applied in the Southeast Asian regional context because the political transitions in this region have taken place with the involvements of multi-stakeholders. Baladas Ghoshal (2004) who studied Indonesian political transitions during the post-Suharto's regime reveals that the Indonesian elites of the former regime take privilege of the current political and economic change in the name of political stability and development which had positive results in changes in political scenario. Following the transition, the emergences of new political actors, new political parties and elites in the regions are the main transition factors which aim to build institutional reforms (Caballero-Anthony 2005). Other factors can lead to political transitions. For example, civil society can stimulate political transition, by leading institutional transformations in a state with the creation of new platforms to "fight corruption, resist violence and work for human rights at both national and local levels" (Ghoshal 2004: 524). In the example of Indonesia, NGOs were one of the social forces to challenge Suharto's authoritarian governance and facilitated Indonesian democratization. In addition, Jacques Bertrand's (2013) work on *Understanding Political Change in Southeast Asia* reveals that government's inability to

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address economic downturn is one of the reasons which can lead to political transition in some Southeast Asia's countries. Furthermore, international factors or external pressures can trigger political change, because the international community is able to impose political and economic sanctions, which may push non-democratic regime to adjust its political system.

Contextually, the factors of political transitions in Myanmar can be categorized into internal and external factors, in which external factor is the involvement of international community, while internal factors relate to multi-stakeholders within Myanmar. Many analysts and scholars believe that the international pressures such as economic and political sanctions from the European Union (EU) and the United States of America were key factors that pushed the Myanmar's junta for democracy (Ghoshal 2013). Many military business firms who have a strong hold on Myanmar economy were barred from business activities and networking with international businesses. Many military family members were banned from international movements and activities. These pressures are believed to be one of the strongest motivators for the political transition. During the military regimes, the international community including the Association of Southeast Asian Nations (ASEAN) condemned Myanmar for several human rights violations and its hesitation for political changes. Hence, ASEAN is also one of the motivators who convinced Myanmar's transition towards the right direction of economic and political reform (International Crisis Group 2012). Alongside the international community pressure, domestic multi-stakeholders also were loud in their support to democratization, exemplified by the icon of the democracy movement Daw Aung San Suu Kyi and the Buddhist monk-led 'Saffron Revolution' in late September 2007.

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The outcomes of political transition can positively bring solutions for human insecurities within a nation state. Political transformation in Indonesia is a good example. Indonesia has developed the road to democracy since 1999. Prior, Indonesia experienced the authoritarian regimes for thirty-two years. During the Sukarno and Suharto's regimes, governments failed to address human insecurities, unable or unwilling to solve corruption. Rather, they emphasized on economic progress that favored regime survival and national security, which created a strong patron-client network between the politicians and private investors. The Suharto government response to the ethnic conflicts

in Aceh, East Timor and Irian Jaya was military repression. After Suharto stepped down in 1998, Indonesia experienced political transition, which brought the hope to restore human security in Indonesia. Even though during the period of the political transition, Indonesia experienced several challenges such as the gap between rich and poor, high unemployment rate and contest over power and natural resources, gradual democratization paved the way to address long-term civil war in the province of Aceh (Chu 2015: 80; Ghoshal 2004; Hadiz 2003). With the assistance from the Crisis Management Initiative (CMI) and Finish Martti Ahtissari, the new President Susilo Banbang Yuddhoyono appeased the opponents to the peace process in the military and signed the Helsinki Accords with Free Aceh Movement (*Gerakan Aceh Merdeka*, GAM) (Thalang & Siraprapasiri 2017: 698–700), which was struggling for an independent Achnese state. Finally, GAM disarmed in 2005 and became the Aceh Party and joined Indonesian democratic system.

Indeed, democratization is significant in restoring a state's human security. Ta-Wei Chu (2015) argues that "the more democratic a state is, the more human security its people are likely to have" (p. 77). Chu gives the example of the Human Development Index (HDI), where the countries enjoying high HDI are always democratic. This is partly because democratization can guarantee public participation, human rights, and emergence of civil society, all of which are essential elements to address human insecurities both in the categories in freedom from want and freedom from fear.

In Myanmar, the political transition in 2010 has brought initial democracy. For example, the opposition political party, the NLD, could take part in the by-election held in April 2012. The Thein Sein administration gradually restored basic human rights. Firstly, during the President Thein Sein's tenure, more than 200 political prisoners were released, including the democracy icon, Daw Aung San Suu Kyi, and allowed to participate in politics (Ghoshal 2013). Secondly, in September 2011, the government established the Myanmar National Human Rights Commission based on the international standard set forth in the Paris Principle. This Commission is vital for promoting and protecting the fundamental citizens' rights that was lacking in Myanmar for several decades. Thirdly, in August 2012, the Thein Sein's administration abolished the media censorship board, and created the Press Council (Aung Hla Tun 2012). These initiatives became positive outcomes, not only the media and activists, but also the general public,

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for their freedom of expression and freedom of movement. Consequently, the human securities of the general public in the macro level witnesses along with the positive political change.

### 2.4 Critique of Political Transition and Human Security

This section presents reviews on the interrelation between political transition and human security. By focusing on the role of state, this literature review critically discusses how the political reforms in terms of policies and laws have impacts on human securities of the people within one nation-state. It argues that political transition in a state cannot guarantee to bring human security back to its people if the state predominates the political transition agenda.

Human security is one of the indicators that reflects the success or failure of political reforms. Political transition can bring the process of democratization. Under the democratization's consolidation, state leaders have more responsibility to ensure that human securities of the people are prioritized in the political reforms. Interestingly, human security has never denied a state to provide security to its people (Peou 2005: 108), which means that a state has chance to dominate its political transition. Critical security scholars argue that even though political transition can be a promising start to help return human security to people, state-predominated political transition can bring human insecurities (see Chandler & Hynek 2011).

When addressing the problem of human insecurity, the state-predomination during the transition can simultaneously cause unintended failure or slow the progress to solve the problem of human insecurities. From the perspective of the critical scholars, the liberal concept of human security is not enough to secure on human individual because the liberal security focuses more on providing security for the state liberal and the neo-liberal which are the relevance of socio-economic classes, the state or any other human collectivities. On the other hand, state is a key structural source of threat to people's security. State can cause not only the nonmilitary threat such as food and environment scarcities, but also poverty and social exclusion including economic rights, political rights, and civil liberties (Peou 2014). Bellamy and McDonald (2002) said that "states are more often part of the problem than the source of the solution" (p. 373).

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Consider the case of Cambodia. After the UN Transitional Authority in Cambodia (UNTAC) finished its peacebuilding task in the mid-1990s, the Cambodian People's Party (CPP), led by Hun Sen, predominated domestic development projects both in urban and rural areas, which had a strong human security discourse such as improvement of people's living standards and reduction of poverty. However, partly due to the Cambodian entrenched patron-client and patriarchy politics, which is seen in the close connection between the CPP's members and the private investors, many development projects have caused the problems of land grabbing and human rights abuses. Richmond and Franks argue that the Hun Sen regime is "legitimized by democratic elections, and the state centralizes and monopolizes the means of violence, as well as establishing the rule of law human rights and the conditions necessary for the distribution of material resources" (p. 36). The CPP government has been the one to predominate the peace process and exclude other actors to join the process, which has constrained the process of democratization, negating peace and prosperity for the people in Cambodia (Richmond & Franks 2007). Ironically, the CPP government has continued to promote and implement state-led development projects under the name of human security.

Critique of human security and political transition is relevant to the problem of Myanmar's political transition. While the peacebuilding process is inclusive of government, state military and non-state actors, progression has continually been hampered by the central government's and military's predominant role. Karenni's IDP resettlement process is one of the tasks in the peacebuilding process that has been negatively impacted by this predominance, precluding their ability to re-access lands in their original villages. The theory of access follows as a means of analyzing this situation.

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**2.5 Theory of Access**

Theory of Access can help us understand not only the implications of state-predominated political transition in Myanmar which has impeded human security for its people, but also the rights to access land for the vulnerable people like IDPs. Ribot and Peluso (2003) are scholars who theorize "access" through extracting access notion from the concept of property. The difference between property and access is that property refers to the "right to benefit from things" while access refers to "the ability to derive benefits from things" (Ribot and Peluso 2003: 154). According to their research, natural resources

are seen as the "things" within the range of power which is exercised through the various mechanisms, processes and social relations in order to understand people's ability to benefit from resources. Three indicators shape access: (1) identifying of the particular benefit of interest; (2) identifying the different actors who are involved to gain, control and maintain the benefit flow; and (3) analyzing the power relation underlying the mechanism of access where benefit is derived (Ribot and Peluso 2003: 161). It is important to include these indicators in order to understand the access mechanism, because the concept of access enables an understanding of how people get resources and make use of those resources under different circumstances. This mechanism is common in the contemporary studies of access to resources, as people tend to confront with the states when it comes to resources access.

Two mechanisms are utilized in the theory of access: access processes and relations between resources and people. The first mechanism is a "*rights-based access*". Rights-based access can be divided into two aspects. The first aspect is legal, which is based on law, custom or convention. The second aspect is illegal which is based on the coercion or threat that is not socially sanctioned by state and society in order to benefit from things in terms of gain, maintain or control. The second mechanism is "*structural and relational access*," which is based on the bundle of power to access via technology, capital, markets, labor and labor opportunities, knowledge, authority, social identity and negotiation of other social relations (Ribot and Peluso 2003: 162). In the study of access, these mechanisms are adopted to explain how and when different actors get access over resources and access to them. Ribot and Peluso note that this concept helps facilitate grounded analysis to find out or to understand who benefits from things through what process they are able to access (2003: 154). Hence, the two mechanisms are worthwhile to engage in the context of access to land because land is a vital feature for survivals of the people like IDPs.

Some scholars believe that rights-based approach can be used as a tool for solution to address the issues of access to land. Manuel Branco (2016) in his *Human Rights Based Approach to Land Reform* notes that access to land is vital for basic human securities, because access to land means that you have access of food and housing. He regards land as "a human right" and adopts human rights-based approach to his study of access to land in the perspective of international standards via Universal Declaration on Human Rights

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(UDHR), International Covenant on Economic, Social and Cultural Rights (ICESCR), international human rights laws and indigenous people's rights. Branco cites various articles in the UDHR and ICESCR that relate to economic, social and cultural rights to highlight their connection to access to land, concluding that access to land constitutes a precondition to "the realization of these rights" (p. 1223). In other words, rights-based access is a mechanism that paves way to the marginalized people in their access to resources or land.

Access to land is very important for rural people because land in the rural areas is the main source that supports livelihoods. In the absence of access to land, people in such situations will face economic insecurity (Gilbert 2013; Branco 2016). Land is a fundamental need for humans to produce food and other basic goods to satisfy the human needs including shelter and clothing (Branco 2016). When the state uses the power of exclusion, access can be the contrasting tool for the people to counterbalance the state's control or domination over resources, correlating to Ribot and Peluso's (2003) mechanism of the *structural and relational access*. This mechanism can help analyze the relations between people and state when it comes to access to land, because it can demonstrate the contestation between people and their government. As Hall, et al (2011) note, government policies encompass the agricultural production that lead the competition to access the lands by the large-scale businessmen and elite population. On the other hand, the rural population in ethnic homelands have less beneficial to access their farmlands.

Many studies emphasize the relations between land and human security. Lipton and Saghai (2017) argue that access to land and equal land distribution is one important key to achieve human security especially for developing countries. Thailand's land reform in the 1980s is a good example of how access to land is important to be considered for achieving human securities whereby the state reforms of the land administration system formalized land rights (Larson 2012). In 1984, the state launched the economic consequence of a twenty-year land-titling program to access to capital, investment, productivity, and income. Land-related policy is one feature to support the operation of the securitization in response to the threats of colonization and communism. The Thai state operated property rights to land to base on a loyalty mechanism that effected to prevent external threats. In this way, Thailand has rapidly reduced the poverty to develop

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the country's economy. Regarding Thailand's formal land rights and economic development, formal land titling increased tenure security which has had a positive effect on farm-level outcomes in terms of investment and credit. There are several advantages of land titling in Thailand such as increased financial and labor markets and economic growth. Moreover, Thailand's formal land titling has increased equality in the distribution of property rights. In this way, formalization of land rights based on economic and political factors that led to more investments and rapid economic growth was an important mechanism to reduce poverty (Larson 2012).

However, states do not always play the positive role in land reform. In the case of Lao PDR, land reform and resettlement policies are the significant feature of the access to control over people, space, and land. For example, according to Lund (2011), the Lao PDR government opened up the foreign development assistance in the late 1980s whereby the coalition between the government's institutional actors and donors were in the main roles to control over land through the state formation of *property right relation* and *political subjectivity*. The various institutional actors defined and enforced property rights as well as categorized people into different groups and granted different property rights. Moreover, the collaboration between the government's institutions, especially the Ministry of Agriculture and Forestry, and donors established the institutional policies of property that carried out the land reforms and resettlement policies and deliver the temporary land use certificates. The political subjectivity in Lao PDR was the classification of ethnicity according to the lowland-upland distinction to engage the political institutions. Thus, the coalition between government institutions and donors was able to systematically control the settled people in certain areas and connect them to the government's political subjects through new regimes, rights and governance, which allocated new land and issued Temporary Land Use Certificates. Consequently, property rights and political subjectivity became matters for settled people to struggle over lands and political identity. Various institutional actors played with different state governance to grant the property rights or ownership in terms of recognition by society, government, custom and law. Political subjectivity is also recognizing the collective ethnic groups to access certain areas of lands by institutions of authority. Both property and political subjectivity offer the recognition to have control, to have access and exclusion by the institution actors (Lund 2011). Moreover, the resettlement policy through social

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differentiation and political subjectivities, restricted people's access to use forest areas and reduced the practice of swidden cultivation, negatively impacting people's livelihood, and tenure security. For example, the resettlement process of Khmou group resulted in lack of school, health care center, and arable land to rebuild their livelihoods (Lund 2011: 897).

During the initial political transition period in Myanmar, there are some reforms related to land use. Similar to the situation in Lao PDR, the reforms have not always guaranteed the human securities of the people. Sometimes, it depends on how the state performs or leads the reforms. Tom Kramer (2015) discusses the interaction between the ethnic conflicts and land issues such as land grabbing as well as the indirect relationship between the current peace process and the reforming of new land laws in Myanmar. Land issues such as land grabbing have risen in the national political agenda along with the protests from the farmer communities around the country. The situation has led the government to reform the new laws and revise existing laws and policies as well as investment laws. In 2012, the democracy government renewed the land laws which are called a Vacant, Fallow and Virgin Land Management Law (from here on, referred to as the VFV Law) and a Farmland Law (Ferguson 2014). In the same year, the Foreign Investment Law and the Special Economic Zone (SEZ) Law was enacted. The rationale to reform the new land and investment laws was to reduce poverty, to promote rural development and increase the industrial agricultural production through attracting the foreign investments. However, the new laws have caused the unrecognized customary, communal tenure systems especially in ethnic minority's areas, to be labeled wastelands in the upland areas where the local people do the shifting cultivation. Moreover, the land reform has caused the land grabbing and land confiscation by the domestic and international investors and local political elites for investment. Hence, the land reforms in Myanmar have increased, rather than solved the human insecurities for ethnic minorities in the conflict areas.

Kevin Woods (2011)'s work provides a deep understanding of the land issue in Myanmar. Military-state building is one of the mechanisms to get access over land and people, especially in the ethnic areas in Myanmar as well as the territorial expansion of the state's agencies and military branches using power. In the context of Myanmar military-state building, the military regime significantly allocated resource concessions

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such as logging and agricultural to Chinese investors, ethnic elite businessmen and political leaders to access the global capitalist markets and finance capital. Ceasefire agreements between the ethnic armed groups and the military created particular geographical political spaces and these political spaces have come under the national government control to capture the particular modes of finance, landscape production, governance and military-state formation. Woods (2011) termed this as "ceasefire capitalism." As more foreign investors gained land concessions, the lands in ethic states have become "a mosaic of propertied landscape" (Woods 2011: 754). Moreover, ceasefire capitalism offers the resource concession to transnational businessmen, particular in legally logging and industrial agriculture, as the ceasefire agreement has enabled them to access finance capital, global markets, new governable space and subjects. Continually, military officials confiscate lands labelled "wastelands" or informal land use title or certificates, that highly impact on the right to access land for upland farmers. Ceasefire capitalism has led the violent transitions and conflict of access to finance capital in terms of control over resources and lands among businesspeople and capitalist markets, Burmese military-state officials, ethnic elites, political leaders and civil society (Woods 2011).

The agenda of peacebuilding in Myanmar covers the issues of land allocation for resettled IDPs in many conflict areas. However, the progress is still sluggish and does not reach the grassroots level. Kramer (2015) suggests that land issues and land grabbing are key issues to solve in the peace process. Land rights and access for the resettlement of IDPs and refugees are vital roles to move forward the peace process (Kramer 2015). However, the new land policy is in conflict with the ethnic customary practices and regulations regarding land use which are still in practice in majority of the ethnic minority societies. Some armed groups such as the Kachin Independence Organization (KIO) and Karen National Union (KNU) recognize their right to practice the customary land tenure system and use rights in their administrative areas in order to stipulate the special provision and restore lands for the local people, IDPs, and returning refugees.

Presently, the recent land reforms have triggered the access to land use, especially in the areas where ethnic minorities live. The Myanmar government further amended the VLV Law in 2018. According to the amended VLV Law, land users had to register the lands within six months after the enactment of the law and those who fail to register would

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be punished up to two years in jail and eviction. Consequently, “millions in ethnic rural areas now face the risk of eviction while others across the country may lose their lands upon return” (Liu 2019). Many ethnic people practice shifting cultivation and customary practice on their ancestral lands. The VFV Law has become the biggest challenge for these ethnic people because the amendment labels their farmland as “wastelands”. Analysts also believe that this recent land reform will also disturb the peace process because the ethnic armed organizations tend to emphasize the resource sharing and land use in the initial peace talk. Land laws in Myanmar are in conflict with customary practice, because individual landowners are concerned about losing their ancestors’ land and local activists are concerned about the state’s undermining of indigenous practice in land use (Liu 2019). During the military government, there was no way of claiming back their confiscated land. The same situation is still occurring during the political transition period. Although many people have been aware of having rights to claim their confiscated land, the recent land reforms are not helpful for the minorities who depend on undocumented or ancestors’ land. Therefore, non-government organizations such as Land in Our Hand (LIOH) and MATA led the campaign together with 346 civil organizations in order to abolish the amendment VFV land management law (LIOH & MATA 2018). The government’s implementation progress for VFV land registration seems to delay for moment that the effect of public statements.

