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Retracing the genealogy of wastelands in Burma

Céline Allaverdian

AgroParisTech 

Université
de Montréal et du monde.

université
PARIS-SACLAY



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Author:

- Céline Allaverdian, Gret program officer at Paris headquarters and PHD candidate for AgroParisTech/Université Paris Saclay - UMR: PRODIG and Université de Montréal
Contact: allaverdian@gret.org

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ACRONYMS

CSO	Civil Society Organization
DALMS	Department of Agricultural Land Management and Statistics (2015-24)
FAB	Farmland Administrative Body
FDI	Foreign direct investment
GRET	Groupe de recherche et d'échanges technologiques
MAF	Ministry of Agriculture and Forestry (1972-92)
MEC	Myanmar Economic Corporation
MEHL	Myanmar Economic Corporation (MEC) and the Myanmar Economic Holding Co. Ltd
MOAI	Ministry of Agriculture and Irrigation (1996-2016)
MOALI	Ministry of Agriculture, Livestock and Irrigation (2016 to now)
MOECF	Ministry of Environmental Conservation and Forestry
MONREC	Ministry of Natural Resource and Environmental Conservation (2016 to now)
NGO	Non-Governmental Organization
PA	Protected area
PDC	Peace and Development Council
PhD	Philosophiæ doctor (doctorate)
RF	Reserved forest
RFPPF	Reserved Forests, Public Protected Forests (and Protected Areas), referring to the Public Forest Estate
PPF	Public Protected Forest
SAC	State Administration Council (in power since February 1, 2021)
SLORC	The State Law and Order Restoration Council (1988-97)
SLRD	Settlement and Land Records Department (1906-2015)
SPDC	State Peace and Development Council (1997-2010)
USD	United States Dollar
USDA	Union Solidarity and Development Association
USDP	Union Solidarity and Development Party
VFV	Vacant, Fallow and Virgin land (in reference to the 2012 VFV Land Management Law)
WCS	Wildlife Conservation Society

GLOSSARY

<i>ahmudan</i>	crown servicemen classes
<i>ala</i>	precolonial term referring to people who had at least one parent born in a different location
<i>Anyar</i>	referring to Dry zone, central lowland Myanmar
<i>asu</i>	areas where <i>ahmudan</i> class folk predominate
<i>athi</i>	common folks, commoners
<i>aya-daw</i>	refers to the King's property (lands and other resources) at his disposal
<i>boba dama-u-kya</i>	intermediary phase between <i>dama-u-kya</i> and <i>bobapaing</i>
<i>bobapaing mye</i>	referred to by some as "ancestral lands", land that has been inherited since grandparents and becomes a form of private tenure (transferable, alienable, but revocable) established over several generations
<i>chan</i>	fence of any kind, an enclosure for cultivation, or for confining cattle, fowls, etc. (Judson p. 302)
<i>dama-u-kya</i>	first clearer claims
<i>dhamma</i>	socio-cosmic order or the law that governs this socio-cosmic order in Buddhism
<i>dhammathat</i>	precolonial compilations of legal, moral and ethical principles and codes
<i>dhani</i>	mangrove palm (<i>Nypa fruticans</i>) land
<i>kaing</i>	a species of bush, elephant grass (Judson, p. 202), but refers to alluvial land subject to yearly inundation
<i>kapa</i>	precolonial term, referring to groups of recent migration
<i>kwin</i>	originally defined to be survey units for land revenue administration (also called blocks in urban areas) identified by a unique name and number
<i>kyi-taw</i>	royal granary
<i>kyun</i>	island
<i>lamaing</i>	cultivators serving the King under hereditary crown service
<i>le mye</i>	a rice field so constructed as to be irrigated
<i>lok-mye</i>	land given by the King for "work" and cultivated directly by the grantee and for which rent or revenue was paid to a higher level official
<i>lok-paing-hkwint</i>	1964 Procedures Conferring the Rights to Cultivate Land, 1964, rule 64/1), farmers could claim their "right to cultivate"
<i>Manu-gye</i>	<i>dhammathat</i> of the 18th century

<i>min daw</i>	refers to royal land/crown land
<i>min mye</i>	refers to royal land/crown land
<i>mye nu</i> (or <i>mye nu kyun</i>)	alluvial soil, as an island recently formed (Judson p. 793)
<i>mye-taw</i>	crown land
<i>myo</i>	refers to a city, or a group of villages or hamlets
<i>myo-thu-gyi</i>	hereditary local chiefs in precolonial and early colonial period
<i>naingngan</i>	very old Burmese concept, referring to the practice of rulership and the expansion of power, now referring to “country”/“nation”
<i>ne-mye</i>	literally land for living, provided (by the King) for residence
<i>patta</i> (also <i>potta</i>)	land tenure system based on allocating grants of small areas of land (15-20 acres) to selected cultivators under specific conditions
<i>pe</i>	area measurement unit (pe)
<i>pya ley pya</i>	four cuts military strategy
<i>sabwa</i>	Shan local customary chiefs (sometimes the term is used for other non-Shan groups)
<i>sa-mye</i>	literally land for eating, provided (by the King) to a grantee for personal own subsistence, and often cultivated by other cultivators
<i>sit-tan</i>	revenue inquests submitted to the Crown by all territorial jurisdictions and crown service groups
<i>su-lut</i>	area where commoners (<i>athi</i> folk) predominate
<i>taik</i>	refers to the lowest administrative unit of the circle, administered by the <i>taik thugyi</i> , in precolonial and early colonial periods
<i>taik thugyi</i>	refers to the local chief in precolonial and early colonial periods
<i>thathameda</i>	tax established under the rule of King Mindon (1853-78)
<i>thein-mye</i>	confiscated land (term used to refer to land seized by the King from seditious or rebellious people and to all contemporary forms of land grabbing and acquisitions)
<i>thu-gyi</i>	general term for a local chief/administrator
<i>thu-gyi sa</i>	land grant given for a <i>thugyi</i> to “eat”, as a retribution
<i>thu-win-nga-twet</i>	literary meaning: “he/she enters, I/we out”. Principle of claiming a land that has been abandoned
<i>ya (mye)</i>	dry land (refers to land that cannot be irrigated and where paddy is not grown)
<i>Yazathat</i>	the King's law

Note on terminology:

The choice of terms between “Myanmar” and “Burma” may reflect local, national and international political positions. I have chosen to use the term “Burma” to designate the country as it was before 1989. That year, the newly established SLORC government decided to rename the country as “Myanmar”. I will thus use the term “Myanmar” to designate that nation for events from 1989 onwards.

Important note:

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I. INTRODUCTION

Myanmar, a predominantly rural country (Ingalls et al., 2018) is considered by some as one of Asia's last frontiers (Woods, 2011), notably in its mountainous peripheries. It is marked by strong contrasts between the "valley" peoples of its irrigated rice plains and the "mountain" peoples of great ethnic diversity (Leach, 1960). With more than 70 years of armed conflict and an exceptionally long military dictatorship (since 1962), the country bears the stigma of decades of authoritarian and predatory policies and abuses of power (forced labor, expropriation, extortion, etc.), rendering land issues particularly complex (Boutry *et al.*, 2017; Scurrah *et al.*, 2015; Woods, 2011). A political transition began in 2010, with a shift to a quasi-civilian government, initiating substantial changes in terms of democratic and economic opening, including in terms of land policy, until its sudden end with the military coup of 2021 and subsequent political turmoil.

In Myanmar, today, one third of the country's land area is officially considered as "wasteland" or as "vacant, fallow and virgin land" (see Map 1). With no legally registered land rights, these lands are considered as State lands "at the disposal of the State" and perceived as "untapped potential" for economic development and all sorts of investment projects (San Thein et al., 2018). Yet much of this land has been used for decades—or more—by villagers, notably under customary norms providing spaces for individual or communal land rights for a variety of productive and non-productive uses. Depending on the region, there may be indigenous and local populations with more or less customary or hybrid management of natural resources, internal economic migrants and people internally displaced by armed conflict, or a combination of these types of actors. In all cases, this results in the fact that risks of dispossession and eviction are still relatively high, and even more so in the conflict-ridden post-coup context, under the "State Administration Council" regime and its blunt lack-of-accountability mechanism.

Various terms are used interchangeably with terms such as "waste", "vacant", "virgin", "fallow", "idle" and "underutilized" land. In all cases, the notion is particularly blurry. On the one hand, it refers to a reality of agricultural economics of marginal land: the "cultivation margin" is the limit below which it is impossible to reach a "necessary return" on cultivation activities (Peterson & Galbraith, 1932). On the other hand, we can also approach the concept of "waste land" through the prism of the geographical and political marginality of Zomia (Van Schendel, 2002), a region located at the crossroads of the margins of Central, Southeast, South and East Asia. Consisting of hilly or mountainous "borderlands" at the edges of nine states (including Myanmar) and major "civilizational centers", Zomia is also the last "non-state" region, totaling 2.5 million km² and one hundred million inhabitants of great ethnic and linguistic diversity (Scott, 2009). 75% of the land considered to be "Vacant, Fallow and Virgin" by the Ministry of Agriculture is in fact located in the hilly and forested ethnic highlands (based on computing of DALMS 2017 data) (see Map 1).

In Myanmar, the categorization of these lands as "wastelands" dates back to British colonization, similarly to many other colonial powers in Southeast Asian and African countries, that applied the top-down principle of State ownership of all unregistered land (Colin et al., 2022). Wasteland in Myanmar had more to do with the assertion of political and economic power than with the intrinsic qualities of the land (Ferguson, 2014). Indeed, we shall see that the process of categorizing lands as wastelands is not only an administrative process pushed by economic logics:

the creation of such a specific land category was and continues to be an eminently political process, pushed forward primarily by logics of power. I argue that the continuities and discontinuities in land management policies and practices since precolonial times have resulted in the “entanglements” of successive narratives around the notion of “wasteland” to create and redirect dynamics of exploitation and use of space according to the interests of the moment.