Land-related issues are very complex in different ways over decades in Myanmar. Many land-related issues have been raised between the state and the ethnic people during the peace process throughout the political transition. The state has also reformed new land-related laws which have become the challenge for the ethnic, indigenous people, IDPs and returning refugees during the peace processes. Under the mechanisms of access, the state enacted two new land laws: the VFV land management law and Farmland Law can be understood as the fundamental rights of people to own lands and as a tool to address the issues of access to land or resources which aiming by the government. In such case, new policies defined by law and convention under the single government shape who can own, control and maintain access the land. On the other hand, the peace process assumes the structural-relational approach through bundle of power to get benefit from things among people or different actors. Thus, the rights-based and structural relational

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approaches can help to understand the interaction between peace process and land related challenges.

Hence by employing the mechanisms of *rights-based approached* and *structural relational approach* under the theory of access, this research aims to look the interrelations between the role of state and the local people. As such, this study explores the state's control over access to land, which can constrain people's livelihood and human security.

**2.6 Conceptual Framework**

In order to understand the IDPs' human security in terms of access to land during the political transition, three concepts: political transition, human security and theory of access, are utilized. These three concepts enable the analysis of the development of political transition, the implication of state predominance in the IDPs' access back to their original lands and its impact on the IDPs' human security.

First, political transition is used to conceptualize the process of political changes in Myanmar. The idea of political transition is the shift of one political condition to another state of political condition which may lead to the emergence of democratic consolidation. The concept of political transition provides the means to identify the root cause of conflicts, factors to change the political landscapes, different actors' engagement in the political transition and its consequences.

Second, the concept of human security guides the understanding of how political transition brings the human security in Myanmar. Human security concept helps analyze the role of the state and non-state actors during the political transition and whether state or non-state actors provide securities or threats to its citizens. This chapter argues that although political transition may bring human security in the national level of Myanmar, political transition actually brings human insecurities to people including the targeted analysis object, the IDPs in Karenni State. According to critical security, the main reason is state' predominant role in human security agenda.

Thirdly, the theory of access is utilized. This theory demonstrates that the land is essential to the Karenni IDP's resettlement livelihood. Moreover, this theory can discover and explore the state actor's predominant role in land reforms in Myanmar and how the predominant role affects the Karenni IDP's resettlement and return as well as their

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livelihood security. Figure 3.1 demonstrates the interrelationship of three concepts specifically in the current peace process and Karenni IDP situation in Myanmar.

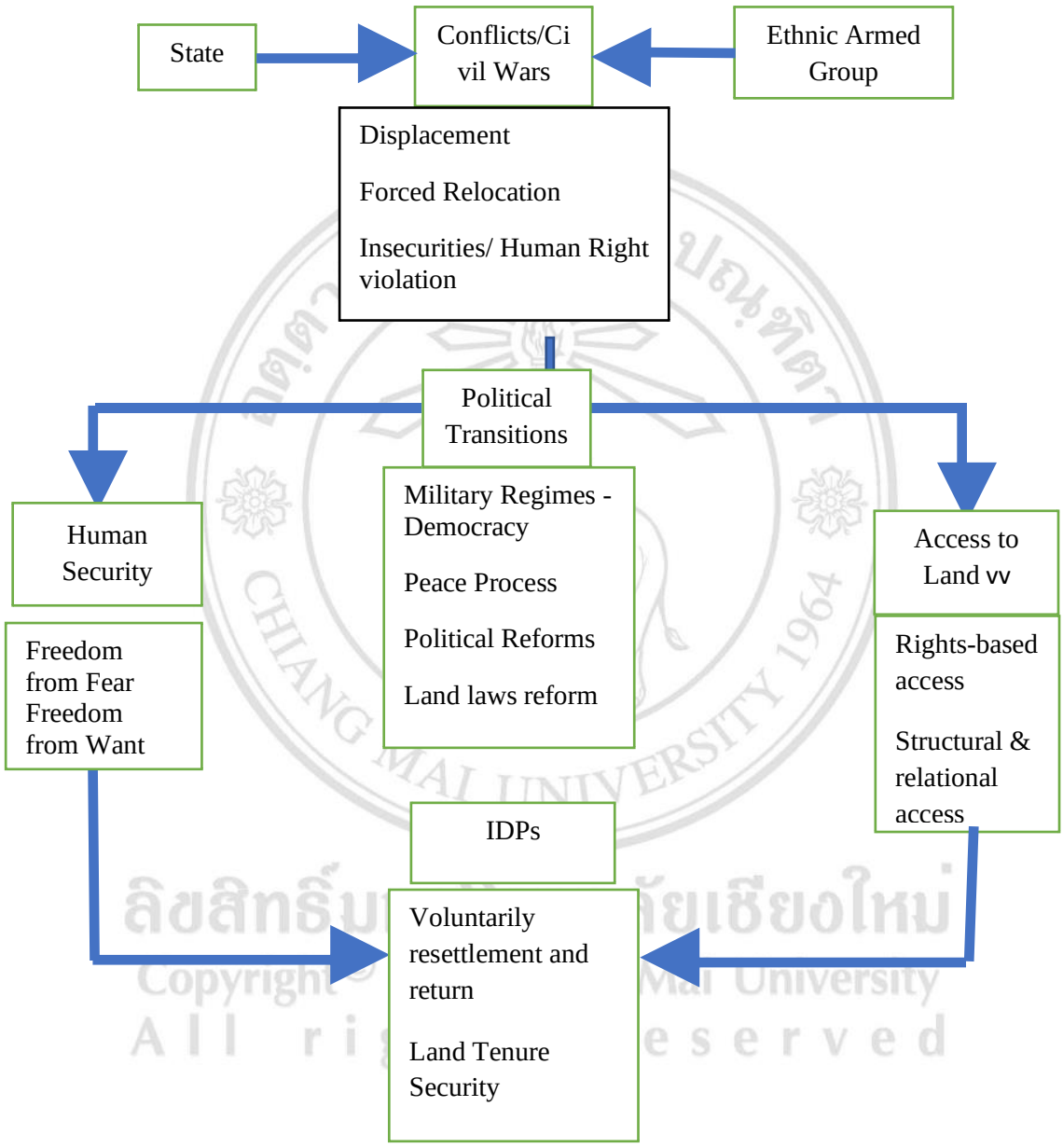



Figure 2.1 Conceptual Framework of Karenni IDPs' Voluntarily Resettlement and Return During the Political Transition

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# Chapter Three

# The Impacts of Myanmar Peace Process on Karenni IDPs

## 3.1 Introduction

This chapter investigates how Myanmar's peacebuilding process has impacted on Karenni IDP's voluntarily resettlement and return. It begins with the history of Myanmar's conflicts in order to understand cause and effect of the ethnic conflicts as well as to perceive the flow of IDPs in consequence of the conflicts. The peacebuilding process is then discussed to lend understanding of the complexity of the double political transitions of transition from the dictatorship regime to democracy which led to the peace process. This is followed by discussion of the peace process deadlock including the factors which limit the peace process to reflect to the local level. The chapter concludes that the limitation is the central government's predomination in the peace process and this predominated role has negatively impacted on the IDPs issue.

## 3.2 The Emergence of Ethnic Armed Conflicts

The Union of Burma/Myanmar has suffered long standing civil war since its independence in 1948. The 1947 Panglong Agreement was the commitment for the formation of Union of Burma which was formed by the Burma proper and the frontier areas including Kachin Hills, Chin Hills, Shan States and the Karenni Independent State. A significant factor of the Panglong Agreement was the granting of full autonomy and equality to the frontier areas. However, the failure to honor the Panglong Agreement by successive Burma led central governments resulted in the longstanding civil war across the entire country (Kipgen 2010).

During the colonial era, the British created two administrative divisions: the central lowlands of "Burma Proper", and mountainous areas referred to as "Frontier Areas" which include Chin, Kachin and Shan States. The Shan princes organized the first Panglong Conference in Panglong town, Shan State in March 1946. The purpose of the

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conference was to discuss the political agenda regarding to the future status of the Frontier areas after independence. The conference invited the leaders of Frontier Areas from Shan, Kachin, Chin and Karen States. Independent Karenni State was as an observer in the conference. In December 1946, General Aung San went to London to propose joint independence for Burma Proper and the Frontier Areas. Consequently, the Aung San-Attlee Agreement came out with the consent and acceptance of unification between the Frontier Areas and Ministerial Burma (Sakhong 2014).

Upon his return, Aung San convened the second Panglong Conference in February 1947. At that time, he persuaded leaders of the Frontier Area to sign the Panglong Agreement to form a new united country called Union of Burma. General Aung San promised the Frontier leaders, "If Burma receives one kyat, you will also get one kyat" (Smith 1999: 79). This commitment guaranteed the Frontier Areas to have equal rights. In principle, the Panglong Agreement assures full autonomy for internal administration in the Frontier Areas as the exchange of their acceptance of a one country – the Union of Burma. Therefore, twenty-three representatives from Shan, Kachin and Chin states agreed to cooperate with the Burma government to gain independence from the British government (Smith 1999; South 2008). However, Karen leaders boycotted the Panglong Agreement as they felt the agreement excluded some ethnic nationalities including Arakanese and Mon. This was one of the main reasons which led to civil war within a year of independence in 1948 initiated by Karen National Union (KNU) with the goal to gain sovereignty of Karen State independent of the Union of Burma (South 2008).

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### 3.3 Independent Karenni State

Unlike other Frontier areas, Karenni State was as an independent state, separately ruled by their own king Sawbwa (Saopha) before and after British colonisation. Karenni State has three parts including Kantarawadi forming Eastern Karenni, and Kyebogy and Bawlakhe forming Western Karenni which was ruled by Sawbwa and Myosa. Since 1875, the British government and the Burmese King agreed to recognize their independence,

> "It is hereby agreed between the British and Burmese Governments that the State of Western Karenni shall remain separate and independent, and that no sovereignty or governing authority of any description shall be

claimed or exercised over that State." (Frontier Areas Committee of Enquiry 1947).

Karenni themselves formed as the United Karenni Independent State Council in 1946. Karenni was invited to attend the Panglong Conference as an observer when the Burma government and the other Frontier Areas attempted to gain independence. However, after Burma's independence, the Burmese government forced Karenni to become part of Union of Burma. According to the Burma's 1947 Constitution, the Karenni State eventually compromised to join as one of the ethnic states in the new Union of Burma on condition of being granted the right of secession after ten years along with the Kachin and Shan States in respect of their historic independence (The Government of Burma 1947).

### 3.4 The Failure of Panglong Agreement and Its Cause of More Conflicts

Following the assassination of General Aung San in July 1947, his envisaged future of Union of Burma faded as successive Burmese leaders misused Aung San's promises in the Panglong Agreement. The subsequent 1947 Constitution witnessed the lack of equal rights for ethnic minorities including the Panglong Agreement signatory groups. Chin, Kachin, Shan and other ethnics were coerced to become members of the Union of Burma in order to form a modern "nation-state" in the form of a Federal Union in Burma/Myanmar. The ethnic nationalities preferred the "nation-state", that is "the nations coming together to build a state or a Union with the purpose of sharing and ruling the Union together; while maintaining the right of internal self-determination and the autonomous status of their respective nations and homelands with the purpose of self-rule" (Sakhong 2014). Thus, the ethnic nationalities prefer the nation-building with the notion of multi-religious, multi-language and multi-ethnicity, which is the federal democracy without assimilation.

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However, Burman successive Union governments first led by the Prime Minister, U Nu implemented the misconception of "nation-building". U Nu implemented the concept of "nation-building" with the notion of "one ethnicity, one language, one religion" also known as "Burmanization" by forced assimilation. Since then, the ethnic nationalities with multi-religious, multi-cultural and multi-languages have struggled for recognition of their ethnic identity, leading to many decades of civil conflict (Sakhong 2014).

In addition, U Nu adopted the Buddhism as the state religion of the Union of Burma which further violated the Panglong Agreement. This violation has created tension among Christian and Muslim communities. Many ethnic minorities in the frontier areas have embraced the Christian religion since the colonial era when foreign missionaries set up their missions. Subsequently, Kachin ethnic leaders took up arms in response to the pan-Burman policy forming the Kachin Independence Army (KIA) in 1961 (Sakhong 2014). Kramer (2010) expanded,

> "the main grievances of ethnic minority groups in Burma are the lack of influence in the political decision-making process, the absence of economic and social development in the ethnic areas, and what they see as the government's Burmanization policy which led repression of their cultural rights and religious freedom" (p. 68).

The situation worsened when General Ne Win seized power in a military coup d'etat in 1962 in response to the ethnic leaders' preparation to counter the 1947 Constitution which was made in violation of the Panglong Agreement. After Ne Win seized power, he adopted the one-party system by forming the Burma Socialist Programme Party (BSPP). Ethnic grievances and aspirations increased after Ne Win came to power and created a one-party state (Sakhong 2014).

Ne Win's Burma-centric policy manifested in different areas. First, Ne Win promoted the Burmese language as the only official language and eliminated the minority's language rights under the motto of "one voice, one blood and one nation" to force ethnic assimilation. Moreover, he promulgated the 1962 Printers and Publishers Registration Law and the 1965 Censor Law that banned the publications of ethnic language, not only in school curricula and teaching materials, but also in the publishing of newspapers and other books (Sakhong 2012). Kramer recorded that Ne Win's policy of expanding the construction of Buddhist temples in ethnic minority areas was specifically aimed to destruct ethnic minority cultures and the religions they practiced (Kramer 2010). Thus, the grievances of the ethnic nationalities increased in tension under the Ne Win's regime, resulting in heightened armed conflicts between ethnic states and the Burmese government.

As the civil war was intense and impacted widely across the country, two major opposition alliances emerged; the National Democratic Front (NDF) set up by the ethnic

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armed groups in 1976, and the Communist Party of Burma (CPB), supported by China. The ethnic alliance of the NDF included the Karen National Union (KNU), New Mon State Party (NMSP), Karenni National Progressive Party (KNPP), Shan State Army (SSA), the Kachin Independence Organization and other small groups in Shan State embraced a pro-West and anti-communist policy. In the late 1980s, "all the territories along the Thai border was under the de-facto control of the NDF's Mon, Karen, Karenni and Shan States." (Kramer 2010: 57). Simultaneously, the relation between the Burmese government and China worsened because of the anti-Chinese riots by the Ne Win government in 1967. As the consequence, the CPB troops, fully supported by China, invaded northern Shan State to make alliances with local ethnic Kokang, Wa and Shan leaders for political control. By the end of the 1980s, ethnic armed opposition groups controlled almost all border regions (Kramer 2010).

In 1988, the student uprising upheaved to advocate the democracy, but this was brutally quashed by the Tatmadaw with thousands killed and many more arrested. More than 10,000 students and political activists fled to the jungle to NDF controlled areas during the military crackdown that followed. Those who fled set up new organizations including the Democratic Alliance of Burma which also consisted members of the NDF. Later these political exile groups formed the National Council of the Union of Burma which included the National Coalition Government of the Union of Burma in 1992 (Holliday 2010).

Following the student uprising, the Tatmadaw broke down the BSPP and formed the State Law and Order Restoration Council (SLORC) as a formal military junta (Holliday 2010). In 1989, fifteen ethnic armed groups signed the ceasefire agreements with the military government under the SLORC regime, however, fighting continued unabated with the remaining ethnic armed groups (Kramer 2010: 59). As the result, some ethnic minority political parties emerged to participate in 1990 elections. However, the ceasefire agreement did not bring the ethnic armed groups to the political agreements, rather it "led to space for many illegal activities including drug trafficking, illegal logging and other black-market trading, gambling and human trafficking" (Kramer 2010: 59). This result exacerbated the already insecure livelihoods for the local people.

In 1990, the military junta held the general election which unexpectedly was won by the National League for Democracy Party (NLD) in a landslide victory. However, the

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milestone of the democracy movement was short lived because the military government rejected the election result. Instead of power transfer, under orders of General Ne Win, the SLORC arrested the leader, Daw Aung San Suu Kyi, and many party members of the NLD. Some were killed; many more, imprisoned without trial for decades. Moreover, the SLORC announced to hold the National Convention in 1992 to create a new Constitution. In response to the announcement, the exiled National Council of the Union of Burma (NCUB) and the Ethnic Nationalities Council (ENC) proposed statements to include in the new constitution (Holliday 2010: 37). The NCUB proposed a clear priority election, to engage the SLORC in a pact transition, to demand a rapid restoration of liberal freedoms prior to democratization and to insist on institutional safeguards for all major ethnic groups. The ENC proposed that the constitution should "establish a genuine Federal Union of Burma based on the principles of the Panglong Agreement" (Holliday 2010: 36). These proposals were completely rejected, and the military junta drew a new constitution to reinforce their own benefits and power. In addition, the military junta changed the name of its ruling party SLORC to State Peace and Development Council (SPDC) in 1997 in order to avoid the international sanctions and for their own interests (Aung Zaw 1997).

In 2008, the military government held the National Referendum to adopt the Constitution they had been drafting for fifteen years. The military government announced that the referendum was approved by the 92.4 per cent of the twenty-two million eligible voters (Sakhong 2012). However, Human Rights Watch reported that the referendum was not free and fair and unrepresented the people's will because the ruling party SPDC restricted the public discussion and debate on constitution draft and many ethnic populated areas were excluded from the vote (Human Rights Watch 2008). According to the 2008 Constitution, the military takes 25% of the seats in the parliament with no elected process. Furthermore, the military would take the leading roles in the national politics that they dominate and control the main important branches of political power especially in the National Defence and Security Council, legislative, executive and judiciary power (Sakhong 2012). The 2008 Constitution remains a principal stumbling block to address the main grievances and aspirations of the ethnic opposition groups.

Apart from the 2008 Constitution, the militarization in the ethnic areas is one of the factors to increase tensions between the Tatmadaw and the EAOs. Since 1980s, the

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Tatmadaw's militarization in the ethnic areas increased to fight the ethnic resistance groups. However, Tatmadaw's new strategy of militarization was deployed from 1989 to 1996 that negotiated the ceasefire agreements with the EAOs (Fink 2008). The military government turned those ceasefire EAOs into the Border Guard Force (BGF) or local militias under the military regime's control. Moreover, the military government reformed the BGF's structure that included thirty-five members of the Tatmadaw members which integrated the ceasefire EAOs into Myanmar's military structure. As a result, the BGF and local militias under the control of the Tatmadaw extracted the natural resources from ethnic areas and controlled the border economics including legal and illegal that sought the Tatmadaw's own benefits and interests (Fink 2008; Kramer 2010).

### 3.5 Widespread of Internally Displaced Persons (IDPs) in Myanmar

Many scholars have discussed migration in different dimensions. King et al., (2010) demonstrates that today's human mobility and forced migration have become increasingly globalized and politicized that cause diverse socially and demographically forms of mobility and reasons for moving. There are several forms of human mobility with different reasons. Among them, they explore about the refugees and the displaced persons that reflect as irregular migration, which is one of the most concern that lead to loss of life during displacement and lack of protection and humanitarian assistance (King et al. 2010). Grundy-Warr & Yin (2012) also specify the reason of irregular migration for refugee and displaced person as being forced by the political, economic and military, which have driven inhabitants out of their homes. Hence, forced migration is, with the aim to get economic or political benefits, the process of one or more powerful groups deliberately forcing the powerless groups to leave their original place. The following discusses the situation of Myanmar's IDPs.

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Ashley South (2008) classifies three types of forced migration or displacement in Myanmar. The first type is *armed conflict-induced displacement*. This type means that people's human and food security are heavily impacted by the fighting and counter-insurgency operation exemplified armed conflicts in the ethnic minority areas such as Karen State, Tenasserim Division, Mon State, Shan State, Karenni State, Chin State and Sagaing Division. The second type is *state-society conflict induced displacement*. This type refers to land confiscation by the Tatmadaw and other armed groups in order to

extract the natural resources, large-scale and small-scale infrastructure, development projects usually related to use forced, especially in the ethnic areas along the borders. For example, the central government has extracted natural resources from the ethnic states including the timber, jade, gold, rubies, gas and oil, and took benefits from selling them abroad (TBC 2006). Apart from this, the previous military government created several projects with foreign companies, which have affected the environment and lacked benefits for the local people in ethnic areas, exemplified by Yadana's pipelines and the Myintsone Dam in Kachin State (Kramer 2010). Hence, the local people in those project areas, especially, the ethnic minorities have suffered the negative consequences such as environmental degradation and several kinds of pollution. What is more, those programs have caused land confiscation followed by the result of forced displacement (TBC 2006). *Livelihoods Vulnerability-Induced Displacement* is the third type of forced migration, which refers to the form of internal and external migration or economic migration. The root causes are "inappropriate government policies and practices, limited availability of productive lands, poor access to markets, food insecurity, lack of education and health service" (South 2008: 80).

Since the early 1990s, conflicts, ethnic strife and human rights violations in Myanmar have created mass refugees and IDPs (Jolliffe 2014). Many of those who have fled their homeland have ended up in refugee camps with a disproportionate involvement of economically disadvantaged members of ethnic minority groups. Some have also remained within their countries' territories, which are close to their original place or the jungle as well as along the border (King et al. 2010). Basically, refugees and IDPs are treated differently by international community and the governments. Refugees are provided protection and humanitarian assistance by international organizations and the governments of receiving countries (Kalin 2014) but IDPs have been largely ignored including their security concerns and basic needs (Jolliffe 2014).

In 1996, the Tatmadaw forcibly ordered more than 3,700 villages in eastern Myanmar to relocate after the ceasefire agreement was broken between the EAOs and the military government (TBC 2012). During the active fighting, the displaced persons from Burma can be categorized as long-term displacement for decades because individual or family or community used to live in one place and fled to another place and return to original place or resettle to other places. The number of IDPs since 2005 in eastern

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Myanmar number approximately one million. Some lived in the 176 government-controlled relocation sites; others forged out an existence in jungle areas or moved across to the refugee camps on the Thai side of the border (South 2008: 83-84).

Kalin (2014) identifies that those IDPs who have been forcibly uprooted by conflict, persecution, natural disasters and development projects have experienced vulnerabilities and lack of humanitarian assistance such as high risk of malnutrition, children recruited into armed forces or non-state armed groups, gender-based violence, being excluded to access education, inadequate livelihood opportunities. Moreover, they have faced lack of shelter and lack of food security in terms of limited access to land and cut off from their normal incomes that lead to serious health risks such as HIV/AIDS infection and higher rates of prostitution and sexual exploitation among displaced women and girls in order to secure food. What is more, many IDPs' access to health care, education, and other government services are denied (Mooney 2005). TBC (2005) analyses that lack of documentation results in legal insecurity for IDPs and conflict affected people because documents are indicators of legal status of being citizens for individual, land use, local travel, access education, health care services (pp. 44-45). In Myanmar, since the mid-1990s, cross-border aid has engaged in human rights documentation and advocacy work and provided the capacity building for the IDPs (South 2008). In addition, International aid agencies, civil society actors, CBOs and ethnic organizations such as Karen Office of Relief and Development (KORD), mostly based outside the country, have provided aids to the IDPs. However, those cross-border or international aids are unable to reach to all those thousands of vulnerable IDPs who hide in the jungle and who were displaced back-and-forth. The reason is that the military government restricted to those areas as the security reasons and intentionally cut off with the international agency. Therefore, many IDPs could not access the humanitarian assistance and protection (South & Jolliffe 2015).

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### 3.6 Displacement in Karenni State

Ashley South's three types of forced migration in Myanmar enable an analysis of the displacement situations in Karenni State. Firstly, an example of state-induced conflict displacement is mass displacement in Karenni State due to the government-initiated development project under the BSPP regime around the 1960s. Lawpita hydropower

project was the large-scale development project in Myanmar which generated the largest electricity power source for central Myanmar. Lawpita hydropower plant built in 1954 as a war reparation agreement after the Second World War by the Japanese government. In the 1960s, after the power plant generated, the BSPP government restricted the zones around the hydropower plant. The military government confiscated land from approximately 400 residents (80 households) of Lawpita village tract in order to build the Infantry Battalion 72 for the security of hydropower plant. Moreover, the military government brought migrant workers from central Burma and allocated the local people's farmland for the migrant's accommodation. Thus, the villagers were displaced and lost their farmlands, livestock and livelihoods without compensation. In 1962, the BSPP government constructed the Mobyae Dam as the reservoir to the Lawpita hydropower plant. The military government confiscated lands again from around 8,000 families for the water reservoir without compensation and without resettlement areas. Apart from land confiscated, the military forced the civilians to serve for the military including laying landmines around the hydropower plant and carry the military equipment as well as committed also the sexual violence and the human rights abused. Consequently, the villagers lost their land and became displaced negatively impacting their livelihood security. Moreover, the military restricted the flow of water due to the water reservoir for Moebyae Dam that caused water shortage, not only for drinking, but also for their farmlands (KDRG 2006). Thus, the consequences of the development projects became the threat for the local villagers including unable to access the land, water shortage, displacement and even excluded to access the electricity.

Secondly, a prime example of Livelihoods Vulnerability Induced Displacement, also encompassing Armed Conflict displacement, is the mass displacement in Karenni and other ethnic States caused by the "Four Cuts" Counterinsurgency Tactics. Since the 1960s, the military government deployed the 'four cuts' tactics to the whole of Eastern Burma including Karenni State. The "Four Cuts" was the rigorous strategy implemented by General Ne Win in 1963 and carried through to 2010, especially intensively applied in the 1980-1990s which entailed cutting alleged links of intelligence, food, money and recruits between armed opposition groups and local civilians. Karenni State had seven townships during that time, and almost all the townships experienced forceful displacement by the Tatmadaw. There were eleven relocation sites in Karenni State under

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the military government including Shadaw, Ywathit, Daw Tama Gyi, Baw La Keh, Daw Tama, Tee Po Kloh, Kay Lia, Mar Kraw She, Maw Chee, Phasaung, and Nwa La Bo (Human Rights Documentation Unit 1998: 200). In March 1992, the Tatmadaw forced to relocate 57 villages, around 8,000 people to the various sites in northwest of Karenni State. As a result of this forced relocation, dozens of IDPs died from malnutrition in the relocation sites, and others were forced to work on the Aungban-Loikaw railway. Some people were also forcibly recruited as soldiers and the soldiers raped the ethnic women (Global IDP 2003).

A third displacement happened when the ceasefire agreement was broken. After long fighting between the Tatmadaw and the KNPP associated with forced displacement, the first ceasefire agreement signed between the KNPP and the military government in 1995. However, three months later, the military violated the agreement and deployed the intensive counterinsurgency tactics that led to another phase of mass displacement again in Karenni State (UNHCR 2014). The TBC (2012) estimated 34,600 Karenni people remained as the IDPs inside Burma, while 11,662 fled to the refugee camps in Ban Mae Nai Soi and Ban Mae Surin, Thailand (TBC 2012). Differently to the refugees who moved to the relative safety of the refugee camps on Thai side of the border, the IDPs remaining behind have embraced in different times with different patterns of displacement. However, their livelihoods become vulnerable after they were forced to displace by the conflict and development induced displacement. Hence, the IDPs have started to adopt different patterns of displacement to escape the human right violation and inhumane situations.

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### 3.7 Overview of Peace Process

After longstanding dictatorship regimes, Myanmar is experiencing the political transitions that began with the 2010 election to transition to a democratic system calling for peace process with ethnic armed organization (EAOs). Details of this were introduced in Chapter One. The following sub-section will delve deeper in this peace process during the former President Thein's era, progressing to the current NLD government, before discussing its relationship with the Karenni State's IDPs.

### 3.7.1 Peace Process Overview under President U Thein Sein

President Thein Sein called for peace talks with EAOs in 2011 with a three-phase peace plan with EAOs: State Level Ceasefire Agreements, Union Level Dialogue, and then signing the agreement in the parliament. In 2012, the government formed two committees for peace making; Union Peace-making Central Committee (UPCC) led by U Thein Sein for making principles and policies and the Union Peace Working Committee (UPWC), led by the Vice President Sai Mauk Kam for implementing policies. Under the U Thein Sein government, among twenty-one EAOs, fourteen EAOs signed the state level bilateral ceasefire agreement and eleven EAOs signed the union level ceasefire agreement (ISDP 2015).

In 2012, the government established the Myanmar Peace Centre (MPC), financially supported by the Norway-led Peace Support Donor Group to accommodate technical assistance with the UPCC and UPWC for the peace process. MPC, led by the Railway Minister U Aung Min, associated with various government and civil society representatives. MPC works on providing policy advice and strategic level guidance in the five sectors: "ceasefire negotiations and implementation, peace negotiations and political dialogue, coordination of assistance in conflict affected areas, outreach and public diplomacy and mine actions" (BNI 2013: 41).

On the other side, the EAOs created the Nationwide Ceasefire Coordination Team (NCCT) in 2013 at the Laiza Conference to negotiate with the UPWC (BNI 2015a). The NCCT members included the United Nationalities Federal Council (UNFC)'s thirteen member organizations and three non-UNFC EAOs. During the Laiza Conference, the NCCT produced a draft proposal for the Nationwide Ceasefire Agreement (NCA). In the meantime, the government's Commission, UPWC, also produced their own proposal to negotiate with the NCCT. Both the NCCT and the UPWC organized several meetings to propose and negotiate their own proposals. Eventually, both sides agreed to combine their two proposals into a single text ceasefire agreement which ultimately became the historic National Ceasefire Agreement (NCA) in 2015 after seven-time meetings and five rounds of drafts. The single text proposal for NCA between the government and the EAOs focuses on long term peace and national reconciliation including "code of conduct, amnesty, resettlement, recognition of ethnic rights, establishment of federal union and socio-economic development" (BNI 2015a: 5).

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Soon after signing the NCA, the EAOs have split into two different groups: NCA Signatory EAOs and NCA non-Signatory EAOs. Before U Thein Sein stepped down from his presidential period, the government held the very first official meeting with the Tatmadaw and the NCA signatory EAOs; the Nationwide Ceasefire Agreement Joint Implementation Coordination Meeting (JICM). The attendants in the first JICM discussed the implementation of the NCA. The government needed to establish the Joint Monitoring Committee (JMC) and Union Political Dialogue Joint Committee (UPDJC) which represented the government, the Tatmadaw and NCA-S EAOs. The roles of JIMC are to monitor the prevention of armed clashes, to be able to draft the Code of Conduct, to enforce the military code of conduct and to resolve conflicts. UPDJC roles are to draft and to approve the Framework for Political Dialogue, to organize the UPC to be breaking the deadlock dialogue including setting up the rules and regulations, analyze the proposals from the UPC and for submitting the Union accord to Pyidaungsu Hluttaw for ratification (BNI 2016: 36-66).

### 3.7.2 Outcomes and Challenges of Peace Process under U Thein Sein government

The peace process under U Thein Sein's government has had both positive outcomes and faced challenges in the national level peace process. Initially, U Thein Sein initiated the bilateral peace process. As a result, fourteen EAOs signed the state level bilateral agreements and eleven EAOs signed the union level agreements among twenty-one EAOs within two years, which implies an improvement in trust relationships between the government and each EAO member to some extent. The Myanmar government promised to improve ethnic rights and demands, to release political prisoners, grant passports to ethnic leaders, and waiver tax in order to forward to the nationwide ceasefire agreement (BNI 2014: 5).

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Soon after state and union level bilateral ceasefire agreements were accomplished, there were several improvements on the ground exemplified by stimulating border economy, decreasing the military activities and human rights abuses. Moreover, the government's Immigration and Population Ministry issued identity cards for many IDPs and began implementation of the resettlement program in collaboration with the EAOs. For instance, KNU, KNPP and RCSS have constructed houses in their respective control areas for the IDPs and refuges to return with the government budgets. Business

concessions to EAOs are also one of the positive outcomes that are important for the sustainability of the EAOs to further the peace process. These concessions have enabled development activities including infrastructure and road building in very remote areas as well as provide social activities to the IDPs and returning refugees, for example, mobile health clinics (BNI 2015a).

Aung Naing Oo (2018), who is a Director of Political Dialogue Department at MPC, analyses that the abilities of negotiators and leaders were very important to demonstrate and build trust with EAOs in the peace process. Many analysts say that U Aung Min's peace work with EAOs under U Thein Sein era was in a progressive manner. Through this work of building trust between the various actors, Aung Min's negotiations, both formal and informal, with the EAOs, led to fourteen bilateral ceasefires within two years. Regarding the MPC structure, the members are former Tatmadaw officers, some former EAOs leaders, exiles and political analysts who are involved as the main players or leaders in the peace process. Consequently, U Thein Sein's peace process was able to access the main negotiators with a wealth of prior experiences and expertise, as well as relations with the EAOs. Apart from these, U Aung Min's tolerant and patient manner was able to take a vital role to understand the ethnic grievances and conducting several formal and informal meetings.

Moreover, the role of international actors in Myanmar's peace process is also important. Myanmar's political reforms have attracted attention from the international actors. High levels of foreign leaders have visited Myanmar declaring support of the peace process, including former political leaders, US President, Bill Clinton and the UK Prime Minister, David Cameron. Consequently, international supports and funding have provided implementation of peace process, humanitarian aids, brokering and mediating the peace talks (BNI 2014: 74). Apart from the international roles, the domestic community-based organizations (CBOs) and civil service organizations (CSOs) roles also have emerged in the peace process that is vital for the engagement between the government and the EAOs in terms of campaigns, reports and trust building activities (BNI 2014).

However, it needs to be realized that the peace process in Myanmar has also encountered challenges. Soon after the NCA's negotiation, the Tatmadaw attacked to the KIA's cadet academy. Moreover, the fighting in Kachin State and Northern Shan State

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has increased. The Tatmadaw attacked to the ceasefire areas where SSA/SSPP's territories and non-ceasefire KIO. As the result, the local people in the conflict areas become IDPs and refugees (TNI 2017). Hence, Tatmadaw's offensive has increased in the Northern part of Myanmar that have caused the distrust and obstacle for the further signing of NCA between the government and the EAOs.

When the NCA was ready to sign, the government invited only fifteen EAOs out of twenty-one. The government refused to recognize six groups including Arakan Army (AA), Arakan National Council (ANC), Lahu Democratic Union (LDU), Myanmar National Democratic Alliance Army (MNDAA), Ta'ang National Liberation Army (TNLA) and the Wa National Organization (WNO) to sign the agreement. This worsened the trust building between the government and EAOs. Due to this exclusion, some EAOs were also reluctant to sign the NCA. As a result, only eight EAOs out of 15 invited organizations signed the NCA with the U Thein Sein government on 15 October 2015, months before the President Thein Sein's tenure expired. Moreover, the additional reasons for those EAOs not to sign the NCA are that the Tatmadaw continues to expand its influence in ethnic areas, especially in Northern part of Myanmar (BNI 2019a).

### 3.7.3 Peace Process Overview under the NLD government

The NLD government changed the structure of peace process and the political dialogue framework under its administration. As soon as the NLD took power in 2016, the former MPC was reformed into the National Reconciliation and Peace Centre (NRPC) led by State Counsellor Daw Aung San Suu Kyi. The Peace Commission (PC) was also formed in July 2016 as a working committee including the six committee members, technical advisors and four supporting committee members. Daw Aung San Suu Kyi changed the named Union Peace Conference (UPC) into Union Peace Conference 21 Panglong. The rationale behind this change is to evoke the Panglong Spirit which refers to the 1947 Panglong Agreement to form a federal union and emphasizing on national reconciliation (BNI 2016).

The NLD government's peace model struggles in dealing with two different EAOs groups: the EAO signatories, and the EAO non-signatory. In 2016, the government formed two sub-committees, numbered One and Two, under the PC to continue the peace process with both signatory and non-signatory EAO groups. Sub-committee One is to

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negotiate with NCA-Signatory EAOs in order to review the political framework under the name of 21st Panglong Union Peace Conference. The NCA-Signatory EAOs formed the Peace Process Steering Team (PPST) in March 2016 led by the KNU Chairman General Mutu Say Poe in order to prepare the 21st Century Panglong Conference and draft the Framework for Political Dialogue in corporation with the JICM, JMC and UPDJC. The political dialogue covers the political, economic, social, land and environment and security sectors (BNI 2019a).

The role of Sub-committee Two is to negotiate with the NCA non-Signatory EAOs in order to gain agreement to sign the NCA. The NCA non-Signatory EAOs have two different groups. The first group includes those who have signed the bilateral ceasefire with the previous government, while the second group has not signed any agreements. Later these EAOs created the Federal Political Negotiation Consultative Committee (FPNCC) in order to discuss the multilateral ceasefire agreement with the government's Sub-committee Two. Among the remaining NCA non-Signatory EAOs, some EAOs have different reasons not to sign the NCA and some EAOs even were not invited to sign the NCA by the government. For example, the perspectives from the UWSA and NDAA are that they want to propose the new NCA version because they did not participate in the current NCA negotiating process and clauses. Moreover, they consider that the NCA lacks inclusion and unrecognition of the political rights for all ethnic nationalities, which lead to unproductive result and failure for good political transformation. That is why the UWSA led to form the FPNCC in 2017 which consists of seven EAOs to develop a new version of NCA. However, the government does not allow amending the NCA and makes it clear that the NCA in its current format is the only channel for political dialogue (ISDP 2015). Apart from FPNCC members, NMSP and LDU signed the NCA in 2018 under the NLD government, leaving only two, the KNPP and ANC, as original UNFC members to still sign. Of these two, the Tatmadaw refuses to recognize the ANC as an armed force and demands their disarmament, demobilization, and reintegration (DDR) (Kumbun 2018). The KNPP has pursued its own way to continue negotiating the peace process. At the time of writing, the UNFC is suspended from the peace process now that the majority of the UNFC members have signed the NCA (BNI 2019a).