This report attempts to provide a historicized analysis of this land category and the reasons of its remarkable persistence despite the end of British colonial rule and other important political changes throughout the successive regimes of Burma. The objective of this report is to unravel the genealogy of land institutions created by the Burmese State, with a particular focus on the notion of “wasteland”. It will seek to identify the continuities and discontinuities in land management policies and practices since precolonial times to now, with a particular focus on “wastelands”. Doing so enables us to better grasp the entanglements of successive narratives, ideologies and legacies of specific stakeholders and institutions involved in contemporary land management.

This “genealogical” approach aims to explore the history of values, institutions, norms and social representations to demonstrate their potential and weight. Adopting a genealogical approach to land institutions means considering that their invention, implementation and adaptations through practices and social change are thought of not only as a continuous process, “*grafts, transfers and subjugations*”, but also as a series of “*discontinuities, detachment*” and ruptures (Guilhaumou, 2016, p. 18¹). These institutions derive from socio-political conventions and administrative traditions, and are shaped and enforced by socially situated actors, who act within specific contexts and political logics, are involved in alliances and rivalries, and carry out strategies based on specific beliefs and narratives, with the influence of persons and groups of interests. As such, the genealogical approach enables us to understand the logics and practices at play in the creation of land management rules and principles and their functions in the political context in which they are embedded.

This chapter draws on different workstreams, including a literature review of documents and archives, for the precolonial and colonial periods and early independence. I have voluntarily included many original quotes from the literature as it enabled me to illustrate more vividly some historical contexts, while capturing the moment’s discourses and terminologies. For the more contemporary periods, the work draws on a literature review as well, but it is complemented with interviews with elders in villages, interactions with local authorities and key informant interviews with persons who have worked in government, in the general administration departments, land administration and agriculture. The chapter will bear a rather State-centric and “legalist” perspective which is focused on Burman institutions and history.

I shall attempt to capture this historical perspective, avoiding the dichotomy critiqued by Lieberman (1987), between an innovative, dynamic, modern colonial period and a static precolonial era, as it is supported by scholars such as J. S. Furnivall, G.E. Harvey, and Aung Thwin. Indeed, there is undoubtedly a euro-centric and colonial biased tendency to consider British colonization as a total revolution. This tends to overshadow Burma’s prior rich history concerning

1 Citing Foucault handwritten notes of 1973, opposing the notions of archeology and genealogy.

the administrative and political system of the Burmese kings, spanning from the 11th to 19th centuries.

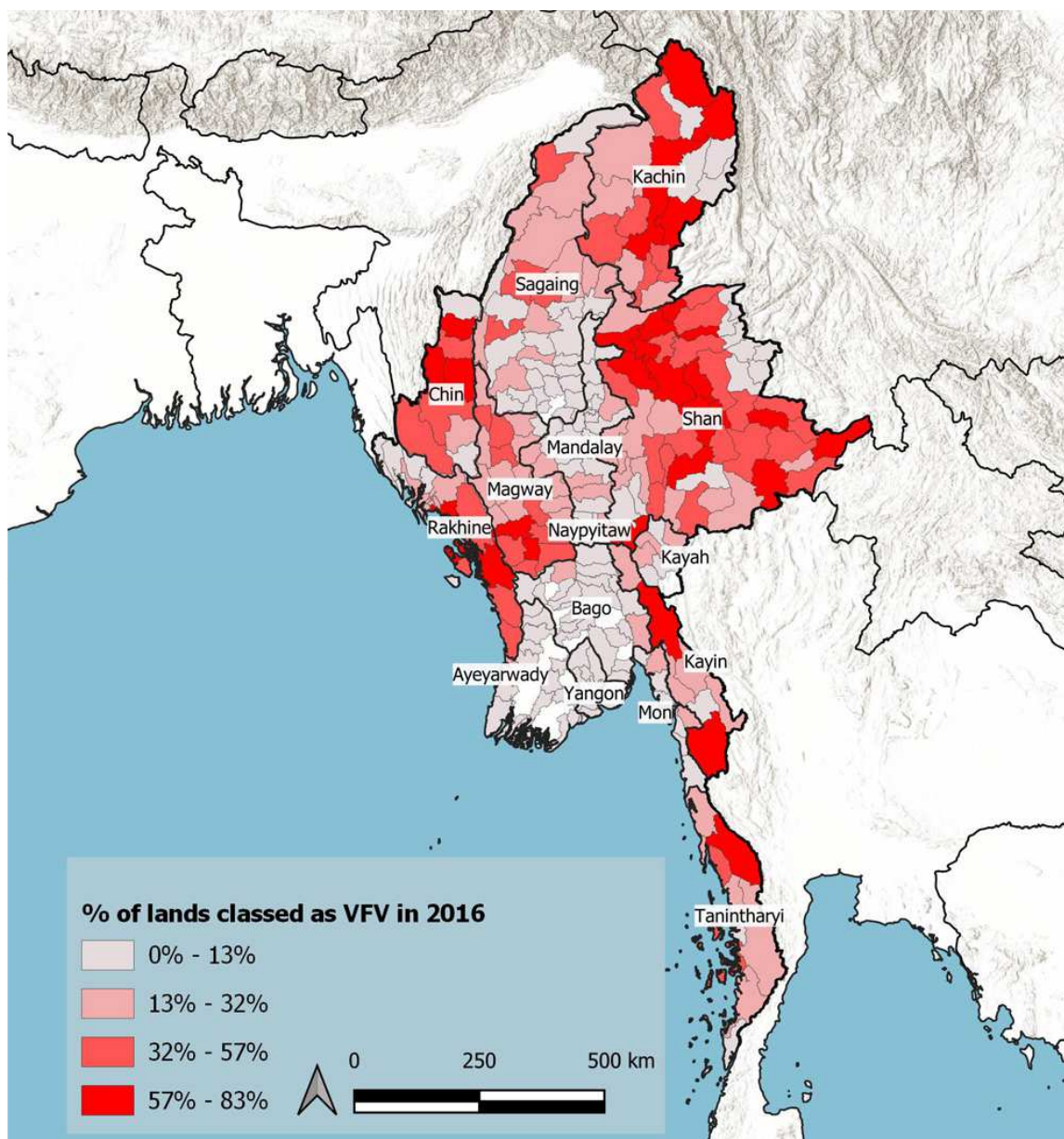
The following section briefly presents the research methodology. The third section provides a brief overview of precolonial regional disparities and the British colonization process of Burma, to help the reader in understanding the report's contents. It is particularly useful for those who are unfamiliar with Myanmar.

The following five sections (4 to 8) adopt a chronological logic to understand the genealogy of land management in Myanmar. The fourth section dives into the precolonial social structures and institutions of royal Burma to show the relational dimensions of land management during those times. The fifth section explores how the British colonial system created wastelands and promoted agricultural expansion, while highlighting the mutual influences between norms of British Burma and the Burmese kingdom, in terms of land management and "wasteland" policies. The sixth section looks at the post-independence phase, its land nationalization and subsequent erasing and integration of "wasteland" into a broader State land category. The seventh section looks at the linkages between the military and wasteland and the linkages with State building processes, with a particular focus on the post-Ne Win regime after 1988 under the SLORC (State Law and Order Restoration Council 1988-97) and the SPDC (State Peace and Development Council 1997-2010).

The eighth section looks at the 2011-21 democratic window period and analyzes the transitional legislative contents of the 2012 laws, omitting the mention of latter amendments.

The ninth section does not follow this chronological sequencing. It is a cross-cutting section that examines the data emanating from the land administration department on land concessions. It also retraces the official land categories as per agricultural statistics.

Map 1: Percentage of lands classed as “Vacant, Fallow and Virgin” (VFV) lands over total surface area in respective townships, in 2017



Sources: Map computed from DALMS, 2017, and MIMU.

II. METHODOLOGY OF THE RESEARCH

My methodology derives from my interest in attempting to fully consider the historical depth of land issues and institutions involved with land management, as well as to demonstrate the reciprocal processes of permeation across the “repertoires” of norms of various regimes and political actors in land management.

With the military coup of 2021 and the armed conflict that has been raging throughout the country since then, my understanding of the State and Myanmar’s authoritarian legacy has also pushed me to be more critical about the land “reforms” engaged during the ten-year democratic window of 2011-2021 and look at the historical *modus operandi* of territorial control in further details.

History is an essential entry point for understanding the formation of rights and claims for land since land rights are the result of social and economic relationships constructed throughout history (Chauveau & Paul, 1998; Lavigne Delville & Durand-Lasserve, 2008). The question of land rights and claims is also deeply entangled with the notion of “legitimacy” as a moral-political “justification” for authority which builds on the past as in Arendt’s understanding (Quelquejeu, 2001).

More specifically, I have used a genealogical approach to look at the question of wastelands. Such approach—rooted in the work of Michel Foucault—may be defined as a Foucauldian one. It also integrates Foucault’s understanding of power as something intrinsic to other forms of cultural and socio-economic relations that is exercised from countless points in the game of unequal and mobile relationships (Foucault, 1994, pp. 83-85). It enables us to understand history as complex entanglements of events, contingencies and ruptures that give rise to systems of power and knowledge, and to look at social and political change through historical ruptures, transformations in power and the power relations that shape society (Guilhaumou, 2016). It aims to explore the history of values, institutions, norms and social representations to demonstrate their potential and weight, and investigate how past systems and institutions have persisted, died out and reemerged to shape the present. This is useful to trace historical shifts in land ownership and control and to have a critical understanding of power struggles for land. It also helps in analyzing the social and political impacts of land and agricultural policies and grasping the element of continuity as well as that of rupture.

In this work, I have combined various methods: first, an in-depth literature review, notably on the history of Myanmar/Burma. I have conducted archival research as well, using online resources as well as the genuine archives of the “Indian office”, at the British Library in London. This latter work was quite time-consuming. However, it was highly insightful to see the materiality of archives and the evolution of colonial administrative documents as a State-building process in itself. Unfortunately, I could only do so with colonial documents. With the 2021 political coup, the public libraries holding archives in Myanmar were no longer open to the public and I could not access any archives.