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### 3.7.4 Outcomes or Challenges of Peace Process under the NLD Government

The NLD government's roadmap to peace process prioritizes amendments to the flawed 2008 Constitution through the extra-parliament process, also referred to as the Peace Accord. The Union Peace Conference (UPC) is one of the elements of the political dialogue established through the NCA under U Thein Sein. The very first UPC held in 2016 before U Thein Sein stepped down. Under the NLD government, the government has held the 21st Century Panglong-UPC thrice. According to the NCA, conference dialogue has been based on five sector issues: political, security, economic, social, land and environment. At the time of writing, there are fifty-one points of agreement in the Union Accord from the second and third 21st Century Panglong-UPC. However, these agreements have not covered deeply about the political agenda based on the federal principles. For instance, two conferences failed to bring any agreement on the security sectors. Thus, some EAOs representatives have expressed their disagreements and dissatisfaction because the conferences only focused on the government's reputation from international and Myanmar people instead of tangible results (Sai Wansai 2018).

After the third conference in July 2018, the peace process has become deadlocked for several reasons. The new NRPC members lack experience as negotiators. The decisions are made top-down because of the organizational structure or hierarchy of the government, which delay the decision process between the NRPC and EAOs (TNI 2017). A key informant shared that the biggest challenge under the NLD government in the peace process is lack of trust between tripartite actors: the government and EAOs, the EAOs and the Tatmadaw, Tatmadaw and the government (interview with advisor from NRPC, M, 7/05/2019). Moreover, the members in the current peace process from the NLD government have inadequate capacity to build the trust and human resources that further exacerbating the deadlock of peace process. Apart from this, misunderstanding and misconception on the federal system between the EAOs and the Tatmadaw is also at deadlock on the current peace negotiation. When compared with the U Thein Sein government, the government and the Tatmadaw was one party that the same ideas/perspectives and same decision that resulted in speed and fluency in the peace process (interview with technical support from the NRPC, M, 6/05/2019).

The military's role in the peace process prominently influencing joint committees and their decision-making roles are also major factors for the deadlock of the peace

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process. The future structure of Myanmar military in the 21st Century Panglong-UPC, especially related to security sector reform, is the significant factor bogged down in disagreement and blocking any further negotiation of the different perspectives of the federal system (BNI 2019a). The EAOs are demanding the formation of a "federal army" which would allow the EAOs to retain their respective armed forces. However, the military demands to be only a single army or one national army under the federal union government. The Tatmadaw repeatedly demands only the DDR strategy "disarmament, demobilization and reintegration" of the EAOs (Kipgen 2017).

Though the NLD government initiated the 21st Panglong Conference, it has failed to persuade the non-signatory EAOs to sign the NCA. What is more, clashes between Tatmadaw and NCA non-Signatory EAOs in Northern Myanmar have increased in ferocity since early 2019. Clashes between Tatmadaw and NCA-Signatory EAOs including KNU and RCSS/SSA have also occurred, further broadening the schism of the lack of trust on the NCA. At the time of writing, intensive fighting between AA and the Tatmadaw is resulting in gross human rights abuses and rising numbers of IDPs in Rakhine State. The Tatmadaw's uncontrolled, unabated military campaigns across many ethnic areas in Myanmar signally are causing the ongoing deadlock in the peace process. The government continues its path to try and force the remaining non-signatory groups to sign the NCA; by their stance, the only way to proceed to political dialogue. In turn, these EAOs state Tatmadaw must desist and withdraw from all armed campaigns in the ethnic areas; hence, a standoff with no resolution in sight at the time of writing.

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### 3.8 Overview of the Peace Process between the KNPP and the government

The KNPP is one of the longstanding armed organizations in Myanmar to regain the self-determination and equal rights for Karenni people. After sixty years of fighting with the Myanmar Tatmadaw, KNPP signed bilateral ceasefire agreements at both state and union levels in 2012 under the U Thein Sein government. An earlier ceasefire agreement was broken when the Tatmadaw violated during the SLORC/SPDC era in 1995. KNPP is one of the UNFC members taking a leading role throughout the discussions to draft the NCA (Myanmar Peace Monitor n.d). However, the KNPP decided not to sign the NCA when it was ready to sign due to the Tatmadaw's exclusion of some EAOs, and the bilateral ceasefire broken with the KIA in Kachin State that lost trust in

the semi-civilian government. Thus, the KNPP is one of the EAOs that remain to sign the NCA as UNFC member before the UNFC was suspended from the peace process (Kumbun 2018).

Even so, with the NLD government, the KNPP continues to strive for peace through the Delegation for Political Negotiation (DPN), which was formed to represent the non-signatory EAOs under UNFC. DPN brought a nine-point proposal to the government's Peace Commission (PC) whose function is to carry out the negotiation process with both the non-signatory and signatory groups. However, the negotiation did not go as well as they expected. This has resulted in the division of UNFC when its two members NMSP and LDU opted to sign NCA with the NLD government. At that time, the KNPP also considered signing the NCA. However, the KNPP faced another deadlock as the Myanmar Tatmadaw killed three KNPP soldiers and one civilian in Karenni State on December 20, 2017 (Kumbum 2018). The Karenni Civil Society Network (KCSN) condemned the government that this incident impeded the peace process. The KCSN is a global Karenni network organization that includes CBOs, CSOs from both inside Burma and international Karenni communities (KCSN 2018).

After the killing incident, the NLD government and the KNPP agreed to create a mechanism to continue negotiations in order to guarantee sustainable peace in the regional level before signing the NCA. Nevertheless, several deadlocks and challenges between the KNPP and the NLD government have occurred to become obstacles the peace process. The biggest obstacle between them is different perspectives on the notion of peace process. The NLD government only gave one option to the KNPP, which is to sign the NCA. However, the KNPP's perspective is to negotiate the interim arrangement and implement the bilateral agreements first before signing the NCA that will help to trust-building (interview with the KNPP, M, 4/05/2019). The only thing that both sides have agreed is to hold regular monthly meetings between the local government and the KNPP in order to solve and discuss about the issues of the regional peace, development cooperation, health and education sectors in the state level. They also agree to work towards implementation of the bilateral agreements during the regular meetings and create local monitoring team, re-establish liaison offices and negotiate on troop movements (Nyein Nyein 2018). However, the monthly meetings between the state government and the KNPP do not go well because the state government does not have

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the decision-making authority. Moreover, the military's redeployment in the KNPP's controlled areas has resulted in emerging small clashes between the military and the KNPP that are an ongoing obstacle to signing the NCA (Nyein Nyein 2019a).

Apart from the different perspectives of both sides, lack of capacities and abilities of peace negotiators are deadlocking the peace process. A key informant from NRPC explained one of the challenges is less capacity to negotiate the agreements that reduce the trust between the NLD government, Tatmadaw and the KNPP. Lack of trust has made the peace process delay and produce disagreeable results. The key informant explained that "the new peace negotiators from the government side are less ability and lack of experiences to handle to negotiate with the EAOs that reduce the trust among them (interview with advisor from the NRPC, M, 7/05/2019). Moreover, the KNPP has to negotiate with both the NLD government and the Tatmadaw, which has made the KNPP aimless and finally have unproductive results (interview with technical advisor from the KNPP, M, 4/05/2019). Moreover, the government cancelled the informal meeting with the KNPP in May 2018 which was proposed by the PC without giving any reason. This has also affected to trust-building during the peace process according to analysts (BNI 2018).

Lack of implementation of the bilateral ceasefire agreement in Karenni State is one of the challenges to continue the peace process. There were six formal meetings based on the bilateral agreements between the KNPP and the previous government since 2012. They mainly discussed development, IDPs and refugees' issues, anti-mining and demining, political dialogue and military issues. Even though both sides initiated the meetings to discuss the above-mentioned issues, both sides have no actual action to implement the issues. A key informant from the technical advisor of KNPP said,

> "The bilateral agreements have become general that there was no exactly respectful meaning about the agreement and no responsibilities on the agreement. Moreover, both sides even agreed to cooperate to conduct the development projects, but they did not have any mechanism that is related to negotiation process and committee to implement" (interview with technical advisor from the KNPP, M, 30/04/2019).

Other factors also weaken the peace process. The first is Tatmadaw's behavior in regional level. Since the KNPP have signed the bilateral agreement, the first skirmish

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occurred in Hpa Saung Township in 2018 when the Tatmadaw moved into the KNPP controlled area without notification, in direct violation of one of the bilateral agreements whereby both sides have to inform for every armed movements three days in advance. Moreover, the Tatmadaw still involves in exploitation of natural resources by logging and mining in Karenni State while the NLD government and the KNPP are seeking peace. In 2017, the KNPP troops exposed the Tatmadaw's illegal timber logging that resulted in three KNPP soldiers and one civilian shot dead by the military.[3] Additionally, Tatmadaw camps in Karenni State have increased since General Min Aung Hlaing, commander-in chief announced the unilateral ceasefire in five regional command areas in 2018. The Tatmadaw has built battalion camps twice in 2018 and three times in 2019 near several villages. The village headmen and the villagers expressed their concerns in writing to the administrators concerning the Tatmadaw's movements without notification (KCSN 2019).

The second is the current Kayah State Government's action against the local people's voice (interview with CSOs staff, M, 30/05/2019). In June 2018, the state government proposed to build General Aung San's statue in the public area. Karenni youth groups sent an open letter demanding to postpone the plan, because the peace process is still ongoing. Karenni people are concerned that the history of the statue can diminish the Karenni's history. The Karenni people intend to protect their own history, literature, culture and language. That is why they organized a letter campaign describing the history, and to demand the Aung San's promise of autonomy and federalism instead of the statue in public areas. The state government ignored the young people's request and continued the statue project without public consultation. In response to this impasse, a mass demonstration emerged with 5,000 Karenni people to protest to officially remove or relocate the statue from the public area to private areas or the NLD office area. The government cracked down the demonstration by using rubber bullets and water cannon. Twenty-one youths were injured, and some were arrested and charged under unlawful assembly, incitement and defamation (TNI 2019; RFA 2019). Since then, the tension between the state government and Karenni people has increased. The incident remains unsolved even when the NRPC and the KNPP attempted peace negotiation. The KNPP

[3] There was a similar incident which took place in 1995 when the first ceasefire agreement was broken after three months (KCSN, 2018).

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also asserted that the state government's action ignored the Karenni's history and voice of the Karenni people impacts on the mutual respect while the peace-building period (BNI 2019b).

In this way, the peace process under the name of political transition between the government, the military and the KNPP simultaneously brings problems while attempting to build peace. This has also hindered the KNPP to go further in the national level peace. This deadlock continues to negatively impact the local people, IDPs and returning refugees on their livelihood and securities.

### 3.9 Solutions to IDPs

In the bilateral ceasefire agreement process, the KNPP and the government agreed twenty points which include the Pilot Project for resettlement of Karenni IDPs, and landmine clearance where IDPs are supposed to resettle (Myanmar Peace Monitor, n.d). According to this agreement, the local government initiated the IDPs' resettlement project in 2012 and the government built the village with low-price housing only for IDPs in East of Thanlwin (Salween) river in Shadaw Township (interview with technical advisor from the KNPP, M, 30/04/2019).

According to the Kandarawaddy Times—the press that is about "the standard village being built for Karenni IDPs" expresses that the village was constructed with twenty houses (Cited in BNI 2015b). However, the houses can only accommodate three persons and stood alone on the land without access to school, clinic, electricity and water supply. Moreover, there were no proper transportation and infrastructure. The IDPs encountered these and several more challenges when they moved to the standard village as they even did not have the farmlands for their daily survival. Thus, they cut down teak trees to sell for making money and cleared trees for farmlands that were prohibited by the KNPP in terms of concerning for the deforestation and for the newcomers in the future (BNI 2015b). As one of my informants criticized that there was unclear about the number of IDPs who would like to return and there was no one given responsibility for their securities, as well as there was no plan for sustainable solutions for their livelihoods either by the government, the KNPP or UNHCR (interview with the CSO staff, M, 30/04/2019).

During the preliminary research in December 2018, I observed the standard village located in the mountain land. Indeed, the village is far from the city and with no

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proper transportation. The name of the village is Daw Ta Cha. During the war between the KNPP and the Tatmadaw, the Tatmadaw burned the village. Currently, there are around twenty empty houses in the village that are nearly damaged. There are around five men who temporarily stay there as security personnel for the future incomings and to prevent the land grabbing by others. Those five men go and come back to the refugee camps in the Thai-Myanmar border. One interviewee described the situation of the IDPs resettlement in the standard village:

> "Some IDPs and refugees came back and live in Pilot Project area or a standard village after a village had built by the government in 2013. I am not sure the exact number. Now, there are only two or three households left in the village, the rest went back to refugee camps or somewhere because of the killing incident KNPP soldiers" (interview with the peace process technical advisor, M, 30/04/2019).

Another key informant who is a lawyer and who participated in the peace process as a technical support said that the overall discussion on the IDPs resettlement and its implementation is weak as the government does not bring about the IDPs resettlement into practice, and hence the KNPP are also hesitant to go forward. What KNPP's side has done is that the KNPP proposed to reserve the lands in Shadaw Township for the future incomers including IDPs, returning refugees and KNPP's family members (interview with CSO staff, M, 4/05/2019). In this regard, a member of Karenni Parliament added:

> "Even there is no formal IDPs resettlement by the government yet, KNPP and the state government have mutual agreement to preserve the lands and forest areas for future in some areas of Shadaw Township where share the administrative areas. In the case of applying land certificate like form seven (right to use land), no one can easily apply in that areas because both sides agreed to follow the land history and recognize the ancestors' land and customary practices in order to prevent from occupying lands and preserve for the original owners" (interview with MP, M, 26/04/2019).

My fieldwork found that the bilateral level negotiations between the KNPP and the government are doing very little to improve the situation for Karenni IDPs. KNPP has met the NLD government twenty-four times formally and informally at the time of writing. The latest meeting between the DPN and the NRPC was on July 2019 at the time

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of writing. Through the process, the major issues discussed between both sides are about development and social issues in Karenni State, but not IDPs and refugee's resettlement. The main reason is that the KNPP cannot have the political dialogue—the formal channel— at the Union level because the KNPP has not signed the NCA. Therefore, the KNPP is unable to bring the IDPs resettlement issues to the political agenda. However, KNPP remains unwilling to sign the NCA unless the current problems including the issues of KNPP's soldiers' killing are solved, and unless IDPs resettlement and refugee repatriation is guaranteed, and there would be a consideration for political demand (Chit Min Tun 2019).

Meanwhile, there are some attempts for IDPs' solution from the international organizations in Karenni State. Since the series of peace process through bilateral ceasefire agreement has started in 2012, the Myanmar government has requested the Norwegian Foreign Minister to help mobilize international donors to support the peace process. Myanmar Peace Support Initiate (MPSI) is a Norwegian-led international initiative led by a former UN representative. MPSI hired international and local consultants in order to coordinate international support to achieve sustainable ceasefires, to support international engagement with the EAOs, and to support conflict-affected communities and civil society actors on the ground. MPSI also initiated a pilot project in "black areas[4]" where other humanitarian agencies could not reach. Shadaw Township in Karenni State is one of the areas that MPSI initiated a pilot project for IDPs voluntary resettlement supported by the CBOs and donors from Finland. As a result, MPSI helped IDPs resettle safely, issued with identity cards, access basic government's services and hold community consultations and awareness about human rights and democracy. Nevertheless, MPSI also has faced challenges to continue support the peace process, including lack of cohesion, follow-up, long-term commitment funding, weak in operational management and lack of communication strategy (Johnson and Lidauer, 2014).

Karenni IDPs are less beneficial to get assistance and support. More assistance from the international NGOs have been directed to refugee camps located in Thailand. Although there are few assistances from the local CBOs, religious leaders and KNPP, the

[4] Black Area is a place where the government cannot control. It is the KNPP control's areas.



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assistances are inadequate to rebuild their livelihood securities. Therefore, the IDPs have embraced the voluntarily resettlement and return process in order to access the lands. Some IDPs who wandered around the Karenni State seek to resettle into the vacant villages where are suitable for their livelihood security. Some IDPs who got the place to resettle during the post-displacement also return to their original villages to access the farmlands because the farmlands are limited in the resettlement areas. By doing so, the IDPs' voluntarily resettlement and return process are more prominent when the government and the KNPP have signed the bilateral ceasefire agreement in 2012. This means that the peace processes in Karenni State bring hopes for the Karenni IDPs. However, many villages are remained unrecognized by Ministry of Home Affairs.

### 3.10 Conclusion

Since Myanmar embarked on its independence, ethnic conflicts and grievances emerged due to the failure of accomplishing the agreements of the first Panglong Agreement. This has resulted in longstanding civil wars across the ethic areas. The main factors of ethnic grievances are based on the inequality of ethnic minorities' rights arising from Burmanization and oppression on the ethnic culture, religion and languages. I have shown that the military's four cuts counterinsurgency tactics that aim to demolish the ethnic armed groups, and the state-led development projects has produced mass displacement in the ethnic minority areas.

In 2010, Myanmar embraced a democratic system and the government called for peace building with ethnic armed groups. Even though the transition has brought some positive outcomes, this study has found that the political transition has not brought peace and prosperity, especially for the ethnic minority people who are impacted by the civil war. Even though the peace workers from both the government and EAOs sides agree to include discussions about IDPs issues in the negotiation process, no proper result has been achieved as the peace process does not reflect in the grassroots level.

I have shown that challenges and limitations during the peace process exist in the wider Myanmar and in Karenni State. The major deadlocks of the peace process are caused by the lack of trust between the armed groups and the military, and the discrimination among the armed groups by the government and military. This is causing more conflicts and armed clashes even among the NCA signatory groups such as the

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KNU and RCSS. Specifically, this is also the reason why the KNPP has not yet signed the NCA. In terms of the state level, there is no implementation on the bilateral agreements. What is more, the military violated the bilateral agreement by conducting military movements and increasing militarization in the KNPP's control areas. Further, there has been no negotiation on the big development projects, and the local government's misuse of power on the building of Aung San's statue have deadlocked the peace process.

The Articles in the bilateral agreement between KNPP and the government include addressing the issues of IDPs and refugees, and cooperation in their resettlement and repatriation. However, IDPs and returning refugees issues remain unsolved since there is no implementation of the agreement. That is why the IDPs' resettlement pilot project does not work in Shadaw Township. Even so, the IDPs had to embrace the voluntary resettlement after the 2012 bilateral ceasefire agreement. This voluntary resettlement faced significant land issues (explored in depth in Chapter Five) which are negatively impacted by the current political transition and peace building process.