Furthermore, this research builds on my previous field research work with GRET, a French international NGO, when I was based in Myanmar from 2013 to 2019. I was then involved in a series of research projects and field studies on land and agrarian issues in Myanmar, in various

regions of the country. This report shall mention some field case studies, but without the in-depth details which shall be further developed in the PhD manuscript. The previous field experience and my interactions with the land administration authorities and communities were instrumental for the framing of this report's topic on wastelands and VFV. It is from this work that I realized the enormous gap between "Vacant, Fallow and Virgin" land as a legal and administrative land category, representing almost a third of the national territory, and the perceptions of many rural communities I have come across in my research, for whom it does not exist.

This work also draws on one collaboration with the Mekong Land Region Governance project and the research conducted for the publication of "Large-Scale Land Acquisitions for Agricultural Development in Myanmar: A Review of Past and Current Processes", for which a specific detailed database on land concessions was developed in 2017, based on records from the department of DALMS² in charge of land administration. This inventory³ provides details for 8,680 allotments of VFV lands conducted between 1992 and 2016 with the names of recipients, the granting authority, the geographic location down to village tract level, the acreage granted and planted (as per DALMS records), and the declared land use when applying for the grant. After data entry, the dataset was cleaned and values of key indicators were grouped into specific categories before analysis.

Furthermore, I have conducted a number of key informant interviews with international and national land experts, Myanmar legal experts, land administration officials and civil society leaders. For some crucial key informants, I interviewed them several times, orally and through some written correspondence. For this work, I have adopted a collaborative approach both by choice and by necessity. Several Burmese colleagues have helped me so skillfully not only to conduct the literature review in the Burmese language as well as to support me for a number of key informant interviews. I wish to acknowledge the precious work of many people who helped gather the data.

The history of the British colonial conquest in Burma, conducted through three successive territorial annexations, also has impacts on my methodology and the contents of the following sections since the oldest colonial archives are essentially on the first conquered provinces of Tenasserim and Arakan (in 1826) and there is significantly more colonial archival data on Lower Burma than on Upper Burma which was annexed last, almost 60 years later. I have also thought it relevant to show the considerable interaction that occurred between British-ruled Burma and the Burmese kingdom during these six decades, including on land policy matters.

2 Previously Settlement and Land Records Department (SLRD) since British colonial times, it was renamed Department of Agricultural Land Management and Statistics (DALMS) in May 2015 (settlement operations were already functionally scaled down to nothing). The name changed again to Department of Land Records and Registration in March 2024.

3 Department of Agricultural Land Management and Statistics, 2017.

III. AN OVERVIEW OF KEY PHASES OF PRECOLONIAL AND COLONIAL HISTORY

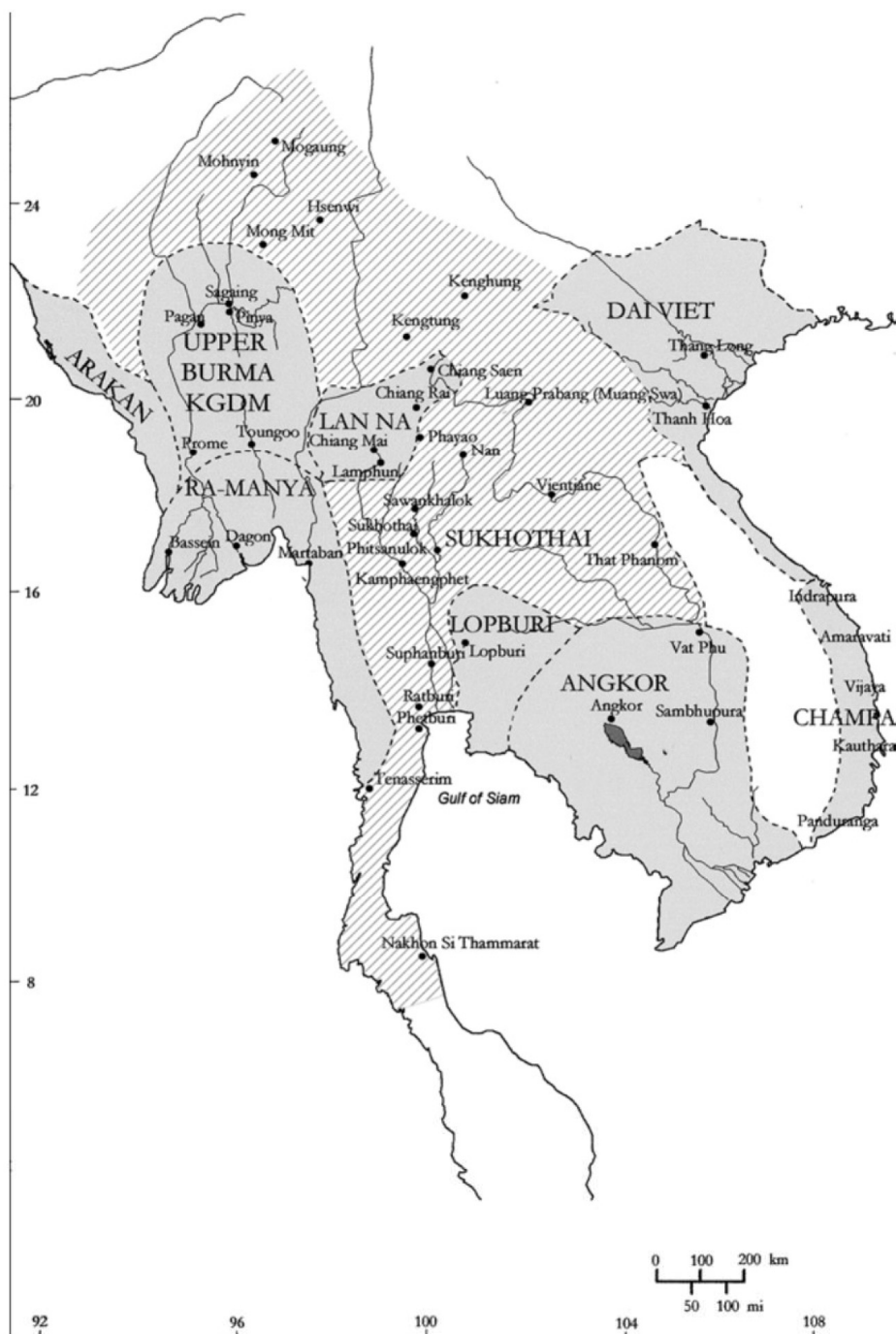
This section aims to provide a brief overview of pre-independent Burma's history and the main regional differences, for those who are not specialists of Burma, in order to provide a better understanding of the approach I undertake in this historical analysis.

1. PRECOLONIAL REGIONAL DISPARITIES WITHIN AND BEYOND THE KINGDOM OF BURMA

First, the social and land management systems were not uniform under the Burmese kingdom. In the 14th century, the historical cradle of the Burmese kingdom is located in "Upper Burma Kingdom" around the successive capitals of Pinya, Sagaing and Ava in what is now called "Dry zone" (or "*Anyar*" in Burmese), while the south was then ruled by the Mons (*Ramanya* in the map below)⁴. From there, with the Kingdom's territorial expansion, its capitals were displaced further south with Prome (under the Prome kingdom 1482-1542), Toungoo and Pegu (under the Toungoo dynasty 1510-1752). These cities were located in the areas that would later be designated as "Lower Burma" by the British. With the Konbaung dynasty (1753-1885), capitals were relocated back North to towns of the traditional "royal" heartlands of Upper Burma.

4 The Mon kingdoms of Hanthawaddy lasted from 1287 to 1539, then very shortly from 1550 to 1552 and finally with the restored Hanthawaddy kingdom from 1740 to 1757 until it was toppled by the Konbaung armies.

Map 2: Map of Mainland Southeast Asia, 1320



Source: Lieberman 2003, p. 26.

Although there is little knowledge of the social and political systems in Lower Burma prior to the Konbaung conquest, it seems they were rather similar to those of Upper Burma in precolonial times. Both regions shared the same local governance system with the *myo-thu-gyi*, the local hereditary leader, ruling over a group of hamlets or villages. In both areas, the *myo* or *taik*—a group or circle of hamlets and villages—was the usual unit of administration (Furnivall, 1957). In both areas, the conception of power of the *myo-thu-gyi* was not always territorially based on the spatial contours of the *myo* but rather on the “tribal or regimental organization of the people” (Furnivall, 1957, p. 40).

According to some scholars (Thawngmung, 2004), the social organization in Lower Burma was not as complex as in Upper Burma. Although Thawngmung affirms that there were no royal lands and no *ahmudan* (referring to crown service classes liable to the King) in Lower Burma (2004), the examination of the *sit-tans* (precolonial administration and revenue inquest records, as translated in Trager & Koenig, 1979) reveal that this is inaccurate, since the records show the presence of *ahmudan* people in some areas of this region, although in much lower rates than in the capital area (around Ava, Sagaing and Mandalay) and Upper Burma in general (Koenig, 1990). In all cases, this suggests that territorial control over Lower Burma was much more diffuse and spotty, probably concentrated around key settlement areas along the waterways. In areas of recent migration or displacements or where populations had been decimated, traditional *myo-thu-gyi*-led groups had not existed or had collapsed. In this case, the non-hereditary leaders, called *taik-thu-gyi* were nominated to administer the “artificial circle” (Thawngmung, 2004), that is a circle (or area) that is defined based on administrative functions (rather than based on the social bonds in relation to the *myo-thu-gyi*). In all cases, the level of presence of the royal administration in Lower Burma was substantially weaker than in Upper Burma.

In addition, there were important differences between these two regions, in terms of livelihoods:

“The social life of Lower Burma, part of the time under the Mons or Talaings⁵ — arch enemies of the Burmans — was similar to that of Upper Burma. [...] The outstanding contrast during this period was that fishing and the production of salt from sea water occupied many of the villages of Lower Burma, whereas village life in Upper Burma was purely agricultural.” (Andrus, 1947, p. 13).