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# Chapter Four

## Development of Myanmar Land Policies - A Systematic Threat to Karenni IDPs' Customary Practices

### 4.1 Introduction

This chapter explores the democratic transition as another dimension of Myanmar's political transitions by double transition (Dukalskis 2017). Initially, Myanmar's political tragedies under the military regimes are discussed to understand the struggle for democratic transition from the perspective of internal and external push factors. Positive aspects of the phenomenon of democratization related to the reforming policies and laws are then discussed. The chapter then proceeds to detail how, among several policies reformed, land laws are threatening Karenni IDPs access to their customary land tenure security. Through an investigation of the history of land laws in Myanmar which have been continually reformed by every successive government, an understanding becomes apparent of the rationale behind the changing patterns of land laws. The chapter concludes with an analysis of the development of land policies and its impact on ethnic customary practices of land management, including Karenni IDPs' rights to access their ancestral land. In addition, two case studies of Karenni IDPs explore to understand how the Karenni IDPs access to their ancestral lands and resettled lands.

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### 4.2 Dynamics of Myanmar Political Transition

#### 4.2.1 Brief Political Situation under the Military Regimes

Myanmar adopted parliamentary democracy after independence in 1948. The Anti-Fascist People's Freedom League (AFPFL), led by General Aung San, won the first election held in 1947. As mentioned in Chapter Three, the Union of Burma was built up on inter-ethnic alliances based on the Panglong Agreement, which was a commitment between the Burma Proper and Frontier Hills ethnic nationalities. Panglong Agreement granted equal rights and self-determination for the ethnic nationalities. Unfortunately, the revolution of communist and ethnic tensions exploded after the General Aung San was

assassinated and the Articles agreed to in the Panglong Agreement were never honored (Holliday 2010).

The democratic experiment was very short-lived as the country faced many challenges. Prime Minister U Nu, as the successor of General Aung San, dominated the political landscape of the new Union of Burma. The 1947's Constitution did not allocate full rights to ethnic groups. The ethnic armed groups demanded their equal rights including larger self-determination. Apart from this, external threats also emerged in the northern part of Burma, namely a defeated Kuomintang (KMT) army. Contemporaneously, Myanmar was also threatened by Muslim insurgents in the border area with East Pakistan (Bertrand 2013).

The internal political instability and external threats provided the justification for the Myanmar military (Tatmadaw) to intervene in politics when Prime Minister U Nu invited the Tatmadaw to assume the role of a caretaker government in October 1958 for the purpose of stabilizing domestic politics and address external threats. After 16 months, the Tatmadaw supervised elections, but these were fraught with election fraud resulting in several senior military officers being removed from power. U Nu once again was made Prime Minister in February 1960 and his government attempted unsuccessfully to reestablish federal talks under the constitutional clauses (Bertrand 2013). With ongoing civil unrest and conflict in the ethnic areas, the Tatmadaw, led by U Ne Win, seized the country's power in a coup d'état in March 1962 and formed the Union Revolutionary Council to replace the elected government. Ne Win's Burmese Socialist Program Party (BSPP) was the only party allowed. The BSPP adopted a new Constitution that instituted a one-party socialist system in 1974 and operated the Burmese Way to Socialism for many decades (Holliday 2010: 31).

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The Burma Way to Socialism was the base upon which General Ne Win implemented a process of nationalization that subsumed all private ownership including businesses and private schools, under state ownership. Government announced that all lands and natural resources under or above the ground belonged to the government and forced the peasants to produce more and sell their products to the black market with low prices. A closed-market system was implemented, isolating the country from the outside world. Moreover, the government demonetized 50 and 100-kyat currency notes, whereby they ceased to be legal tender overnight, and issued new currency without proper financial

system. The military government's mismanagement and incompetence brought the country to tragedy situations plagued by high debt rates, black markets, high prices, worthless currency and basic food shortages and many university students unable to pay tuition fees (Bertrand 2010: 196).

Against this backdrop, a series of demonstrations emerged including the general public, teachers, students, government workers and Buddhist monks to protest against the government's corruption and mismanagement. However, the military government violently repressed these riots with many arrested and some killed. Undaunted, the protesters kept regrouping and demonstrations continued. Particularly in response to the demonetizing of the currency, hundreds of thousands of protesters took to the streets in major cities and towns across Burma in August 1988. Daw Aung San Suu Kyi was one who supported the protestors, endorsing that Myanmar needed to have democracy. However, these protests, which came to be known as the 8/8/88 uprising, was brutally quashed as military troops opened fire into the crowds. More than 3,000 protesters were killed and more than 2,000 were imprisoned (Clymer 2014: 3).

Shortly after, the Ne Win government stepped down and General Than Shwe took over the government who immediately set up the State Law and Order Restoration Council (SLORC). Although the socialist government stepped down, the authoritarian military government continued to hold the power. After a further series of demonstrations, the regime government held the general election on May 27, 1990, to relieve the population. Unexpected by the government, the National League for Democracy (NLD), led by Daw Aung San Suu Kyi, won in a landslide victory. In a quick doubletake, the SLORC announced that the election result was only for drafting a new Constitution, not for the transfer of power. Daw Aung San Suu Kyi and many members of the NLD and other opposition parties were arrested and imprisoned, some killed, and others disappeared (Human Rights Watch 2010).

General Than Shwe's military junta maintained martial law and continued to rule the country's legislative, executive, and judicial powers to control the process of the new Constitution. The military government centralized the country's economy and many of the military elite and their families-controlled crony businesses related to Chinese, Thai and other Asian companies in order to access the natural resources around the country including energy, minerals, timbers, mining and jades (Clapp 2015: 4). In this way,

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Myanmar became a country with one of the lowest international rankings in economic development whose politics were rife with lack of transparency and corruption, and whose citizens faced widespread poverty and exploitation (Human Rights Watch 2010).

Important to note is a number of incidents and disasters that also occurred under the authoritarian regime. Among them, were two major crises that the military government failed to handle, which analysts say were triggers that led to the political transition. The first crisis was the Saffron Revolution in 2007. The outbreak of protests resulted from the overnight double increase in petrol and diesel prices because the military government removed fuel subsidies without announcement. This incident led to massive inflation and commodity shortages for the urban population (Clapp 2015: 5). Subsequently, a mass demonstration emerged as tens of thousands of monks and civilians took to the streets to protest the military regime, demanding better living conditions and national reconciliation. The protest spread out across the entire country (BBC 2007). After week-long demonstrations, the military government brutally cracked down. The military security forces fired tear gas and live ammunition, beat, kicked the protesting monks and civilians. Thousands were arrested with hundreds killed by the army troops and police (Burma Campaign UK 2007). After the 8/8/88-student uprising, the 2007 Saffron Revolution was the next most brutal and bloody incident experienced in the history of Burma's politics.

Apart from this human-made crisis, the second crisis that the Tatmadaw failed to handle was Cyclone Nargis across the Irrawaddy delta in 2008. The worst natural disaster in Myanmar history killed around 130,000 people and injured more than 20,000, sweeping away homes, fields, livestock, and rice stores (WHO 2008). The military government failed to provide even the most basic of humanitarian assistance such as adequate foods, shelters, and water. Moreover, the military government refused to recognize the extent of the destruction wrought by Nargis, lacking transparency in terms of announcements made at domestic and international levels. Instead of assisting the victims, the military government continued to carry out the nationwide referendum for the 2008's Constitution. Moreover, the military government also refused international aid to deliver assistance for the victims that resulted in widespread global criticism of the military government's inaction and obstruction (Martin and Margesson 2008).

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Apart from the internal and external push factors when considering Myanmar's political transition, it is important to understand the Tatmadaw's goals and strategies to safeguard their political power, known as "regime maintenance." As a countermeasure to the threat it faced by the consolidation of NLD's democracy movements, the regime convened the National Convention (NC) to draft the new Constitution in 1990. In 2003, the NC formulated the political roadmap to democracy amid the drafting of the new Constitution. After drafting the new Constitution for 17 years, the regime held the national referendum in 2008 to adopt the Constitution, followed by elections in 2010 with power transferring back to the military-backed civilian government in 2011 to implement its democracy roadmap (Jones 2014a: 790-791). According to the 2008 Constitution, military officials are allocated 25 percent of the seats in the Parliament without competing in the elections. The military's commander-in-chief stipulates legislative, executive, and judicial powers. The Constitution cannot be amended without the consent of more than 75 percent of parliamentary members. With 25 percent of seats automatically controlled by the military representatives, the Tatmadaw have safeguarded their position of power in Myanmar politics. In this way, "regime maintenance" has been achieved (Ghoshal 2013: 118).

The centralization of politico-economic power through "ceasefire capitalism" is another strategy of the Tatmadaw in the context of Myanmar's political transition. The SLORC regime devised the ceasefire with the EAOs since the convening of the NC to impose the new Constitution. Simultaneously, the regime promoted the capitalist economic development in the ceasefire territories and forced the ethnic groups to transform militia groups as the way to expand the militarization and control over the territories. Subsequently, the regime cooperated with borderland ethnic elites through joint business ventures to extract the natural resources and control the border trade with the economic benefits flowing back to the regime's consolidation. Kevin Woods (2011) names this process as ceasefire capitalism. Moreover, the regime laundered money in the process, strengthened by economic incorporation with borderland elites. For instance, the borderland elites invested their money into the national economy from illegal businesses including drug trading, logging, and mining. By doing so, the regime centralized the country's economy and expanded its militarization, further consolidating its power in Myanmar's political transition process (Jones 2014b).

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Hence, Myanmar's political transition has benefited from the military roles and their interests. In this way, it is seen that the rationale behind Myanmar's political transition not only has been impacted by the internal and external push factors, but also the military's intention for their own benefits. The regime transformed and prepared the way towards democracy roadmap by imposing the new Constitution which consolidated the Tatmadaw's power in-country' politics and centralized the country's economy.

### 4.2.2 Dramatic Political Transition Since 2010

In 2010, Myanmar held a general election. This election is the starting point of the political transition. The 2010 election date was set by the State Peace and Development Council (SPDC). The Union Solidarity and Development Party (USDP), led by U Thein Sein and backed by the military, won the election with 76.5 percent of the seats. Since U Thein Sein took power, he initiated to meet with the NLD leader Daw Aung San Suu Kyi, invited the exiled political activists to return to Myanmar, called for the peace process with the EAOs and adopted political reforms. Consequently, Daw Aung San Suu Kyi was able to enter to the Parliament through a by-election in 2012 (Refer Chapter Three). Although the political transition was moderate, it provided new political space (Bunte 2016).

The political transition has enabled the people and civil societies in Myanmar to engage more in social activities and politics. The emergence of civil society has not only facilitated the political and institutional change, but also promoted education, campaigns and movements for justice and human rights (Kramer 2011). Moreover, the government has enacted new laws including the relaxation of the Internet and media controls and Peaceful Assembly and Procession laws that make more space for civil society organizations' freedom of expression and freedom of movement in the country's' transitions. The Right to Peaceful Assembly and Peaceful Procession Act, enacted in 2011, allows every citizen the right for peaceful demonstration under the specific condition of permission from the authorities five days in advance. Through this law, the role of civil society organizations has grown to mobilize and lobby in the transitions period (Bunet 2016).

Because of the political transition, many NGOs can access conflict-affected areas and implement community development and humanitarian assistance such as providing

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food and livelihood security, education and health, local capacities and civilian protection. The civil society roles are essential to function the bottom-up social and political transition as well as conflict resolution at the national and local levels as shared by one of the CSOs staff,

> "We can organize a peaceful demonstration under legal laws. We can advocate about human rights and equal rights in the ethnic areas, especially in the land-related issues. We have faced several issues related to land, like land grabbing by the military, company and powerful groups since the military regimes. But we could not make a single voice for justice. However, we can conduct several workshops or campaign on how to re-access our land that grabbed by the military and we can organize awareness training and advocacy to the farmers." (interview with CSOs staff, M, 02/05/2019).

The political transition in Myanmar has received a positive response from the international community. For example, the former US State Secretary, Hillary Clinton and US President Obama visited Myanmar for the purpose of restoring bilateral relations. Also, politicians from the UK, France, Germany, Canada and Scandinavian countries have made state visits and sought for more cooperation. Many Western countries have eased economic sanctions and the World Bank (WB) and the International Monetary Fund (IMF) have reopened negotiations regarding economic development (Kyaw Yin Hlaing 2012).

In 2015, another general election was held which has further pushed political transition in Myanmar. The Daw Aung Suu Kyi-led-NLD party won the 2015's election and is now a new leading actor in the peace process. The NLD government has prioritized to consolidate the peace process by reforming the MPC into NRPC and progressing the New Panglong Peace Conferences. Additionally, the international community expected the NLD government to bring justice, anti-corruption, good governance and freedom back to the country (Thawnghmung 2016). In these ways, the political transition in Myanmar has created a positive atmosphere.

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### 4.3 Policy Reforms Related to Lands

Political transition has reformed not only the institutions and administration but also several policies. This section studies policy reforms related to land policy and management in the context of democratic transition. Before analyzing the land related policy reforms, an historic overview of land management and administration in Myanmar is provided, with a specific focus on the customary practices on land management system of the ethnic Karenni people.

#### 4.3.1 History of the Land Administration in Myanmar

When governing Myanmar (formerly Burma), the British colony divided Myanmar into Burma Proper and the Frontier areas. The British governed the Burma Proper area by using a territorial grid system to collect taxes. However, the territorial grid system did not apply to the Frontier areas which were administered by their own kings through semi-autonomous rule. During the British governance, the very first major land law was the Land and Revenue Act, enacted in 1879. The British applied this law, not only to govern the acquisition of land rights for private citizens, but also to collect land taxes. In 1894, the British classified waste land under the Land Acquisition Act (1894), which was based on the capacity of land to produce profit or taxation, authorizing the government to take the land anytime in terms of public purpose. Waste land included the common areas where villagers grazed their livestock (Ferguson 2014: 298).

In 1948, the British granted independence to the political elites including the Burmese Nationalists and the military. The 1947 Constitution mentions that "state as the ultimate holder and owner" of all land areas in Burma. However, foreigners including Europeans, Indians and Chinese still controlled all large-scale land for their businesses. Due to this, the Burmese government enacted the Land Nationalization Act in 1953 to limit the foreigners' large-scale business and protect smallholder farming as well as to reduce landlordism or complete private ownership. Although the Land Nationalization Act aimed to protect the land for Burma nationals, land reclamation actually led to exploitation among citizens. The government's agenda of land reclamation replaced the large-scale business and private land from the foreigners to the state-owned land, in that the 1947 Constitution encompassed that state is the ultimate holder and owner of all land in Burma (Ferguson 2014: 300; Scurrah, Woods and Hirsch 2015: 2). In this way, state

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authorities legally confiscated land for their own benefit which led to lack of opportunities for ordinary citizens and small-scale farmers.

Under the Burmese Way to Socialism, U Ne Win also issued new land laws. The socialist government enacted the Disposal of Tenancies Law (1963), which considered State as landlord tenancy and restricted people's rights to ownership, transfer, sell or rent land. Under this land law, only state's lands could legally lease as agribusiness concession. The socialist government forced all farmers to produce crops such as paddy/rice. If the farmers failed to produce, the state would confiscate their lands. Furthermore, the government issued a booklet called the Farmer Agricultural Production Record to trace the land used and record paddy produced by each farmer. A booklet is a document or evidence of farmer's land holding which included the name of landholder, land areas, and type of crops produced in detail. Local authorities and the Settlements and Land Records Department (SLRD) managed the booklets to track the taxes payment and prevent transferring and selling the land (MALI 2016). After the Ne Win government took power in 1962, they controlled all the land around the country including the ethnic nationalities' territories through the new land laws. Thus, the role of the military became strong and manipulated national agricultural production, lands and economic development (Ferguson 2014).

The SLORC continued to appropriate the land laws to control the land and population. After taking power in 1988, the SLORC retained the Land Nationalization Act (1953) and Disposal of Tenancies Law (1963) to continue the farm production led by the state. All lands in the country remained as state-property. In 1991, the government implemented the Wasteland instructions that vacant lands were granted to private and public companies for large-scale agriculture investments. Under the wasteland development policy, the SLORC confiscated vacant lands and granted or leased lands to the investors. The investors who received the land concessions were Tatmadaw's cronies and family members (MALI 2016). In this way, during the military government's twenty-two years (1988-2010) governance in Myanmar, the government with the private sectors have been the culprits of the problem of land grabbing and land confiscation (Ferguson 2014).

Every successive government in Myanmar have enacted several new land laws for their own benefit. Since the independence of Myanmar, state is the only owner of all

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land areas in Myanmar, purportedly to protect the lands from the foreign ownership. Consequently, the regime's management and land laws have only brought suffering to the people especially for the vulnerable ethnic minorities and small-scale farmers. For instance, the 1953 Land Nationalization Act favored that all lands are state-property that only the regime's authorities could manage for land-based investments and land concessions. Under the 1963 Disposal of Tenancies Law, only state as the owners of all lands in Myanmar can allocate to the farmers for farm production that only benefits for state-economy and the regime. Moreover, the regime has re-adopted the British's wasteland instructions that state can label land as wastelands for business concessions to domestic and foreign investments. This has led to widespread land confiscation by the regime that fails to recognize the ethnics' shifting cultivation lands and customary practices as well as control the lands of ethnic people and small-scale farmers.

### 4.3.2 Reformed New Land Laws and its Contradiction during Democratic Period (2011-2019)

Economic development or reconstruction is an important consideration when the democratic transition was initiated in 2010. Domestic and foreign' land-based-investments have increased since the government initiatives to reform the economic development. In 2012, government enacted the Farmland Law and the Vacant, Fallow and Virgin Land Management Law (VFV) claiming that this law is to reduce poverty and promote agricultural production. However, the new land laws bring further land related conflicts between the farmers and the investors (Kramer 2015: 364).

The Farmland Law categorizes the variety of use of lands. The use of lands includes "paddy/lowland (le), dry upland (ya), alluvial island land (kaing kyun), garden land (u yin), uphill land under permanent or shifting cultivation (taungya), *nipa* palm land (nipa), horticultural land and perennial crop land" (San Thein et al. 2018: 24). The claimed intention of the law is to secure the farmland's tenure security, in particular in rural areas through issuing land certificates which confirm the property right of a private land. Among these farmlands, *taungya* land can be classified into (1) stable settlement or permanent *taungya* or (2) unstable and rotational *taungya* land. Interestingly, according to the law, "The land can be brought, sold and transferred on the land market, right to inherit, exchange and lease" (The Republic of the Union of Myanmar 2012a). What is

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more, the law does not recognize the unstable shifting cultivation which has a great impact to the ethnic people who live in the upland or the border areas who mainly practice shifting cultivation. Nor does the law recognize the customary land tenure rights for ethnic minorities who still practice shifting cultivation (Kramer 2015: 364; San Thein et al. 2018).

The second new land law is the VFV Land Management Law. According to the VFV Law, "vacant and fallow land can be referred to land that used to be cultivated but has since been abandoned and virgin land refers to new land or wooden land that never been cultivated including any forest land, reserved or protected forest areas" (The Republic of the Union of Myanmar 2012b). The VFV Law also offers power to the state, in that, only the government can allocate the VFV lands to domestic and foreign investors, farmers, government entities and NGOs for agricultural development, livestock breeding, mining and other purposes allowed by law and the VFV lands cannot be sold, lease, mortgaged and transferred without the government's approval (San Thein et al. 2018).

In 2018, the Myanmar government further amended the VFV Law. The 2018 amendment opens to register vacant, fallow and virgin lands within six months. The implementation of the VFV land registration has been delayed due to the public abolishment campaign to abolish. The government's intention is to control the lands that the government has labeled them as vacant, fallow and virgin lands (LIOH 2018a). The NLD government asserted that the amendment is to encourage the economic development and create job opportunities for landless citizens by promoting agriculture, livestock, mining, and other business allowed by laws through the VFV lands (Nyein Nyein 2019b). The amendment law also states that the person who violates the law or continues using the VFV land without registration shall be punished up to two years imprisonment and five hundred thousand kyats or both (LIOH 2018a). Again, the amended law has great impact on the villagers whose livelihood relies on swidden/shifting agriculture, deepening exclusion of the customary land management.

Apart from these two new land laws and the amendment, the government enacted the Foreign Investment Law (FIL) in 2012. The FIL allows a new phase of foreign direct investment in the sectors of resource extraction and agribusiness. The law also allows the foreign investors to lease land for up to fifty years which has provided incentives for domestic and foreign companies as well as for the political elites (Oberndorf 2012). The

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emergence of foreign investments has led to further dispossession and displacement as large amounts of land is required for agribusiness and other investment projects under the name of national development. The government also has employed FIL to label vacant or fallow land or wasteland to allocate land concessions to domestic or private investors (Kramer 2015; Scurrah, Woods and Hirsch 2015).

These new land laws have also greatly impacted people who live in upland areas. Many of them have no legal land certificate and land tenure security. Under those new land laws, the government is able to label lands as "wastelands" or "VFV lands". Moreover, these laws allow the government officials, military, and powerful politicians to legally grab and confiscate lands. Consequently, the ethnic people in the upland areas who practice the customary shifting cultivation are suffering from these social injustices and livelihood insecurity (Kramer 2015; LIOH 2018a). These reformed new land laws have changed the legal basis for land use rights. Lack of legal framework in land classification has also brought various conflicts and inabilities to manage the land.

### 4.4 Customary Law on Land Tenure Management in Karenni Context

The form of customary law in land tenure management hinges on the different ethnic groups, history, resource base and geographic regions. All ethnic groups in Myanmar have their own customary practices to manage and use the land and natural resources. According to the customary law in land tenure management, the local community's institutions including village headmen, religious leaders or elders have the right to administrate to allocate land, grant rights to use and solve land disputes. Their main livelihoods totally depend on the land including agricultural production, fishing, hunting, preserving forest or land, spiritual purposes, grazing and communal land to collect food or vegetables. Normally, customary laws are a social relation system that is recognized within the local communities, but government may or may not recognize the laws. Moreover, customary law on land tenure management system usually comes from the ancestral and spiritual connection to derive the legitimacy to use land or resources within the geographical areas (LCG 2010; Andersen 2016; ECDF 2016). Thus, customary laws maintain land tenure security and livelihood security for the member of their communities. The World Intellectual Property Organization (WIPO) has given practical definition to the customary law as a "set of customs, practices and beliefs that are accepted

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as obligatory rules of conduct by indigenous peoples and local communities" (WIPO 2016: 1).

The British colonialists recognized the customary laws in the indirect administration areas where the ethnic people's original residing uplands or frontier areas were denoted as the Kachin Hills, the Chin Hills, Shan and Karenni States. The communities of ethnic nationalities adopted the customary law to self-govern land and their territories. Ethnic groups have both written set of rules on how to use land, and how to make decisions or share land and natural resources (Allaverdian et al. 2017). Customary law is a decentralization system that has adapted to change based on local people's needs to have sustainable livelihoods and environment protection. Moreover, customary law provides not only sustainable environmental protection, it also provides self-reliance and ecologically sustainable livelihoods because the communities have to depend on the healthy forest lands for their daily livelihoods. Because of this, customary law can sustain the environment and long-term ecological health as well as establish land use zones for preservation (ECDF 2016).

Different ethnic nationalities including the Karenni, have different customary laws. The Karenni people live in the upland areas where the shifting cultivation is their principal means of food production, and other livelihood strategies are hunting, fishing, foraging for forest products and small-scale logging (KDRG 2006). Among the Karenni people, different villages have different customary laws and practices. Commonly, the significance of the customary law on land management are "the community is as an institution to make decision on land use and manage, common or communal ownership or land use, communal management of use of natural resources including forest, grazing lands and water, and regular adjustment of customary lands and territories to ensure most effective usage" (ECDF 2016: 8).

The most important common practice of the customary law is to recognize the private and common ownership. According to the Kayah Earth Rights Action Network (KEAN)[5], recognizing the ownership is most important in the customary practice on land management that the whole village knows which land belongs to whom and can exchange the lands. The village headmen, elders or the religious leaders are the ones who take the

[5] KEAN is the community-based organization which works for Karenni ethnic land rights.

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responsibility in managing the land. All villagers recognize this management system. There are different kinds of lands within one village including farmlands, communal lands and spirit or religious lands that are classified among the villagers. If someone who is the member of their village does not have land, the village headmen and the other villagers allow the person to use or allocate a portion from the communal land, including permission to build a house if necessary. However, villagers are restricted from selling land to outsiders. If the villagers move outside or unable to use land anymore, they leave their land with the communities. Offering poultry such as chicken or a pig is the significant compensation if someone violates or harm other people's lands (Kramer, Russell and Smith 2018).

### 4.5 Case Study I: Access to Land in Daw Klaw Le village

Daw Klaw Le village is situated in Shadaw Township located in the Eastern Karenni State. Historically, the village is over 100 years old and the largest village in Shadaw Township. In the beginning, the first ancestors cleared the land for both housing and farming. They enjoyed access the land freely and managed based on the local customary practices (interview with village headman, M, 16/04/2019).

Daw Klaw Le village experienced a humanitarian crisis due to forced displacement in 1995. The Tatmadaw burned and destroyed the entire village as part of its four-cuts counterinsurgency tactics. All the villagers fled to several different places including government relocation sites, kinship villages and towns, refugee camps with some wandering place to place in the jungle. They had to abandon everything known to them for their lives and livelihoods – their ancestral lands, homes, storehouses, crops and livestock. While no records exist of numbers or to where each villager fled, in common, their displacement patterns were associated with human rights abuses and insecurity (cf Chapter Three).

The peace process in Karenni State over the past decade dramatically brings hopes for Karenni IDPs. With the signing of the ceasefire agreement between the Government and the KNPP, Karenni IDPs have coped voluntarily resettlement, some to new villages suitable for their livelihoods and some returning to their original villages. Daw Klaw Le village has become one of the suitable resettlement areas for those IDPs who experienced different displacement patterns. Since 2013, the current village headman who is the first

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settler led the voluntarily resettlement into Daw Klaw Le village. Initially, the village headman and five households settled into Daw Klaw Le village as a pilot test to rebuild the village. A secondary plan was to move to other displaced villages if Daw Klaw Le village could not secure their livelihoods. Fortunately, the IDPs were able to access abundant land to secure for their livelihoods in Daw Klaw Le village which at the time of writing, now has 37 households (interview with village headman, M, 16/04/2019).

Access to land in Daw Klaw Le village is not only based on the social relations, but also on rights-based access. Excepting one household who originally came from Daw Klaw Le, the other 36 households are newcomers from different displaced villages. The current village headman shared his story of how he came to settle in Daw Klaw Le,

> "I arrived first to rebuild the village. The original owner is my relative who resettled to the USA. He gave me permission to use the lands for both housing and farmlands" (interview with village headman, M, 16/04/2019).

In this way, access to land in Daw Klaw Le is based on the mutual agreement and social relations between the original owner of the land and the new dwellers. Furthermore, the village headman has utilized the Karenni customary practices to manage the lands for the new comer IDPs.

Apart from this social connection, the IDPs in Daw Klaw Le also negotiated with the government and the KNPP for a land use grant. As Daw Klaw Le village is in the mixed-administration township between the KNPP and the government, both sides have mutual agreement to allocate the lands for IDPs resettlement and returning refugees as stated in the bilateral agreement. According to the members of Parliament from Shadaw Township, the KNPP preserves lands in specific areas for returning refugees, IDPs and the KNPP's family members. Although both sides do not officially support officially the IDPs resettlement in Daw Klaw Le village, they mutually agree to grant for land use (interview with member of Parliament, M, 26/04/2019).

Daw Klaw Le village became an official village in 2018. Initially, the IDPs who resettled encountered several challenges with the Tatmadaw accusing them very often as being spies for the KNPP. There was no material support from the government because the village was not registered as a village under the Ministry of Home Affair at that time. The IDPs had to cope with the difficult situation by themselves in terms of land allocation

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and land management. In 2016, after three years of voluntarily resettlement, the government started to provide transportation and infrastructure because of increasing households. Finally, Ministry of Home Affairs officially recognized Daw Klaw Le as a village in 2018 and now provides school, clinic and other basic infrastructures (interview with villager, M, 16/04/2019).

### 4.6 Case Study II: Access to Land in Daw So Shay Village

The original Daw So Shay village was situated in Lawpita village tract, Loikaw Township. More than two hundred years, the ancestors discovered the village and settled down. Historically, the original Daw So Shay villagers were Animists (Ta Khon Tai) who worshiped the spirits. They also worshiped the natural things such as mountain, strange stone, stream, land and big trees. They believed that spirits are the owner of the entire land and natural resources. Therefore, they would pay respect to the spirits before they used the land or collected food in the forest. However, the entire village converted to Catholic Christianity when two Catholic missionary priests called Par Maw and Pataru Pe Eie came to the village in 1985. From worshipping the spirits in the natural elements, they changed to worshipping the Christian God (interview with village headman, M, 12/05/2019).

People in Daw So Shay practiced the customary laws to manage their way of lives. The eldest people and the village headman were the one who obligated to set the laws in order to manage the village affairs, cultural and social practices, land and natural resources. Among them, land is the essential resource for their daily livelihoods. They practiced the customary law to manage and use the village territory, initially, clearing the virgin lands and forests for both housing and farming. Shifting cultivation (Burmese language referred as Taung Yar) was the main strategy for the livelihoods that growing rice, peanuts and corns and raising livestock.

New generations in the original Daw So Shay village had the right to access land from their parents or their ancestors as inheritance. According to the customary laws, the youngest son is the one who inherited the land. Parents assumed that the daughters would not need the housing land because they would follow their husbands after they married, though daughters who took care of their parents could get the housing land where there was no son to inherit. The farmlands were equally divided into pieces for all children.

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Couples without children could give their land to their relatives who would take care of them or they could sell the lands for status in their old age. In this way, the people in the original Daw So Shay Village enjoyed the land rights based on the customary practices and regulations of their Karenni ancestry, securing their lives and livelihoods (interview with villager, M, 14/05/2019).

In 1988, the original Daw So Shay villagers were forcibly displaced due to the intensive fighting. Tatmadaw deployed the four cuts counterinsurgency tactics and forced the villagers to vacate the village within a week. At this time, the two priests helped them to resettle to their missionary village, San Pya Chouk Mine village. The two priests and the villagers in San Pya Chouk Mine temporarily accepted those displaced people from Daw So Shay because they were the same ethnic and religion like close relatives. However, the continuous fighting between the Tatmadaw and the KNPP barred the way for them to return to Daw So Shay. Eventually, the priests and San Pya Chouk Mine villagers allocated lands for housing on the outskirts of their village. Though there was dissent with this decision from some villagers, this was overridden by the priests and elders and the IDPs from the original Daw So Shay Village resettled to this new location and built their houses which they named New Daw So Shay village. By doing so, the IDPs could access the housing lands due to the social relation with the priest and the host villagers as well as their identity being the Karenni (interview with villager, M, 12/05/2019).

However, the IDPs in New Daw So Shay lacked farmlands to secure their livelihoods. There was not enough farmland in San Pya Chouk Mine to support both communities. While some worked as laborers on their hosts' farms, the income was not enough to support their needs. Hence, in 2002, some IDPs made the decision to return to their original village to work their farmlands (interview with villager, M, 15/05/2019). In this move, they suffered many hardships. The village area had been landmines injuring some and killing others. There were no proper roads between the New and original Daw So Shay villages, so it took four to five hours travelling to and from. Despite the difficulties, these IDPs persevered, working their original farmlands to provide for their livelihoods, while their families settled in the New Daw So Shay village. The connection between their ancestors' lands and graveyards remained a strong cultural bond (interview with villager, M, 12/05/2019).

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The political situation was unstable when the IDPs returned to their original village. The clashes still frequently occurred while there were many restricted movements. However, the IDPs attempted to go and back from the resettle village to the original village for doing farming. The elders people assisted to manage the farmlands for those returnees. They continued to embrace their customary practices to manage the original farmlands while remained living in the resettle village. The unstable political situation in Karenni did not grant the chance to get awareness to apply the land use certificates. Additionally, the IDPs themselves comprehended that the customary practice is only the law to grant the land tenure security (interview with village headman, M, 12/05/2019).

### 4.7 Implication of the Land Reforms on the IDPs Access to Land

People in Karenni State have experienced land confiscation since the 1960s. Land administration under Ne Win socialist's government was one of the rationales that led to land confiscation. For instance, the Disposal of Tenancies Law restricted the citizen to own, transfer, sell and rent lands and any property. The SLORC government also adopted the Nationalization Act and the Disposal of Tenancies Law which considered the state as the only legal owner of all lands and natural resources. Due to the private and public tight connection, the Myanmar government's monopoly on lands have benefited itself and the investors.

Moreover, Tatmadaw's four cuts counterinsurgency tactics whose purpose was to defeat the ethnic armed groups including KNPP, triggered land confiscation. While the civil war prolonged in Karenni State, the Tatmadaw increased its militarization in Karenni State by confiscating villagers' lands (Kramer, Russell and Smith, 2018). According to the Karenni State Farmer Union (KSFU)[6], the Tatmadaw has confiscated 50,000 acres in Karenni State (Sai Wansai 2019). 2,700 out of 50,000 acres land are in Hpruso, Karenni State. The Tatmadaw has used these lands to build the No. 14 Military Advanced Training School. Tatmadaw only compensated 500 acres of that land by giving 50,000 kyat per acre to the affected villagers (Katarrawaddy Times 2012).

[6] Karenni State Farmer Union (KSFU) is a civil society organization, works for the farmers' land rights and land awareness.

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After the 2012's VFV Law was enacted, land disputes occurred more in Karenni State. Many land disputes involved the IDPs. According to the new land laws and its amendment law, the people or the farmers who use their own lands must apply for the land-use certificate for thirty years concession. Those who fail to apply for the land-use certificates shall be imprisoned for trespassing and their lands will be awarded to those who apply for the certificate including company or businessmen (BNI 2019a). People in Karenni State have experienced with displacement that still have a lot of struggles to access back their original lands. Moreover, most IDPs are farmers who heavily rely on the land for their livelihoods. They are also unaware of the new land laws and the process to apply for the land-use certificates (Namati 2019). Registration of the lands is not easy for farmers because many government officials take advantage from the socially and economically marginalized farmers by asking them to pay large amounts of money. What is more, the related land laws have created a space for powerful authorities and business to register lands, which means that the farmers need to contest for land registration. Connection between the public and the private sectors in Myanmar usually comes with corruption and bribes. Against this backdrop, the farmers' successful land registration is unlikely to occur (Kramer, Russell and Smith 2018).

The 2012's VFV amendment land law fails to recognize the customary laws on land management system (Namati 2019). Being Karenni has been attached with the customary laws and lands since ancestral times. On the other hand, land is central to the means to survive and customary laws on land management is the way to keep the land safe. Despite the prolonged civil war that forcibly displaced thousands, Karenni people still embrace the customary land laws wherever they are displaced. However, the Karenni IDPs more prefer to return to their original lands due to the culture of ancestral connection. That is the reason why many Karenni's IDPs try to go back to their original lands. Two case studies in the previous sections have shown that the customary way of access to land helps the IDPs to be able to access the lands. Moreover, social relation and social identity are also the vital way to access both their original lands and new. As one of the villagers from Daw Klaw Le village,

> "Even though I displaced near to the city because of four-cuts for thirty years, I really miss my original village and I want to die in my village

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because this is my ancestral village and I have a lot of attachment and memories with my village" (interview with villager, F, 16/04/2019).

The exclusion to recognize the customary land laws in the current legal laws is an exploitation of the ethnic rights.

Karenni State is still on the peace negotiation process to the NCA. Land is also associated with the notion of autonomy and self-determination that is being a boundary and territory (Kramer, Russell and Smith 2018). The deadlocked peace process between the Tatmadaw and the KNPP has resulted in the land issue to remain unresolved. Lack of implementation of the bilateral agreement also directly impacts to the IDPs' land disputes. Even though both sides agreed to implement the IDPs resettlement, there is no action to implement. So far, both sides have not discussed land issues in the peace process (interview with CSO staff, M, 04/05/2019). Thus, the new and amended land laws have become the significant threat for the IDPs' access to lands.

The CBOs, CSOs and the local people are raising their concerns about land related issues which are impacting the peace process. In December 2018, 175 Karenni people organized the Karenni Land Forum including CBOs, CSOs, farmers, indigenous group's representatives and political parties. Karenni Land Forum released a statement that "there is no VFV land in Karenni State" to register under classification of the VFV land because Karenni people practice the shifting cultivation and manage all the lands based on the customary law. Moreover, the Karenni Land Forum's statement demands full land rights and land tenure security based on the common agreement of Karenni land policies and federal system (LIOH 2018b). Contrarily, Kayah State's Chief Minister has used his authority to apply the certificate for Karenni lands which include the Catholic missionary areas. Although local reporters and activists accused the state government of misuse and the religious leaders sent a formal complaint letter to the NLD Head Office, there has been no response or action taken on this land dispute (Htike Nandar Win 2018).