Lesser dependency on farming was also expressed in people’s higher mobility and more opportunistic relationships to land. Furnivall’s quote below highlights this idea, although it is also intertwined with colonial and Western preconceptions that are worth highlighting for the sake of critical review of colonial archives and products of colonialism. Here, Furnivall points to the necessary existence of “rights” when something is “jealously guarded”, revealing a Lockean-inspired worldview of property rights which influenced the development of capitalist thought and

5 We can also note that this academic quote from the 1940s internalizes the colonial characterization of ethnic differences that focused heavily on antagonisms and divides. Ethnic divisions would be exacerbated by the colonization of Burma, and differential politics according to races. The colonists developed a categorization of “races” and ethnic groups that fixed a specific reading of social relations and identity affiliations which, until then, had been fluid, at the whim of the moment’s family, commercial and political alliances and positioning strategies that varied according to the forces present (Sadan, 2007; Scott, 2009).

the focus on individualism in modern societies. Furthermore, Furnivall makes a judgement about the “loose” conception of property which could simply be a different non-Western conception of property and land use, as in the case of shifting cultivation systems that have been systematically “misread” and misunderstood by the vast majority of colonists (see section 5.2.3).

“Land was so plentiful that people in general had a very loose conception of property in land, but rights over fisheries were jealously guarded and the hereditary owners of fisheries were among the wealthiest and most prominent inhabitants”. (Furnivall, 1957, p. 40)

Under the Konbaung dynasty, the Burmans reaffirmed their hegemony over the neighboring ethnic groups. But the peripheral areas remained very autonomous, apart from tributary links between customary chiefs and the Burmese Crown in some cases. In general, similarly as for other mountainous uplands at the margins of the precolonial continental Southeast Asian kingdoms, those peripheral areas were considered as buffer zones, protecting the kingdom from potential invasions from neighboring ones (Michaud, 2010; Safman, 2007; Turner, 2010), and to a lesser extent as resource reserves (Michaud, 2010).

In “A History of Modern Myanmar”, historian John Cady exposes the conflictive relations of the Burmese kingdom with other ethnic groups, such as the “*eternal feuds*”⁶ between Burmese and Mons in Lower Burma, Arakanese “*chronic rebellion*”, Karens moving to forests to escape Burman domination in precolonial Burma, the Shan *sabwas* (customary chiefs) and their tributary relations with the Burmese kingdom, the “*wild Jingpaw and Kachin tribesmen*” and the “*primitive Chin*” who feared the Burmese overlords who would regularly come to rob them (Cady, 1965, pp. 41-43).

In the lowland, rebellions became shorter and less frequent (Lieberman, 1987 p. 180) in the 18th and 19th centuries, while Mons increasingly assimilated to Burmans (*ibid*, p. 181). After defeating the Mons in the 1752-57 war, the Burmese Crown added their lands of Tenasserim and the Ayeyarwady Sittang delta regions to their expanding empire (Adas, 2011). For the following century under Burmese rule (preceding the annexation to the British in 1852), Lower Burma’s population drastically changed both in composition and distribution due to migrations and the Burmanization of Mons with the policy of suppression of the Mon language (Adas, 2011). During that period, Burmese policies enhanced their “*vertical integration*” into both their core territories and in the tributary areas (Lieberman, 1987, p. 181).

2. THREE MAIN PHASES IN BRITISH COLONIAL EXPANSION IN BURMA

One specific feature of British colonial expansion in Burma (then located at the eastern border of the British Empire) is that the conquest was conducted in three phases, with the Burmese kingdom progressively losing territory through three successive wars (see Map 3 and Map 4). Each of these latter events gradually diminished and crippled royal Burma while feeding British growing ambitions for further territorial, commercial, and economic conquest. During these six decades between the first and the third (and last) Anglo-Burmese war, British-ruled Burma existed

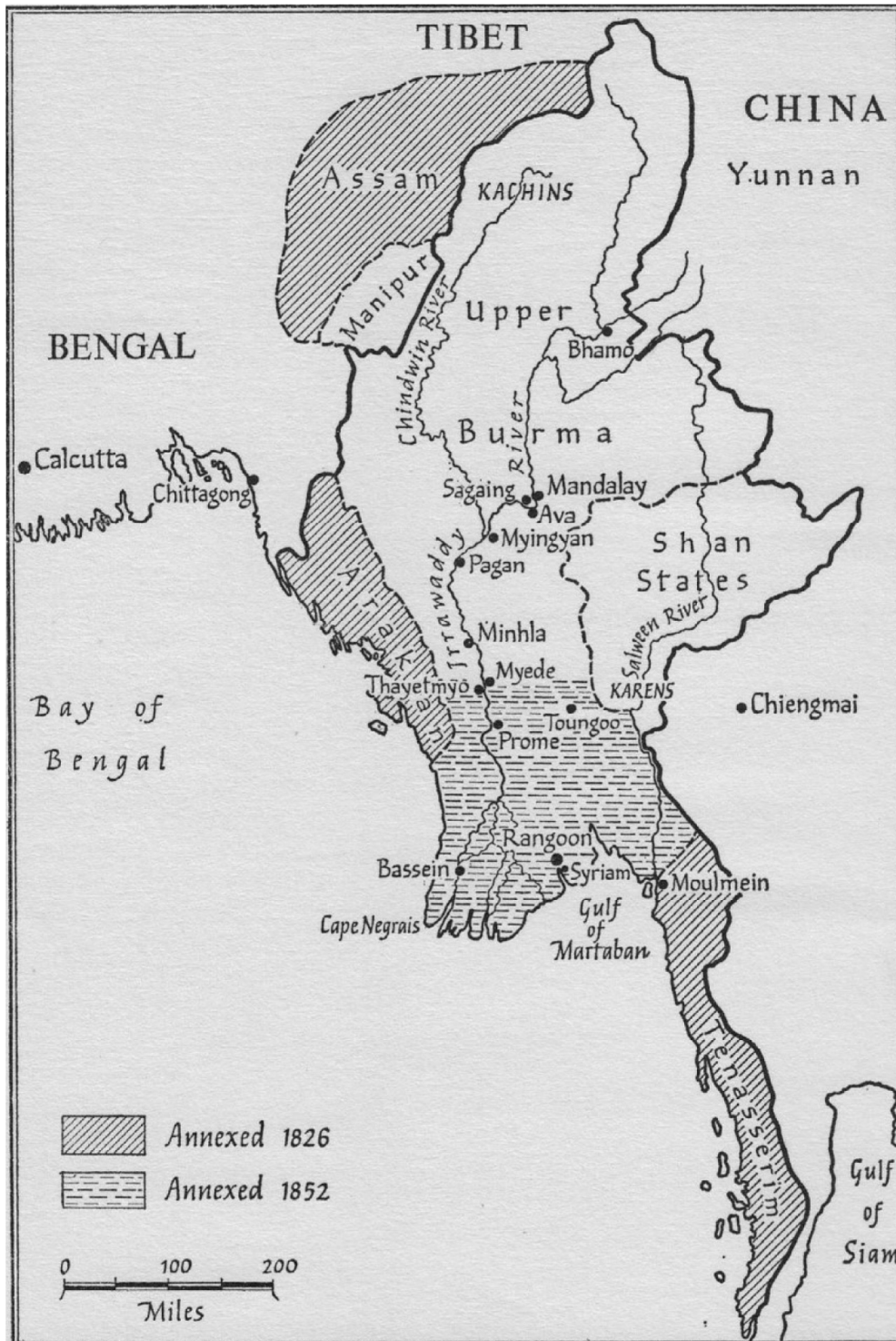
6 Citing Pinkerton VIII, 416-418. Hamilton's account.

simultaneously with the Burmese kingdom and there was considerable interaction between both, as we shall try to demonstrate in section 5.

The political project of the British in Burma was somehow the extension of the colonial project that started in India in 1757 with the establishment of a trading post in Calcutta by the East India Company. It was first led by businessmen in search of trade opportunities rather than by conquerors expanding to new territories. However, the “rapacious enterprise” backed by the British Crown rapidly extended its control over most of India, through violence, extortion and corruption (Tharoor, 2016). In 1857, the British Crown took over with direct control over India, establishing the “British raj” that lasted until the independence of India and Pakistan in 1947. The motives of colonial expansion to Burma were multiple: to secure the eastern border from the growing French empire in the Indochina peninsula; to extract gains from forestry (with products such as teak and other precious woods), mining (notably gems) and agriculture; to expand markets for British products; and to supply rice to the other areas of the British empire.

The final phase of the Konbaung dynasty, the last dynasty of the Burmese kingdom, was marked by increased conflict with the British. Alaungpaya was the dynasty’s founder and the most prominent ruler. Under his reign from 1752-60, he unified Burma and founded Rangoon in 1755. The Konbaung rulers had aggressive territorial expansion strategies towards Siam and British-controlled India (Manipur, Assam, Chittagong). Alaungpaya’s son, King Bodawpaya (the 6th ruler of the dynasty from 1782 to 1819) was in power when the tensions developed with the British. The turning point in friction was 1784 and the establishment of the frontier between royal Burma’s newly conquered Arakan province and Chittagong under British India (Cady, 1965, p. 67). This finally led to the outbreak of war in 1824.

Map 3: Map of Burma 1885-95



Source: Beckett 2021, p. 223, citing RTQ Stewart, the Pagoda War 1972.

The first Anglo-Burmese war (1824-26) between the Konbaung dynasty (King Bagyidaw 1819-37) and the British East India Company resulted in British victory and the Treaty of Yandabo. In the process, Burma lost the previously conquered provinces of Assam, Manipur⁷ and Arakan, which were contiguous to the British Empire expanding from India. The British also annexed Tenasserim with the intention to use the province as a “bargaining chip” in future negotiations with the Burmese or the Siamese kingdoms⁸. The end of the first Anglo-Burmese war heralded the beginning of British colonization in the coastal areas of Arakan and Tenasserim provinces. The colonial reports on Tenasserim document a rather peaceful colonization process, with “obedient” people and zealous officials⁹.