The state government's lack of rule of law and transparency on VFV land's assessments is also highly problematic at the ground level. According to the Department of Agricultural and Land Management Statistics (DALMS), VFV land acres in Karenni State total 453,827 acres (DALMS 2017). The problem is that the VFV lands in the government's survey include lands currently used by the farmers on the ground. That means the government has labeled the smallholder's farmlands and the IDPs' farmlands

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as being the VFV lands. Moreover, the VFV lands are intended to grant for the agro-business companies (interview with CSO staff, M, 02/05/2019). As such, the new land laws and its amendment do not include the agenda of recognizing the customary laws and ethnic vulnerable land rights.

### 4.8 Conclusion

Myanmar is a country experiencing long term civil wars and ruled by the military regimes for several decades. The military regimes' incompetent and corrupt governance have led to several human security crises including poverty, human rights abuse, inequality, and repression of the ethnic nationalities. Series of protests and demonstrations including the1988's students uprising and 2007 Saffron Revolution have shown that the people were dissatisfied with the military regime's governance. Pressure from the international communities and military government's incompetent and inhumane response to the catastrophic damage of the 2008 Cyclone Nargis pushed Myanmar to walk on the track of political transition in 2010. Alongside, Tatmadaw's strategic interests and intentions have led to the political transition.

Under the name of democratization, the transition has brought some positive outcomes. The civilian government released the political prisoners, increased freedom of press, movement, and expression, and allowed more space for civil society. At the same time, the civilian government called for peace process with EAOs. Human rights and human security have gradually returned to Myanmar. However, contrarily, during the period of political transition, neo-liberalized economy has brought repercussions to local people. Since 2010, foreign direct investments have flooded into Myanmar. At the same time, the Myanmar government has created several laws including 2012's VFV and its amendment related to lands and foreign investment.

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According to the government's discourse, the purpose of the new land laws is to increase rural people's land security through issuing land certificates, which instead have brought structural difficulties for the farmers to access their farmland. Regarding IDPs in the Karenni State, the VFV's land law does not recognize the shifting cultivation that the majority of Karenni people practice, which means that their lands can be confiscated anytime. In fact, the 2012's VFV land law has made many Karenni people insecure. In addition, the VFV's land law and its amendment have caused the problem for the IDPs

who were away from their original lands due to forced displacement. For example, these laws do not recognize local customary land system. Instead of protecting the IDPs' access to land, the Tatmadaw and powerful government officials confiscated several acres of lands for their own profits. Though the land reforms seem to have the aim of creating opportunities for economic development and land tenure security for local people, these laws do not work on the ground for the ethnic minorities in the rural areas, including Karenni IDPs who have faced land confiscation. This has direct impact on the livelihoods of the IDPs purused voluntary resettlement. Conceptually, the state led solutions in terms of land related reforms have threatened the lives of IDPs as such reforms instead restrict IDPs to benefit from their own land.

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# Chapter Five

## Access to Land and Human Security

### 5.1 Introduction

Karenni people are used to adopt full rights of access to land based on their customary practices and local regulations since their ancestors. Land is highly relevant to livelihoods with social, religious, and cultural attachments. However, forced displacement during the armed conflicts between Tatmadaw and the KNPP has resulted in the loss of ancestral lands, ruining the main livelihood strategies of the IDPs, subsequently impacting on their mental and physical health. Since the political transition, IDPs are attempting to re-access their lands in their original villages. While some improvement in life situation has been achieved in these voluntary resettlements, it is not without many challenges, due to lack of will by government and the continuous threats from the Tatmadaw.

This chapter investigates how access to land influences or provides the different elements of human security for Karenni IDPs during political transition. As discussed in Chapter Two, access to land is basic to interrelated human security and human rights. Referring to my fieldwork, two case studies are analyzed to understand the diverse ways of land management in different villages that impacts on IDP's human security, especially during the political transition. This chapter argues that the involvement or predominance in land governance of different actors has resulted in ongoing human insecurity for Karenni IDPs as they have struggled to voluntarily resettle their ancestral lands.

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### 5.2 Case Study I: Land Governance in Daw Klaw Le village

The way to access land in Daw Klaw Le village have stated in Chapter 4. After accessing the land, land management is essential in order to sustain for long-lasting of land and to counter the incidents of land. Land tenure management in Daw Klaw Le village can be categorized in two ways: customary practices and statutory laws. Since the IDPs resettled into Daw Klaw Le village, they utilized the customary practices to manage

land tenure system. As first settlers, the current village headman and the original five households formed the village committee. They chose the land to build their houses and they also cleared the virgin lands for farming. They used chicken's leg bones as the traditional markers to enclose their village areas and farmlands. The members of village committee are the core persons to make decisions related to the village and land related affairs. For instance, the village committee accepts the incoming Karenni IDPs who want to resettle into Daw Klaw Le and allocates the housing land and farmlands, on condition they agree to live at least three years (interview with villager, M, 16/04/2019).

When considering, land tenure management and governance in Daw Klaw Le village, it is unavoidable to consider the statutory laws. Different administrators including government, Tatmadaw and the KNPP are the main stakeholders engaged in land governance. Important to consider is that Daw Klaw Le village is under the mixed-administration area between the KNPP and the government. Formally, it was one of the black areas labelled by the military junta before the bilateral ceasefire agreement in 2012. As a mixed-administration area, the Tatmadaw continue their access in this area. As per the bilateral agreement, Shadaw Township in which Daw Klaw Le village is situated, is one of the areas for the IDPs and refugee resettlement. Therefore, both sides recognized the IDPs right to resettle in Daw Klaw Le (interview with CSO staff, M, 17/4/2019).

Applying for the Land Use Certificates is a complex process under the mixed-administration. No one, including the current IDPs, can easily apply the Land Use Certificate (Form 7) because KNPP are concerned that granting this Form 7 potentially will result in competition and result in land access conflicts. One Member of Parliament explained the procedure to me. First approval from both government and the KNPP is required as well as a search of the land's history to avoid duplicating ownership. Applicants need recommendation by neighbors or original landowners to prove they are displaced persons who have been affected by the civil war. The rationale behind the tight regulations of Form 7 application is to prevent land grabbing from outsiders or other powerful authorities and to preserve the land for those intended in the bilateral agreement, the IDPs, returning refugees and KNPP family members. As such, the KNPP and the government have mutually agreed to manage the land in Shadaw Township (interview with member of Parliament, M, 26/04/2019).

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Access to land within an appropriate land management system results in livelihood security for the IDPs in Daw Klaw Le village. Even though not the original settlers, they have been allowed to access the land for both housing and farming. Although the KNPP has limited role in the politics due to their decision not to sign the NCA until this time, their participatory role in land governance reinforces the IDPs' right to access land for their livelihoods. IDPs also enjoy their right to use land and been successful in negotiating the complex process of being granted a Land Use Certificate. The following elements show how access to land and different actor's land governance bring different elements of human security for Karenni IDPs who resettle into Daw Klaw Le.

### 5.3 Human Security in Daw Klaw Le Village

The IDPs in Daw Klaw Le village have accessed to use the land. Recognizing the customary practices and social relations with the original villagers are the important mechanisms for the Daw Klaw Le IDPs in order to access the lands. Moreover, the social identity as the vulnerable IDPs is allowed them to access the lands that also recognized by the government apparatus and EAO under the name of bilateral agreement (Chapter 4). Theoretically, we have studied that access to land is the essential to achieve the human security. In terms of Daw Klaw Le village, the IDPs have enjoyed the human security due to the right to access the lands. Access to use the lands provide different elements of human security including housing security, food security, economic security, cultural and social security.

***Security in Housing***: The IDPs in Daw Klaw Le village have obtained the equal distribution of housing lands. The current village headman and village committee are responsible for allocating 60'x60' of land for housing per household. According to the village headman,

> "my friend and I are the one who help the newcomer IDPs to equally allocate the lands because we are the very first settlers or rebuild the village that we imposed the equal distribution of lands, otherwise, the people will grab the land as much as they want" (interview with village headman, M, 16/4/2019).

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Moreover, the IDPs are able to access bamboo and other timber for housing materials from the forest. The committee also preserves the common land, forest land, land for school, meeting hall, religious lands, and clinic.

The ones who resettled first were able to choose the area where they want to build the houses. According to the villager who is the only original household of Daw Klaw Le (as mentioned in Chapter 4), their original housing land is taken by the new comer IDP because they returned to their original village after one year of resettlement. However, the original family agree to take the new housing land in the unoccupied place. The village has plenty of lands because the original village's size was one of the biggest villages in Shadaw Township (interview with original villager, F, 17/4/2019). Although these IDPs are from different areas, they all have social relations as they are the displaced people who have faced common livelihoods difficulties during the years of forced displacement. Resettled in Daw Klaw Le, these IDPs now have security of land for housing.

***Food Security***: The IDPs in Daw Klaw Le village have access to adequate farmlands for their daily foods. The village committee allocates three to five acres of farmlands per household which depends on the number of family members. On their grants of land, they mainly grow rice for family consuming and access the forest land to collect the seasonal vegetables and non-timber forest products. Rice is grown during the rainy season enough for each family's consumption for the whole year.

The majority of the interviewees similarly responds land is essential and everything for them that allow for living and everyday lives. They also said that land is the main source to produce daily foods. They raise the livestock animals such as chicken and pigs for both family consumption and market for extra income. Another source for family consuming is the home gardening within their housing land that grow vegetables. Some older men are also hunting as there are still plenty of preservation forests around Daw Klaw Le village (interview with villager, M, 17/04/2019). In this way, the IDPs in Daw Klaw Le village totally depend on the farmland and forest land for their daily consumption.

***Economic Security***: Land is the main source for the IDP's economic incomes. Maize, sesames and tea plants are cash crops that contribute for their children's education, health

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and other basic needs. The majority of farmers in Daw Klaw Le usually grow maize because growing maize is the seasonal cultivation during the rainy season that they can substitute other crops in another season. One of the farmers mention that he usually grows maize for making incomes apart from growing rice as family consuming. He has five acres of farmlands to grow the corn that usually could earn around 20 lakhs more or less per year.

Some family households who live along the main road that connect to the capital city, Loikaw, have opened small grocery shops. They purchase the basic goods from the city to resell in their grocery shops to the local villagers as well as those travelling through, securing their livelihoods (interview with villager, M, 17/04/2019). The grocery shop owner mentions that he chose his housing land near the main road that he could open the grocery shop since the beginning. He also adds he has few family members that farming does not help much for their family livelihoods. However, grocery shop could even support for his daughters' education and other basic needs (interview with villager, M, 17/4/2019).

***Culture and Social Security***: Land is vital for cultural practices and social activities. While all the IDPs in Daw Klaw Le village are ethnic Kayah, they come from differing religious beliefs with approximately half of Animist and half of Christian faith. Each faith has their own religious lands such as Church for Christian and Ta Khon Tai[7] for the Animists. There is mutual respect to each faith and cultural events linked to Animism such as Kay Htoe Boe (water festival) and Dee Ku festival (harvest festival) are celebrated together (interview with villager, M, 16/04/2019). One of the Ta Khon Tai villager in Daw Klaw Le told me that

> "we invite all the Christian villagers to join the festival together. Even though the Christian are not worship spirits anymore, their ancestors used to worship the spirits as the traditional religious. We also used to go to the church during the Christmas time or other Christian activities" (interview with villager, M, 17/4/2019).

[7] Ta Khon Tai in Burmese language refers to areas to worship to the spirits.

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Moreover, I also have observed during my field work that everyone in the village celebrates together the Kay Htoe Boe festival. Originally, Kay Htoe Boe festival is one of the traditional festivals that come from the worshipping spirits. Ta Khon Tai villagers are the one who host the festival and invite home the Christian villagers for having meal together. For the preparation, only men in the village go to the forest and decorate the totem pole in the holy land. Women remain in the village to prepare the meal and welcome the men back. As for myself is woman, although I could not observe directly the preparation of the festival, I join the male together with them. By doing so, the IDPs in Daw Klaw Le are able to access the land for the cultural, social and religious practices. Overall, the IDPs in Daw Klaw Le village enjoy good housing, sufficient food, adequate economic income, freely practicing their social and culture activities through secure access to land use.

### 5.4 Case Study II: Land Governance in Daw So Shay village

Land management in Daw So Shay village can be categorized in the same two ways as in Daw Klaw Le village: customary laws and statutory laws. According to the traditional practice, the village headman and the elderly were the ones who managed and allocated the land. Men enjoyed more privilege than women in terms of access to them, which explained why men could manage the land but women had more restrictions. For instance, women were not allowed to touch the natural things that they worshiped or even could not step into the religious lands (interview with villager, F, 15/05/2019).

Customary practices and regulations in Daw So Shay village are not only to manage the lands, but also to take action to judge the disputes among villagers. One of my interviewees from the Daw So Shay village described,

> "If two people grab a piece of land, they have to eat the soil to decide who is the real successor of their ancestors. The one who feels nothing after eating the soil will be the real successor of the ancestral land. The other will feel bad or become ill as they are not the real one" (interview with villager, M, 12/05/2019).

The forced displacement due to armed conflict disintegrated the land tenure security of Daw So Shay village. However, the social relations between Daw So Shay and the two priests enabled security of shelter for the Daw So Shay IDPs. The two priests

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were the main leaders to manage and allocate the lands when they resettled into new location. As the host village is also the Karenni, they embraced the customary practices though they now follow the Catholic Christianity. Hence, the customary practices on land management were familiar for the IDPs in the new resettled area.

The customary land management also attained the land tenure security when the IDPs returned to their original Daw So Shay village to access back their farmlands in 2002. Despite landmines and difficult transportation, which threatened the IDPs returnees, they could re-access their old farmlands, which partly secured for their livelihoods. Without elder's oversight, the IDPs could still recognize their parents' farmlands that was acknowledged by all from Daw So Shay and neighboring villages. The new generation became the core people to re-manage the farmlands as before their forced displacement. In this way, the customary land management system has relived for them in order to access the housing land in the resettled area and the farmlands in their former village (interview with village headman, M, 12/05/2019).

Apart from the customary land management, the statutory laws on land governance are also inevitable to consider in the former Daw So Shay village. Myanmar's Constitution (2008, Article 7) asserts that state is the ultimate owner of the entire lands and only state can utilize and supervise the land and its natural resources. As extrapolated in Chapter Four in the section of history of land administration, Myanmar has witnessed the complication of land governance under successive governments. Several government actors and institutions have engaged in land governance and successive governments have enacted several policies and laws. Subsequently, land disputes, especially in rural ethnic minority areas, have heightened the controversy on the government's land governance.

Land disputes in the original Daw So Shay village emerged after the IDPs returned to access their old farmlands in 2002. At that time, the Tatmadaw deployed the 360-battalion station near the original village, confiscating 200 acres of Daw So Shay's farmlands in the process. This restricted the movement of the IDP returnees to cultivate what was left of their farmlands. Additionally, the Tatmadaw forcibly collected taxes from the remaining land use, forced the villagers to grow castor oil plant and forced them to work on their confiscated farmlands for no return (interview with village headman, M, 12/05/2019). In this way, the Tatmadaw exploited the IDP returnees' land use and human rights for several years.

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In the current time, the peace process in Karenni State brings hope for better living conditions for the Karenni IDPs (cf Chapter Three). However, differently to the IDP situation in Daw Klaw Le village, the IDP returnees in Daw So Shay village have encountered serious land disputes. Since the democratic transition in 2010, land disputes between Tatmadaw and Daw So Shay IDPs have continually worsened. Tatmadaw confiscated a further 900 acres of their farmlands without legal procedure or compensation under the guise of security. The 360-battalion prohibited the IDP returnees to farm these lands; instead, rented the lands out to four other villages from the nearby village tract. In return for their cooperation with the Tatmadaw, those four villages have successfully applied for Land Use Certificates (Form 7), to give them legal tenure of that land (interview with villager, M, 12/05/2019).

Despite these abuses of their land rights, the Daw So Shay IDPs continue to work their farmlands as they have no other choice for their livelihoods. Continually, Tatmadaw have intimidated and threatened these IDPs with verbal and physical abuse. One of my key informants who has experienced this abuse shared,

> When we went to our farmland, they shot the gun in the air for twice. Then, the Tatmadaw soldiers pointed us with the gun and scold. Then, the Tatmadaw soldiers arrested us to bring to the military station (interview with village headman, M, 12/05/2019).

Additionally, the Tatmadaw has taken legal action, suing eleven Daw So Shay IDPs for trespassing on the confiscated lands. Those IDPs who do cultivation in their own farmlands have had to pay fines for trespassing.

The land disputes between Tatmadaw and the Daw So Shay IDPs have not improved under the current NLD government. At the time of writing, the IDPs are still attempting to access their ancestral farmlands. Tatmadaw continue to intensively prohibit the use of any of the farmlands in the confiscated areas. When the IDPs enclosed their farmlands by using concrete pillars, the Tatmadaw violently destroyed them. They also destroyed the road that accessed the farmlands, labelling the farmland as “Military-owned lands”. A further fifteen Daw So Shay IDPs were sued for trespassing and nine were imprisoned for destruction of public property and trespassing (interview with villager, M, 12/05/2019). The expected positive change under the democratic government for secure

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land tenure that recognizes the Daw So Say IDPs right to access their ancestral land has not eventuated.

The geographic area of the former Daw So Shay is situated directly under the jurisdiction of a sovereign state. This area is also titled as the white area which means firmly consolidated under the state. The original Daw So Shay village was vacant for nearly two decades following its destruction by the Tatmadaw. The returnee IDPs failed to apply for the legal Land Use Certificates (Form 7) when they returned to access their farmlands because they acknowledged that the customary laws are the security for their ancestor's lands. This acknowledgement has been negated by the competitive legal status imposed by the predominance of powerful state actors in land management with the dreaded consequence, the Daw So Say IDPs have lost their ancestral land.

Lack of rule of law and injustice in land governance have led not only to the land tenure insecurity but have brought human insecurity for the Daw So Shay IDPs. Moreover, the increased Tatmadaw militarization in Karenni State and Tatmadaw's power in the country's judiciary continues to oppress and threaten both local farmers and the IDPs in Karenni State. The following different elements summarise how the Daw So Shay IDPs human security human rights are being exploited.

### 5.5 Human Security in Daw So Shay

Daw So Shay case study has provided to understand lack of access to land results in human insecurity of IDPs. Landlessness is the nationwide issue in Myanmar that more affect to the marginalized or vulnerable people in rural areas, especially the IDPs. Although the IDPs in Daw So Shay village have attempted to solve for their livelihoods by accessing the lands, state actor's predomination threatens the IDPs' attempting to access the land. Unlike the IDPs Daw Klaw Le, the return process of Daw So Shay IDPs have encountered several obstacles to access their original lands. Unable to access the land brings the following different elements of human insecurity for the Daw So Shay IDPs. ***Housing and Shelter Security***: The customary practices in land management system provided the housing lands for Daw So Shay IDPs through the social relation with the two priests and social identity of their status. However, even though the resettled village is situated in the government's sovereign territory, the government failed to recognize IDPs' resettled area as a village for several decades. Moreover, the government

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did not provide any social services such as school, health care services, electricity, and infrastructure. After many attempts to officially register the village, the application was finally successful and New Daw So Shay is now officially recognized in the land registrar (interview with village headman, M, 12/05/2019).