Fueled by British expansionist ambitions, a second Anglo-Burmese war broke out in April 1852 and lasted up to January 1853. The British victory resulted in the annexation of Pegu and its renaming as Lower Burma, a region that would soon become a major paddy production area. With the loss of Pegu, the Burmese kingdom became a “land-locked rump” (Webster, 2000). This did not prevent the Kingdom from engaging in a number of reforms of “defensive westernization” (Lieberman, 1987). King Mindon’s rule from 1853 to 1878 was notable for a number of important administrative reforms notably the introduction of the *thathameda* tax, which was supposed to replace all other taxes that existed under previous kings (see section 5.5).

The third Anglo-Burmese war lasted only three weeks in November 1885 and resulted in the British conquest of Upper Burma, “an area of only 140,000 square miles with a population of four million” (Beckett, 2021, p. 220). The war brought an end to the reign of the Konbaung dynasty, and King Thibaw was forced to exile in India with Queen Supayalat. Upper Burma was officially annexed by the British with its bordering ethnic territories in February 1886. The following year, the province of Burma in British India was created. In all cases, the annexation was not a smooth process since anti-colonial armed-resistance movements lasted until 1896 in Burmese (both Lower and Upper Burma) and ethnic territories, including in the Shan, Chin and Kachin hills (Beckett, 2021; Thant Myint-U, 2001).

7 Scholars say Manipur was annexed but such annexation is not shown in Maps 3 and 4.

8 Williams at Fort Cornwallis to Swinton at Bengal, June 11, 1824, IOR/H/663, pp. 201-11.

9 Although Furnivall mentions of one revolt where Tavoy was seized by rebels in this period (Selected Letters, pp. 96, 110, in Furnivall, 1939, p. 16).

Map 4: British conquests and British Burma in 1886

Source: de Rugy, 2020, p. 8.

Now that we have shed some light on the historical differences between different regions of Myanmar, we shall look at land management under the Burmese kingdom, focusing essentially on the last moment of the Konbaung era.

IV. UNDER THE BURMESE KINGDOM: A SOPHISTICATED AND RELATIONAL LAND MANAGEMENT BASED ON COMPLEX SOCIAL STRUCTURES

1. COMPLEX SOCIAL ORGANIZATIONS IN PRECOLONIAL BURMA

In order to understand Burman precolonial land management, it shall be necessary to give some key insights about the social and political systems in place in the Burmese kingdom. Indeed, authorities and their prerogatives in terms of land management followed the lines of the time's specific social categories.

The lay population was composed of two main categories, the *ahmudan* group (crown servicemen) and the *athi* (tax paying group) (Candier, 2019, p. 351). The *ahmudan*, considered of higher status than the *athi*, included diverse military and non-military servicemen groups, including the *lamaing* who cultivated the most fertile crown land to supply the royal granaries (Furnivall, 1957, pp. 31-33). None of the service groups were liable to pay taxes. In exchange of their services to the Crown, they were allocated hereditary rights to land. They were administered by their specific regimental officer or order/group chiefs and overseen by military commanders and higher-level officials.

On the other hand, the *athi*, mainly composed of commoners, farmers, artisans and traders, were not liable to the Crown, although they had to pay taxes and execute *corvée* labor (Furnivall, 1957, p. 33). The Crown did not allocate specific lands to them. However, they were free to clear and access land in any areas which were not claimed as crown land, official land and religious land. The *athi* tax-paying group were spatially bonded to their birthplace and permanent residence (Candier, 2019, p. 351). In fact, groups marked by recent migration were differentiated, becoming *kapa* (people coming from other places) or *ala* (for those who had least one parent born in a different location) (ibid)¹⁰.

The *athi* were administered by their local hereditary chief, the *myo-thu-gyi* who ruled over a *myo* referring to a town or several villages and hamlets (Furnivall, 1957, p. 33). Many chief lineages dated back to the 16th and 17th centuries. They had significant authority and were responsible for collecting taxes, maintaining security, law and order, and keeping a list of all individuals living in the *myo* (Furnivall, 1957, p. 33; Trager & Koenig, 1979, p. 39). They were also to ensure an equitable share of the burdens of *corvée* labor, military service and special revenue assessments among the *athi*, *ala* and *kapa* people under their charge (Trager & Koenig, 1979, p. 39). This also resonates with many phases of contemporary Myanmar, including the socialist and the current post-2021-coup periods, during which village tract administrators have played a crucial role in finding locally-accepted solutions to the heavy burdens of the various policies imposed by the

10 Note that such distinctions (*kapa* and *ala*) also applied to the *ahmudan* class as observed in the royal orders.

State. Examples include the socialist forced paddy procurement and even the compulsory production of sunflower crops and military conscription in 2022-2024 as observed across my most recent field surveys in the delta. In addition, the *myo-thu-gyi* also had the right to allocate vacant religious, service and wastelands and this constituted a crucial pillar of their power (Trager & Koenig, 1979, p. 39).

The social structures in precolonial Burma were viewed as “*unstable*”, and very “*complex and elaborate*” (Furnivall, 1957, IX). Society in the 18th century was described as “*stratified along precisely defined and rigidly adhered to status lines*” (Trager & Koenig, 1979, p. 35). Although Furnivall defined it as feudal (ibid), the social structures had significant differences with the European model of feudalism, notably because the Burmese kingdom was quite centralized. Local officials, such as the *myo-thu-gyis* could be powerful in their assigned areas but in all cases they remained accountable to the King, and as such, they were not equivalent to local lords of the European model. Furthermore, serfdom did not exist as such.

The royal orders¹¹, such as the extract below from January 3, 1785, provide very interesting insights on social systems, to better grasp the caste-like restrictions that applied to the different social groups, an aspect that is— in my opinion—seldom highlighted in writings on Burmese political systems:

“(1) Athi - Common folks who stay at a certain place for several generations, Ala - common folks born of one parent native and another in certain place, Lay Ze Nga Ze – Groups each having 40 to 50 men/in the Service of King, Thwe Thauk - Platoon of Armed Men, Myin Daw Thi - Horsemen, Daing - Shield Bearers, Lamaing - Cultivators of Royal Land, Win - Palace Guards, Ko Yan - King's Body Guards, Kyaung Hpaya Zu - Servants of the Religion, etc. shall be checked so that a member of one group would not be living or working with another group knowingly or unknowingly (2) There should be no intergroup marriages, except among certain groups where mixed marriages are allowed.” (ROB January 3, 1785 in Than Tun, 1983).

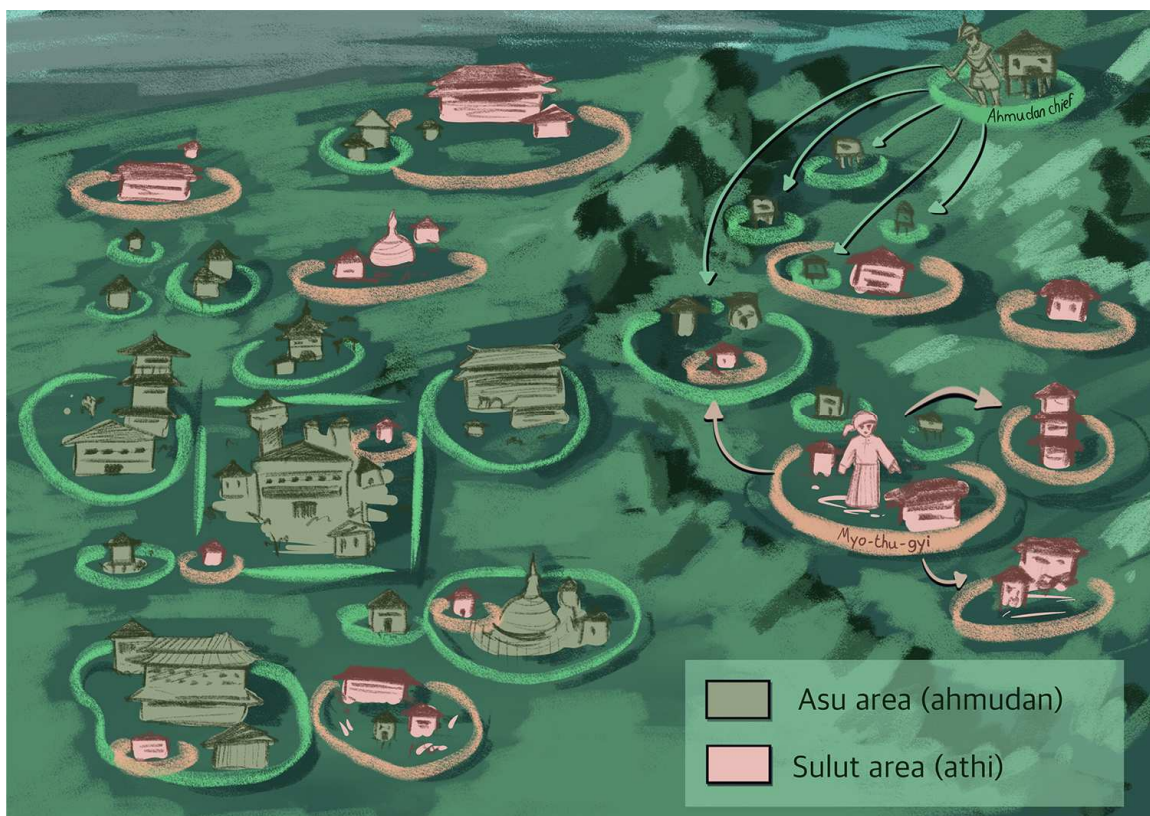
Despite such restrictions, these various groups and their places of residence could mingle spatially. Although the areas where people of the ahmudan class predominated were called asu, and those where athi predominated were called *su-lut*¹² (Furnivall, 1957, p 33), power was defined by the belonging to a specific social and administrative group, and not to a specific circumscribed territory. Myo-thu gyis and crown service group chiefs thus exercised power over their own people but not systematically over the inhabitants within the geographical and spatial scope of their circle (ibid). Thus, the exercise of power was not bound purely to a specific territorial space and jurisdiction.

11 The Royal Orders of Burma (ROB) from 1598 to 1885 have been compiled and translated into English by Professor Than Tun in 10 volumes published between **1983 and 1990** (Vol 1. 1598-1648 Vol 2. 1649-1750 Vol 3. 1751-1781 Vol. 4. 1782-1787 Vol. 5. 1788-1806 Vol. 6. 1807-1810 Vol. 7. 1811-1819 Vol. 8. 1819-1853 Vol. 9. A.D. 1853-1885 Vol. 10. Epilogue, glossary and index. In this report, I will refer to them as ROB with the specific official date of the given order.

12 The term *su-lut* may be confusing in the literature but it basically refers to tax-paying areas and areas where corvée labor may be imposed.

As such, the figurative interpretation (Figure 1) of the spatial dimensions of power along social groups in precolonial Burma here enables us to grasp the major differences with the conventional Western and contemporary conception of power exercised on a continuous space, indiscriminately of its different populations and social groups. The figure also shows the intermingling of *ahmudan* and *athi* populations and the geographic concentration of *ahmudan* settlements and population in the Kingdom capital areas and close periphery and the most isolated and rural areas were mainly populated by *athi*. However, any diagram is a simplification and interpretation of reality, and as such, it necessarily warrants caution. For example, despite what this diagram may suggest, the boundaries of the various designated spaces were most probably not fixed, nor clearly delimited, except in cases of clear physical barriers such as rivers. As such, this representation should present blurred contours rather than definite lines.

Figure 1: Figurative sketch showing the spatial organization of *asu* and *su-lut* settlements and jurisdictions of an *ahmudan* group chief and of a *myo-thu-gyi*



Source: Celine Allaverdian.

Table 1: Social administrative categories under precolonial Burma

Administrative social categories	Short definition	Duties Candier, 2019, p. 351	Access to land
Ahmudan	Lay group (crown servicemen), non-military or military, “supposed to serve the king exclusively and were not subject to local authority”	Not liable to taxes, administered by their regimental chiefs/officers, not by <i>myo-thu-gyis</i>	Hereditary rights for their residence (<i>ne-mye</i>), for their own subsistence (<i>sa-mye</i>) and eventually <i>lok-mye</i> (work land, see 4.2.1) for which they paid rent or revenue to their chief or some relevant official (Furnivall, 1957, p. 32) In general, tended to have better lands (crowland) compared to <i>athi</i> folks (Soe Aung, 2011)
Athi	Lay taxpayer groups of <i>athi</i> (also called <i>akhundan</i> in the 19th century)	Had to fulfil local labor duties Liable to taxes and corvée labor Affiliation to birthplace or permanent residence (unlike <i>kapa</i> and <i>ala</i>) (Candier, 2020) Administered by <i>thu-gyis</i> (generic term for local leaders)	Right to take on land in <i>su-lut</i> area (not crown, official or religious) through the principle of the first clearer (<i>dama-u-kya</i>) generally with the permission of their <i>myo-thu-gyi</i> Becomes “ancestral” property (bobapaing) once it has been transferred for three generations

2. PRECOLONIAL LAND DOMAINS AND ASSOCIATED TENURES LINKED TO SOCIAL STRUCTURES

When describing land tenure in Upper Burma, scholars have attempted to categorize land categories in various ways. For Aung Thwin, land, similar to labor, was placed into two main categories: crown and private (Aung-Thwin, 1984). Cheng Siok Hwa mentions four classes of lands: i) crown land, ii) “official land” (Cheng Siok Hwa, 1965), as coined by the British land administration for the Burmese, held by people who were liable to render service or rendered services to the King (Cheng Siok Hwa, 1965, p. 1), iii) private land (“*land held under allodial title*”), and iv) “*owing to sparse population, a great deal of waste but cultivable land*” (*ibid*, p. 106)¹³. Furnivall (1957)—probably the one who has documented precolonial tenure in the most detail—affirms that there were three main classes of land: royal land, official land and private

13 However, vacant land could technically be either found under *aya-daw*, religious or private property domains. In general, such abandoned or uncleared land within the *thu-gyi* jurisdictions could be worked with the permission of the local *thu-gyi*. (Trager & Koenig, 1979, p. 46).

land. None of these assertions are fundamentally wrong¹⁴. However, we must be extremely careful with the definition of “private” (see section 4.2.4), as it is imposed by a very Western view of private property¹⁵. For example, in the tables below, lands that may be cleared and acquired by people through *dama-u-kya*¹⁶ may be classed as “private” but remain under the control of the ruling local *myo-thu-gyi* and if abandoned, the plots return to a common pool (in relation to the social unit controlled by the hereditary leader) and anybody else belonging to that social unit may take these over. We shall also see that none of these categories are neatly cut, nor match with the complex and dynamic realities that were at play concerning the changing boundaries and contents of these relative “categories”. Despite their great complexity, we shall try to briefly expose them here (with some level of inaccuracies considering differences across space and changes through time).

The table below is not an exhaustive list of all tenures¹⁷ but includes the most prevalent ones. Given the relational dimension of land in precolonial Burma, I have mobilized Hohfeld’s legal conception of a right as being first and foremost a relation between two parties (Hohfeld, 1913).¹⁸

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- 14 The literature on land tenure in precolonial Burma is quite confusing since many authors, as well as the British colonial land officers, use various polysemic concepts and confuse notions. This certainly explains why scholars have multiple ways of explaining land tenure. In all cases, authors concur to say that land tenure depended largely on the social organization. First, in these times, the question of “who owns the land?” was somewhat irrelevant since labor was the key limiting factor to production, while land was abundant (Boomgaard, 2011, p. 449). The real question was instead “who owns the crop?” (*ibid*, p. 449). Second, we need to distinguish land regimes or ownership domains from the actual tenure (bundle of rights granted to the land users) and the control rights of these rights.
- 15 Even in contemporary Myanmar, Huard has shown that in Dry zone, entitlement to property builds on a set of social obligation and practices of care and reciprocity within the family (Huard, 2019, 2020).
- 16 Literally means “first to wield the knife/machete”. Through the customary principle of *dama-u-kya*, one could claim land as its own, by clearing and cultivating the land, if there are no claims from a prior occupant.
- 17 For example, it omits tenancy tenure forms over religious or crown lands, and the *yun-paung* land exclusively owned by royal consorts.
- 18 As well summarized by Gonin *et al.*, according to Hohfeld, there are four types of entitlements (claim right, liberty, power and immunity) and four kinds of disablements (duty, no right, liability and no power). An entitlement for one party entails disablement for the other party of the legal relation (Gonin *et al.*, 2019). This report shall not extensively explain all these notions but this reading of “rights” is particularly useful to better grasp the relational dimension of Burmese land tenure, the importance of power and liability (e.g., role of the *myo-thu-gyi*) and the difference between a claim right (when others have a duty to respect your right) and a liberty (when you are free to do something without any obligation). This last notion is much closer to the Burmese understanding of a right as an “opportunity”.

Table 2: Summary of the bundle of rights of some key precolonial land categories

Domain	Land tenure	Operational rights		Control rights				Local land management
		Cultivation	Usufruct	Right to exclude	Right to inheritance, or hand over as <i>thu-win-nga-twet</i>	Right to rent out in tenancy	Sale/ mortgage	
Crown land domain	Official land (e.g., allocated to a <i>ahmudan</i> person or family)	liberty	liberty	liberty	no right	liberty (e.g., for <i>sa-mye</i>)	no right	with the sanction of the head/leader of the <i>ahmudan</i> group
"Private" domain	<i>Bobapaing</i> land	liberty	liberty	claim right	liberty	liberty	liberty	
"Private" domain	<i>Dama-u-kya</i> land (e.g., possessed by an <i>athi</i> family)	liberty	liberty	no claim right if land unused	liberty	liberty	no right	with the sanction of the <i>myo-thu-gyi</i>

Table 3 provides some spatial implications of important land tenure categories. I have listed four types here to encompass the most important categories to show different rights for different right holders and highlight the relationships between rights (and right holders) and the quality and location of lands.

Table 3: Spatial implications of some key land categories in the late Konbaung period

Crown land	Most fertile lands, and generally more prevalent with the geographic proximity to the Kingdom capital in Upper Burma No crown land in Lower Burma (Thawngmung, 2004)
Official/ <i>ahmudan</i> land	As crown lands allocated to officials and <i>ahmudan</i> crown service people, these lands were generally very fertile and productive ones (notably for rice); mainly located in river valleys and irrigated zones of Upper Burma ¹⁹ <i>Ahmudan</i> people concentrated around the peripheries of the successive royal capital areas of Ava/Sagaing/Mandalay (Lieberman, 1984, p. 105): In the Konbaung period, 75% of the population was <i>ahmudan</i> in the capital district and about 45% in the “nuclear zone” (referring to <i>Anyar</i> Dry zone region) as a whole (Lieberman, 1984, p. 105 citing Koenig, “Kón-baung Polity,” app. III) Fewer or no <i>ahmudan</i> lands in Lower Burma
“Private” <i>bobapaing</i> lands	As lands cleared and inherited over three generations, these “ancestral” <i>bobapaing</i> lands in the hands of <i>athi</i> people were often fertile paddy fields, whether they were under individual or joint tenure within the family <i>Athi</i> people: more common in non-irrigated districts on the outskirts of royal capital areas (Lieberman, 1984, p. 105) and the vast majority of people in Lower Burma
“Private” <i>dama-u-kya</i> land	Generally less fertile land, unsuitable for irrigated paddy, cleared for shifting cultivation or after long fallow periods. They would remain under this status while more fertile land could become private <i>bobapaing</i> after three generations in Upper Burma Most lands in Lower Burma