Despite the village registers, the IDPs in Daw So Shay are feeling insecure for their housing lands. The host villagers who were dissatisfied with the allocation of a portion of their village lands often personally attack to the Daw So Shay IDPs. According to one of the host villagers,

> "There are some people in the host village that feel dissatisfied to share their lands. Those dissatisfied people always bring back the case to verbally blame to the IDPs" (interview with host villager, M, 13/5/2019).

As one of the IDPs in Daw So Shay village, he doesn't feel secure even to live in the village because he always concerns when the host villagers blame them that might be taken back their lands anytime. The IDPs in Daw So Shay village have experienced not only physically insecure also mentally insecure (interview with villager, M, 13/5/2019).

***Food Security***: Seasonal farming or cultivation is the main source to produce the foods for family daily consuming. When the IDPs returned to access their former farmlands, they could produce sufficient rice that could consume the whole year with supporting of other crops. The farmers in Daw So Shay state that they only cultivate the rice in the rainy season because they have to depend on the rain as difficult to access the water resources. Furthermore, they freely could access to collect seasonal foods from the communal lands such as vegetables, bamboo-shoot, mushrooms, and non-timber forest products (interview with villager, F, 15/05/2019).

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However, this access was short-lived when the Tatmadaw confiscated and prohibited them to use their farmlands to produce for their daily needs. Most of Daw So Shay IDPs have not only lost their farmlands, but experienced police action against them with a number arrested and imprisoned in 2019. Denied access to their own farm and communal lands, the Daw So Shay IDPs now face severe food shortages, a situation emotionally expressed by one of my life story interviewees,

> "Normally, we have to go for farming now, during the rainy season. But now the military blocks and destroys our way. We, the whole village just sit

and nothing to do and do not know what to do. We concern for our food. If we cannot go this time for farming, we do not have anything to eat for the whole year. We have to buy rice that also need money" (interview with villager, F, 15/05/2019).

***Economic Security***: Lands are related to economic incomes. Daw So Shay IDPs usually grow crops including corns, sesames and peanuts for family incomes that are used for the family basic expenses such as children's education and health. They also used to exchange the crops with the goods that the family needs. For those who could cultivate rice more than five acres are even able to sell some for the family incomes. Moreover, some families take loan from local businessmen to invest in their farmlands and repay after they harvest the crops (interview with villager, F, 15/05/2019). The land disputes between the Tatmadaw and the IDPs have destroyed the family economy. Thus, many families are unable to generate incomes for the family expenses. Consequently, children cannot concentrate on their study and some children have had to drop out from school due to shortage of family income and deepening debt. A widow shared her story with me,

> "Since I expect more secure and good living condition, it starts a lot of difficulties. Tatmadaw confiscated 15 acres of my farmlands. I have three daughters; two daughters are studying and the eldest one quit the school because we could not afford her to continue. I do not have husband and I raise three children by myself. If I cannot produce enough crops this year, it will affect not only to my family's consuming also to my other two daughter's education" (interview with villager, F, 15/05/2019).

This widow was one of the Daw So Shay villagers who was imprisoned under Section 6 (1) and 447 of the Trespassing Law and Destroying Public Property Law. She cannot speak Burmese language fluently, which made her face more challenges in the court. Her daughters had to leave school to help their mother. This family has faced not only the loss of land but significant psychological distress.

***Cultural and Societal Security***: As detailed in Chapter Four, land has social and cultural attachment for the Karenni people. The IDPs used to hold the special traditional festivals that signify the identity of the Karenni people. They also used to classify specific lands

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for religious and cultural practices. For instance, Kay Htoe Boe festival also known as Water Festival is most important to be held every year to bring plentiful rice, good weather, unity, peace, and good health. Dee Kuu festival is also held every year after the harvesting time. In this way, local religious and cultural practices attach with the land.

However, lack of access to lands has ruined these local traditional and cultural practices. In addition, the IDPs cannot freely organize their customary practices in their own farmlands. For instance, the IDPs organized a peaceful demonstration to protest the Tatmadaw's actions by using the customary practice that brings the chicken leg bones and fruits to offer to the spirits to protect their farmlands. At that time, many armed police surrounded them which made the villagers feel insecure (interview with villager, M, 14/05/2019). Additionally, the Tatmadaw also sued the journalists who covered the villagers' protest for their farmlands (Htet Naing Zaw 2019). By doing so, this action become the threat for the IDPs to organize the customary practices and to access back their farmlands.

Moreover, the IDPs' everyday social lives are under threat by the Tatmadaw and the police. The Tatmadaw forbids not only to go to the farmlands also traces and checks them even they stay in the village. Since the land disputes emerge, outside people enter to the village every day to help the villagers including journalists, lawyers, member of parliament and CBOs/CSOs. Tatmadaw's soldiers come to investigate the villagers after the outsiders enter. One of the women interviewees mention that,

> "I am scare and hide when the soldiers come to investigate the villagers because I used to have experience that the soldiers tortured one of my relatives during the displacement. I still feel scare even they are not tortured the villagers now" (interview with villager, F, 14/5/2019).

Moreover, the police also come to arrest the villagers who were sued by the Tatmadaw that make shock for other villagers especially elders, children and women. Instead of farming and enjoying better living conditions under the political transition, some have been imprisoned and all denied their basic rights of access to their lands.

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## 5.6 Conclusion

Access to land is fundamental to fulfil human basic needs, especially in rural ethnic minority areas which totally depend on lands for their whole livelihoods. Access to land is closely related with human rights and human security that can achieve sustainable livelihood development to reduce poverty. As discussed in the two case studies, right to access to land can provide the freedom from want particularly in terms of proper housing, sufficient foods, adequate economic incomes, culture, and societal freedom. On the other hand, the consequences of lack of right to access the land results in several threats to human security

The case study of Daw Klaw Le village highlights how the IDPs are able to enjoy access to land in the resettlement area that is sustaining their human security. Although the current IDPs in Daw Klaw Le village are not the original people of Daw Klaw Le, they have rights to access the lands under the identity of Karenni IDPs and social relations with the original villagers. Moreover, both the KNPP and the government involve in land governance as mixed-administration, officially granting the right to access land and recognize the customary practices. According to the bilateral ceasefire agreement, both sides agree to preserve lands for IDPs, returning refugees and KNPP family members in Shadaw Township where Daw Klaw Le village is located. As such, the IDPs who have resettled into Daw Klaw Le village have been accorded the right to use land for housing and farmlands that provide the security of housing, food, economic income, culture and societal. In this place, the peace process in Karenni State during political transition has brought the human security for the Daw Klaw Le IDPs in terms of access to land.

Contrarily, the case study of Daw So Shay highlights how the IDPs have encountered several factors of human insecurities due to lack of access to land. Unlike Daw Klaw Le, the IDPs in Daw So Shay have returned to their original village to access their ancestral lands. Even though Daw So Shay IDPs have embraced the customary practices to access their original lands, statutory laws on land management system have changed the results of access to land. Moreover, state actor's predomination in land governance have resulted in multiple injustices in the form of human rights abuses, lack of the rule of law and non-recognition of their customary practices. Consequently, the Daw So Shay IDPs have become the vulnerable group experiencing food shortages, insecurities of economic incomes, threatens to their culture and societal ways due to the

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lack of right to access their own farmlands. For the Daw So Shay IDPs, the political transition has brought only human security.

In conclusion, the two case studies focusing on IDP resettlement in Karenni State, have encapsulated the relation between access to land and human security. In common, both Daw Klaw Le and Daw So Shay villages encountered the same experiences of forced displacement during the intensive fighting between Tatmadaw and the KNPP. However, their trajectories in the political transition period highlight how their attempts to access to land have differently impacted on their human security. Different state and non-state actors involve in land governance that significantly derive the different outcomes and consequences. Hence, this chapter argues that when state actor's predomination in land governance with inadequate provision of the rule of law, the human security of IDPs is threatened. Finally, it is reasonable to consider that ethnic minorities' land rights and customary land management affairs are necessary to bring into the peace process.

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# Chapter Six

# Conclusion

## 6.1 Summary of the Thesis

A prominent feature of Myanmar's political transition has not only heralded democracy, but also initiated the peace process with the EAOs since 2010. The general political transition acknowledges positive outcomes which achieve human security. The democratic transition in 2010 generated a free and fair election which formed a new civilian government. The transition culminated in several factors to solve the former political crises including the release of hundreds of political prisoners, national reconciliation, peace process, forming a National Human Rights Commission, easing media censorship and freedom of movement and expression. Apart from these, the transition has acquired international relations and engagement which pursue international support for socio-economic and political reform.

One of the most significant achievements of U Thein Sein civilian government is the initiative of the peace process based on the bilateral agreement with EAOs in both regional and national levels. This led to the signing of the historic Nationwide Ceasefire Agreement (NCA) in 2015. However, the desire for a truly nationwide ceasefire has eluded fruition with Tatmadaw and some EAOS, especially in Northern and Western parts of Myanmar, involved in ongoing conflict. In the case of Karenni State, the KNPP signed the bilateral ceasefire agreement with U Thein Sein government in 2012 but did not sign the NCA in 2015 due to the several deadlocks impeding the national level peace process. Nevertheless, the regional level bilateral ceasefire agreement of 2012 has prominently reduced human rights abuses in the decades long conflict affected areas.

Peace process in Karenni State consequently brings hope for the Karenni IDPs. Since the peace process began in Karenni State, Karenni IDPs have started to resettle in new areas and returned to their original areas. However, land grabbing and land confiscation issues are impeding some IDPs voluntarily resettlement and return processes. What is more, new land laws enacted during the political transition have raised

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controversial issues for ethnic minorities' land rights, especially for the displaced people. Although the peace process brings hope, unjust land policies that fail to recognize ethnic minority customary rights are threatening the human security of the Karenni IDPs in terms of access to land. Furthermore, peace process has become fragile at both national and regional levels for various reasons. The ensued deadlock has led to livelihood insecurity in many parts of Karenni State.

This thesis studied the reasons and rationale behind the peace process deadlock at the local level, in Karenni State. Its findings reveal that land laws reformed under the name of political transition have prevented the IDPs from accessing lands in the case of resettlement and return process. Though, in wording, customary laws on land management appear to be recognized, this has not been the outcome on the ground level. Despite these obstructions to accessing their lands, IDPs have determinedly pressed on with their voluntary resettlement and return process.

Lack of access to land and state actor predominance on land laws directly impact the human security of IDPs. This thesis argues that state actors are predominating the peace process and manipulating the land laws which directly threatens the IDPs' human security in terms of access to their original lands. The case study of two villages – Daw Klaw Le Village and Daw So Shay Village – compared different land management systems during this time of political transition in Myanmar. Daw Klaw Le village had been uninhabited for more than two decades following Tatmadaw clearance operations during the 1990s. Following the bilateral agreement between Government and KNPP which reserved this village site for IDPs, returning refugees and KNPP family members, Karenni IDPs from different places have been able to resettle to this village, accessing both housing and farmlands for their livelihoods. Under mixed-administration official process, with recognition of customary land management practices, many resettled households have successfully applied for official Form 7 Land Use Certificates, gaining secure land tenure in this village. Therefore, the IDPs in Daw Klaw Le village have resettled successfully without predomination of any stakeholders.

Daw So Shay village was the second village studied. The IDPs who have resettled here have faced several struggles. Differently to the IDPs in Daw So Shay village, these IDPs are the original inhabitants or their descendants of Daw So Shay who were forcibly displaced by the Tatmadaw from this place in 1988. Under the leadership of their

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missionary priests, they were able to access housing lands on the outskirts of the San Pya Chouk Maing Village which was the home area of the priests. However, without enough farmlands in this new place, many have attempted to return to their original village to secure their livelihoods. This has been fraught with conflict as the Tatmadaw had confiscated many acres during the military junta time and have since acquired more through manipulating new land laws that have come into effect during the current political transition time. Villages defying these moves, have faced arrest for trespass and some even imprisoned. The sad outcome is that these villagers have lost significant amounts of their ancestral lands and now struggle to cope with food, economic, income, cultural and social insecurity. Comparing with the resettlement process in Daw Klaw Le Village, the situation in Daw So Shay highlights how the predominance of state actors in the IDP resettlement and return results in ongoing inequality and human rights abuses from pre-political transition times, whereby customary land management is unrecognized and lack of the rule of law prevails.

### 6.2 Limitations of the Study

This research has some limitations. Firstly, this research concerned with the impact of access to land on IDPs' human security during the political transition has conducted field data collection only in two IDP villages in Karenni State. As such, the research findings cannot be generalized to other IDP communities in Karenni State, much less to other states in Myanmar. Issues relating to human security, relations between the EAOs and the Myanmar government, and local political and social contexts in each state are different. Despite this limitation, research findings of this case study have brought to the forefront the importance of understanding how differing contexts of state actors, Myanmar Government's land governance and current land management practices can raise potential barriers to Karenni IDPs resettlement for their sustainable lives and livelihoods in this time of political transition.

The second limitation is the time. This research has conducted the data collection in 2019 from the end of April to May. As usual, peace building process, the nature of land conflicts and land laws have changed frequently. Due to these, the research findings cannot be covered beyond the time of data collection and thesis writing.

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The third limitation is theoretical. Human security is a relatively new concept in international relations and its definitions are highly contested. Many scholars have criticized human security's broad list of sources of threats. For example, Roland Paris (2001) asked, "if human security is all these things, what is it not?" (p. 92). Keith Krause (2004) declared that inclusive definitions of threats amount "a useless shopping list" (p. 367). When I chose to study threats to the IDPs' human security in Daw Klaw Le and Daw So Shay villages, I realised that I was bogged down in the subjectivity dilemma. However, through combining the concepts of human security and access to land, I have been able to show that the threats to the IDPs mainly result from IDPs' insecurity to access lands. Thus, although my decision to study the threats to IDPs human security can be thought to be subjective, this does not affect our understanding of the IDPs insecurities in the targeted villages of this case study. Despite human security's analytical weakness, Peng Er Lam (2006) argues that "we do not necessarily throw the baby out with the bathwater just because certain concepts are deemed to be less than clear or useful to everyone" (p. 145).

### 6.3 Policy Implications

Myanmar's political transition brings the democratization alongside with peace building process. Being a democratic transition, a series of policy, political, economic, and administrative reforms were initiated under the military-backed government. Generally, those reforms have led to positive changes both at national and regional levels which seems to achieve human security. Peace building process with EAOs has also greatly brought freedom, human rights, good opportunities, rural and economic development, and foreign investments in the ethnic areas.

While Myanmar's political transition has opened the way for pragmatic politics at the national level, at the regional level, for example, in Karenni State, the peace process with KNPP still faces obstacles to advance the political dialogue. On the one hand, the peacebuilding process between the KNPP and the government bears the hope for the displaced people, especially for IDPs in terms of resettlement and return process. However, on the other hand, IDPs have encountered several challenges in terms of access to their original lands from which they were forcibly displaced during the Junta years, that impact on their human security. More than that, policy reforms that are related to

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land including the 2012 farmland Law and the VFV Land Management Law, do not protect for IDPs land tenure rights and customary laws on land management system. Hence, this research argues that state actor's predominance in the land laws, peace process and the IDP resettlement or return process results in human insecurity for the IDPs.

### 6.4 Recommendations

Although successive governments and the KNPP are attempting to achieve peace in Karenni State, the peace process still has a lot of obstacles toward to effective political dialogue. Hence, recommendations focus on three issues.

The first relates to the peace process in Myanmar. The current peace process is controlled by the central government. Some peace negotiators in the NRPC have lack of decision-making role that delay the peace process and engender less trust between the KNPP and the peace negotiators. Thus, clear roles and responsibilities are one of the important things which need to improve the current peace process. At state level, the bilateral agreements and ground level conflicts are yet to be solved, which has created deadlock of the peace process. The bilateral ceasefire agreement is a vital commitment between the government and the KNPP to implement in the regional level. However, the military and the current state government violated the bilateral agreement instead of implementing its intent. Moreover, the state government's lack of role in the peace process and inabilities in politics do not solve the ground level conflicts including IDPs resettlement or return, military movements, and land conflicts. Therefore, the state government's cooperation with the KNPP should take action to implement the bilateral ceasefire agreement to rebuild the trust. In addition, public voices or public consultation is very important to initiate action to solve the ground conflicts. Additionally, decentralization is important to reinforce the current peace process in terms of development, politics, economics, and administration.

The second recommendation relates to land laws. New land laws such as Farmland Law, the VFV Land law and its amendment laws are controversial especially for the smallholder farmers and ethnic minorities. Even though the land laws aim to alleviate rural poverty and increase rural development, the aims are unlikely to be achieved at the ground level because the laws favor potential investors more than ethnic

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farmers whose traditional practice of shifting cultivation relies upon their access to the land. Moreover, land laws that state every citizen has the right to apply for Land Use Certificates are inadequate to secure rural land tenure security for vulnerable and smallholder farmers. To ensure fairness and equity n the case of Karenni State, state government should have an assessment program for rural farmland areas before issuing Land Use Certificates (Form 7) to secure land for the smallholder farmers. Importantly, clear recognition of customary land rights is essential, having a legal process in place to formalize customary land rights and practices. Furthermore, addressing land conflicts in Karenni State should prioritize as one of the solutions in the peace process in terms of historical grievances and ethnic territorialities. Apart from these, the issue of land confiscation by the Tatmadaw is the most serious issue that need to solve. Especially, unused land should be returned to the original owners or compensate on the confiscated land. Moreover, Karenni people's awareness about the land laws is very weak. Hence, the state government should provide programs to enhance public awareness, assessment for the farmland areas and cultivation areas and solve the land conflicts in the ground level.

The final recommendation is directed to the IDPs in Karenni State. Almost all Karenni people depend on the land for their whole livelihoods in terms of housing, food production, economics, making money for health and children's education, practice their culture and religion. Research findings have revealed how some IDPs have been imprisoned for trespassing and destroying public property instead of rightful access back to their original lands. Not only has their psychological security been violated by land law reforms in the political transition period, now they are facing further physical insecurity as the military predominate in the IDP return process. Therefore, it is imperative that both national and state governments, the Tatmadaw and the KNPP need engage in joint dialogue to agree on just and proper policies for IDPs and returning refugees' resettlement and land allocation. Finally, all the main stakeholders need to include the civil society roles in the peace process, land related policies and conflict resolution.

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