Crown lands (*mye-taw*) included the private property of the King, acquired through marriage or inheritance, lands that were confiscated (*thein-mye*)—notably for rebellion and treason, those inherited by the King due to lack of heirs (*amwe-son-mye*), and those on which he drew rents as “head of the state” (Trager & Loenig, 1979, p. 45, Furnivall, 1957, p. 84). The latter comprised mainly of temporary alluvial islands and formations along river sides (Cheng Siok Hwa, 1965, Furnivall, 1957). Royal land was the most fertile irrigated land of Dry zone (Aung-Thwin, 1984)—the crown labor mobilized to cultivate them by *corvée*. It was administered by clients of the kings, in exchange of rights and privileges (Aung-Thwin, 1984). They could also be cultivated by crown service cultivators (*lamaing*), considered pillars of the agrarian economy and for which the Kings of the Konbaung period took great care (Soe Aung, 2011, pp. 109, 111). The produce belonged to

19 Parabaik M.S, NLC 1130, Parabaik M.S NLC 1164, Parabaik M.SS, Thet Thet Naing, Tutor Department of History, Yenanchaung Degree College, cited in Soe Aung, 2011, p. 112.

the Crown and supplied the royal granaries (*kyi-taw*). *Aya-daw-mye* referred to lands at the disposal of the King and that could be allocated. The notion of *aya-daw* was used not only for agricultural land but also for forests, mines, and even elephants and livestock (Trager & Koenig, 1979, p. 45).

1.1 Appanages and lands in *ahmudan* (*asu*) areas

Official lands (as per Furnivall 1957, p. 84) were crown lands granted by the King as an “appanage of office” or as a trust to be administered to officials for their administrative or military duties. It encompassed tracts assigned to royal service groups and lands granted to local authorities and leaders as a benefit for their position. In *asu* areas, such grants could be given to a head of regiment or of an order (within the *ahmudan* class) covering several scattered villages where the people lived under him. These grants allowed the grantee to collect produce, taxes and labor from the people who worked these lands. In theory, they were not hereditary but linked to the official’s position so they would return to the Crown domain upon death or leaving that position. In theory as well, they were not to be sold nor mortgaged and therefore not considered as private domain, as observed in some royal orders who stress upon the respect of such restrictions. For example, one order of March 26, 1853 (Than Tun, 1989, p. 4, citing the translation of a royal order of March 26, 1853), directed to *Myo Wun* (Town Officers) and *Sitke* (Regimental Officers), reported that men under *Kyi Wun* (Officer of Granaries) had either sold or mortgaged their land to *Shwe Hmu* (Gold Chief) and *Than Hmu* (Iron Chief):

“Neither the seller nor the buyer should have done that. Kyi Wun - Officer of Granaries, alone has control over these people and their land [could not be alienated from them]. This is an Order. It is not correct to sell or mortgage land to be Shwe Gun Daw Zet (Giving Royal Gold) and no local chief shall buy them or take them in mortgage”

Let’s note that in the 18th century, most people were engaged in agriculture and even highly-specialized crown service groups would have land for their subsistence (Trager & Koenig, 1979, p. 42). The King could allocate lands under different forms. The different lands allocated by the King to groups of civil servants and local chiefs (as conditional grants but with hereditary rights) were called:

- ▷ *sa-mye*²⁰: literally “land for eating”, for their personal subsistence or income, often cultivated by other cultivators who paid taxes (and/or rent) to the *ahmudan* grantee (rather than to the Crown), similarly to *myo-za* appanage estates (see below). (Lieberman, 1984, p. 100);
- ▷ *ne-mye* : literally “land for living” (as a residence) for the household’s dwelling and generally not subject to taxes (*ibid*);
- ▷ *lok-mye*: literally “work” land (referring to cultivation), cultivated directly by the grantee and for which rent or revenue was paid to a higher level official) (Furnivall, 1957) or could be exempt from the main land tax (in the 18th century notably) (Lieberman, 1984, p. 100).

20 Hereditary according to Candier, 2020, p. 245.

Many royal orders were made to allocate lands to specific groups (for example 1.25 *pe* [2.187 acres or 0.885 ha] minimum to 7.5 *pe* [13.125 acres or 5.311 ha] maximum per person for various royal service groups such as “horsemen”, “elephant men”, or “tile makers”), surveying such lands and making “reallocations when necessary” etc. We read in several orders for example that lands were indeed allocated to regiments or orders and their chiefs would have the responsibility to manage them. As such, land was also categorized according to the service groups to whom they were allotted, as in this example which talks of “Horse land”:

“Chiefs of Horse Group shall supervise work in the living and working land of the Horse Men and this means that there will be no separate officers appointed to such a duty in any Horse Land.” (ROB May 30, 1635 in Than Tun, 1983, p. 59).

The King could also grant appanages (*asa the na daw*), generally to members of the Royal Family, high dignitaries and government officials as royal favors or for their support, instead of receiving any other remuneration (Candier, 2020, p. 60, Trager & Loenig, 1979, p. 48). When the appanage would cover a *myo*, the appanage holder would be a *myo-za*²¹. For a village, it would be *ywa-za*. Some of the princes were given full governance of the areas/estates allotted to them as appanage (e.g., as in Prome and Taung ngu) but in most cases, they did not govern the locality and did not even reside there. Appanages were not inheritable, but entitled the grantees (the “eaters”) the right to collect taxes (up to one tenth of all income) and all the other customary rights over the lands (Candier, 2020, p. 60). For Trager and Koenig, it “*meant that the crown revenue of a district, town, village of given number of houses within a village was alienated to an individual.*” (Trager & Koenig, 1979, p. 48). Under King Bodawphaya (1782-1819), these two terms of *sa-mye* and *asa the na daw*, were used distinctively, while as of the 1860s, the two notions merged and *sa-mye* became the term referring to all lands on which “civil servants”/crown service people live, highlighting the process of land appropriation of families over the generations (Candier, 2020, p. 245) and over this period of considerable colonial influence.

Land categorization was indeed blurred by these appropriation processes since both official land and royal land tended to become private property (Furnivall 1957, p. 85). This notably happened through two channels: through the customary “first clearer” claim of *dama-u-kya* since “*anyone who was allowed to settle in the village was allowed to take up land which has not yet been occupied*” (Furnivall 1957, p. 85) and through land transactions (sales, mortgages) in which the land was transferred but without the obligations to comply with the conditions on which the estate had been granted in the first place. These appropriation processes recall the more contemporary ones, notably on concessions of wastelands or “Vacant, Fallow and Virgin” lands, as I have observed in most concession case studies I have looked into. Although they are supposed to be 30-year emphyteutic leases in legal terms, the concessions gradually “slide” into private ownership in most cases.

21 The term *myo-za* can refer to two notions. Most areas of Shan principalities had *sabwas* as hereditary chiefs but some were ruled by hereditary chiefs that were called *myo-za*. In all other places, *myo-za* referred to a Burman holder of appanage (Trager & Loenig, 1979, p. 48).

1.2 Religious land

There were also religious lands (*wathukan mye*). The produce from these lands was exempt from tax and enabled to provide for the functioning of religious institutions (Aung-Thwin, 1984). Labor was initially provided by religious slaves until these were degraded by the Toungoo and Konbaung kings²², and replaced by servicemen liable to the Crown. During the Pagan dynasty (849-1297 AD), the amount of religious land accumulated from purchases and donations from Kings and rich laymen became so considerable that Kings shifted to cash gifts, the alienation of such a significant proportion of cultivable land posing an economic threat (Lieberman, 1987, p. 178). However, “after 1550, land donations to the sangha ceased to represent a major drain on royal resources” (ibid, p. 178). “Glebe lands in a typical nineteenth-century Upper Burma locale were less than 8 percent of the total. [...] One may speculate that the contracting ratio of religious lands to total cultivated lands after 1550 reflected the combined impact of agricultural expansion and of illegal (though at times unintentional) acquisition of ancient religious property by the state and private laymen” (ibid, p. 178). No one could have proprietary rights over these lands, and actual ownership rights could not be transferred, except upon permission of the King (Trager & Koenig, 1979, p. 46). The deterioration of the status of religious lands was a recurrent issue faced by Burmese kings as the areas were frequently abandoned by their cultivators or, in other cases, individuals falsely asserted hereditary rights to cultivate these *glebe* lands in order to avoid the burdensome obligations of labor and military service (Trager & Koenig, 1979, p. 47). This compelled the monarchs to initiate inquests and audits, through the *sit-tans* (ibid). The royal orders also regularly called upon investigations on the encroachment of royal lands and religious lands (for example, ROB May 30, 1635). This was also the case for land allotted to service groups and appanages.

1.3 “Private” lands in *athi* (*su-lut*) settlements

This informal shift from official lands and religious lands to lands with private and transferable land claims brings us to the domain of “private” land. However most of these lands and notably the private agricultural land, were in the hands of *athi* lay people and acquired through the first clearer’s claim of *dama-u-kya* and subsequent inheritance over three generations, to become *bobapaing* (ancestral) lands.

22 As they also drained tax revenue and arms for military service.

As regards farmlands, Royal Order of March 24, 1853 (ROB, March 24, 1853 in Than Tun, volume 9, 1989) stipulated:

“All the subjects of the king living in various towns and villages of the kingdom would have lands called:

Le - Rice land

Ya - Cultivation other than rice

U Yin – Garden

Chan Myay - Fenced land for groceries

Kaing - Land subject to yearly inundation

Kyun - Island subject to yearly inundation

and they would have acquired them through:

Bo Ba Bine - Forefather's land

Da Ma U Gya - First cut to clear forest and cultivate

Ngwe We - Bought;

[it is possible that by mistake] a Royal Order was passed to give some of these lands to either a member of Royal Family [Queen or Prince or Princess] or a minister or an officer; an owner who lost his land in this way shall come to Hluttaw to get redress”.

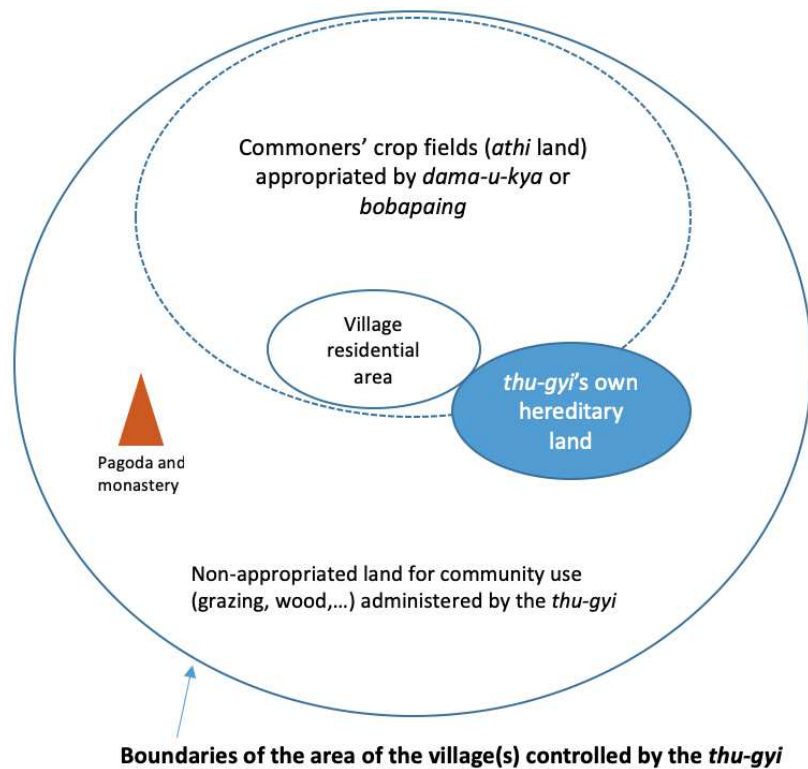
The Royal Order is insightful for various points. First, it formally stipulates that lands could be acquired by all royal subjects through three main processes: inheritance, clearing unclaimed land, and purchase. Second, it highlights farmland categories (*ya, le, chan, kaing, kyun...*) that are still commonly used nowadays by people and the land administration. Thirdly, it mentions the possible existence of lands mistakenly given to high-ranking people, and offers the possibility for owners who lost their lands to claim them back at the *Hluttaw*. At that time, the *Hluttaw*²³, often referred to as the “Council of State” was the primary ministerial council and the main administrative organ of the King from the 13th to the 19th century. It held executive and judicial authority and was composed of senior ministers *wungyi*, literally the “Great Burden Bearers” of the realm (Thant Myint-U, 2001, pp. 65-66), who helped the monarch in governing the State. In contemporary Myanmar, *Hluttaw* now refers to the various parliaments²⁴, composed of elected members with legislative power to initiate, review, amend, and pass legislation. Despite the deep change in structure and functions, calling upon the royal *Hluttaw* for lay people to seek redress on land issues resonates with contemporary initiatives such as the parliamentary investigation process on confiscated lands, launched in 2012, involving members of Union-level *Hluttaws* to look into cases and complaints about land confiscations.

23 Literally referring to the “Royal Place of Release” where royal orders to servants and subjects were formulated and from which they were sent (Thant Myint-U, 2001, pp. 65-66).

24 Since the 2008 constitution, the Pyidaungsu Hluttaw is the Union-level bicameral legislature of Myanmar, composed of the Amyotha Hluttaw (House of Nationalities of 224 seats) and the Pyithu Hluttaw (House of people’s representatives of 440 seats). In addition, each of the 14 state/regions of Myanmar has its own Hluttaw. After the coup of 2021, all the Hluttaw were dissolved with the declaration of a state of emergency under article 417, concentrating all legislative, executive, and judicial power in the hands of the commander-in-chief.

Figure 2 zooms into an *athi* area as shown in Figure 1, and notably a typical *athi* settlement under the control of a *myo-thu-gyi* (or *thu-gyi*) and provides a simplified and figurative idea of the spatial organization of an *athi* village.

Figure 2: Spatial representation of a typical settlement pattern in a lowland plain during the Konbaung period and early British colonial period



By clearing and cultivating a plot of land with no claim from a prior occupant, one could claim it as his own through the customary principle of *dama-u-kya*. It could also be inherited as *bobapaing* or forefather's lands. For example, land acquired by *dama-u-kya* became *bobapaing mye* "ancestral land" once it was transferred to heirs. Conventions would stipulate that three generations were needed to reach such status of *bobapaing*. In the meantime, the lands were referred to as *boba dama-u-kya* (Candier, 2020). Ancestral land was land usually owned by people who were not bonded to the King (*athi*) (Aung-Thwin, 1984, p. 224). Nevertheless, they had to submit a per-capita tax to the King, "determined by a complicated system based on their occupations" (*ibid*). Finally private lands could also be bought through *ngwe we* as observed in

several royal orders (Than Tun, 1989). Its tenure was similar to private property²⁵ as it could be mortgaged, sold and transferred to heirs (Cheng Siok Hwa, 1965, p. 107).

For land other than *bobapaing*, the tenure rights would lapse if the owner left the district and sales and mortgages to outsiders beyond the district were forbidden (Trager & Koenig, 1979, p. 45). The non-*bobapaing* lands would be managed and allocated by the *thu-gyi* to cultivators who lived in the villages and complied with local obligations (ibid). In fact, the key to his power lied in his capacity to allot lands (Trager & Koenig, 1979, p. 46). Trager and Koenig even correlate the power of the local chiefs with the type of tenure:

“Where there was a strong thu-gyi or myo-thu-gyi, little bo-ba-baing tenure was often the case, but when these offices weakened by succession disputes or the lapsing of the hereditary line, this type of tenure tended to increase”. (Trager & Koenig, 1979, p. 46)

In addition, the *thu-gyi* would have his own hereditary lands. In one royal order, there is mention of land given to the child who would become the next hereditary chief (*Akyi-za*, “land for Chief to eat”) (December 9, 1873).

1.4 A few precautions about the understanding of “precolonial” private lands under joint or individual tenure

The private estates under *bobapaing* could be held under individual or joint tenure within the family. Conceptually, this meant that the bundle of rights (whether they were operational or administration rights) over land would be shared within the members of the private family unit. In Upper Burma, people kept “*theoretical titles to their shares of the family estate*”, kept “*their claims alive by taking turns cultivating the estate*”, and “*clung to their family land with the tenacity of religious fervor*” (Cady, 1965, p. 48).

“Those large estates are often the joint property of a large family, and even small estates or individual holdings are often held as joint property. But as a rule, most of the family property is, at least tentatively, divided in each generation. One or more fields may be deliberately left undivided as bon-mve²⁶ or joint property to keep alive the sense of kinship, but most of the land is divided up, for convenience in cultivation. If experience shows that the division is satisfactory, it will gradually be recognised as permanent, but, if found unsatisfactory, a re-arrangement may be made even after the lapse of many years”. (Furnivall, 1957, p. 91).

This would generally depend on the quality of the land. For example, irrigated lands were generally left undivided in private joint property to ensure cooperation for water management, since water rights and maintenance works were also shared (Furnivall, 1957, pp. 86-88). Other types of fertile land would rapidly be divided among heirs and become individual private property

25 However, I must say that given the contradictions between writings, even in Furnivall’s own writings on the topic, I make the assumption that this tenure was most probably quite different from the Western concept of private property but that it was simply more convenient for colonists to think of it as such. See section 4.2.4.

26 Furnivall used the term bon-mye for private joint tenure although nowadays the term is more generally used to refer to lands under communal management. A discussion about the polysemic understanding of “communal land” has been taken out of the report for the sake of length.

while less fertile lands were left fallow and subject to the custom of “*thu-win-nga-twet*”²⁷, according to which abandoned land would remain under private claim of the clearer²⁸. However, by this same principle, the landless could settle on it if it was unoccupied, and if the owner made no objection to it. In that case, the land would then become private property of the new land user (Furnivall, 1957 pp. 34-35). Farming systems also influenced the tenure of lands: proprietary rights on paddy fields were important while there were “almost irrelevant” in shifting cultivation areas (Trager & Koenig, 1979, p. 46).

3. ELABORATE LEGAL INSTITUTIONS AND LAND ADMINISTRATION IN PRECOLONIAL BURMA

Precolonial Burma already had a very significant degree of sophistication in terms of administrative and legal institutions, including for land. This was brought about through vast and abundant literature across the last centuries. I would only look into a few of these elements, notably those that relate the most to land.

The royal administration produced *sit-tans* (revenue inquests), records submitted by all territorial jurisdictions and crown service groups. They contained general and even genealogical information on local leaders and boundaries of their concerned jurisdiction, as well as data on the population, number and description of villages, arable land, produces and taxes.

The first inquests are said to be from 1359 (Inscriptions of Burma, Portfolio V, Plate 521, line 1. In Thin Thin Aye, 2019) while the first nationwide *sit-tan* took place in 1638²⁹ progressively. Trager and Koenig (who have also compiled and translated the *sit-tans* of the Konbaung period) affirm that the earlier extant *sit-tans* are those of the inquest of 1601, covering Upper Burma and some Shan areas (Trager & Koenig, 1979, p. 51). The latter records developed during the Konbaung dynasty were detailed and of good quality, and provided a lot of information about land-related taxes. Indeed, in the 18th century, agriculture constituted the main source of revenue for the Crown, notably from taxes on the products of the land (or land tax) which were levied in kind (rice) for Dry zone and the delta (Trager & Koenig, 1979, p. 42). Two systems existed for tax assessment: one tenth of the produce was the basic and most common system in Upper Burma, while in Lower and Central Burma it was based on the area and the amount of land that could be worked by a yoke of buffalo (Trager & Koenig, 1979, p. 43).

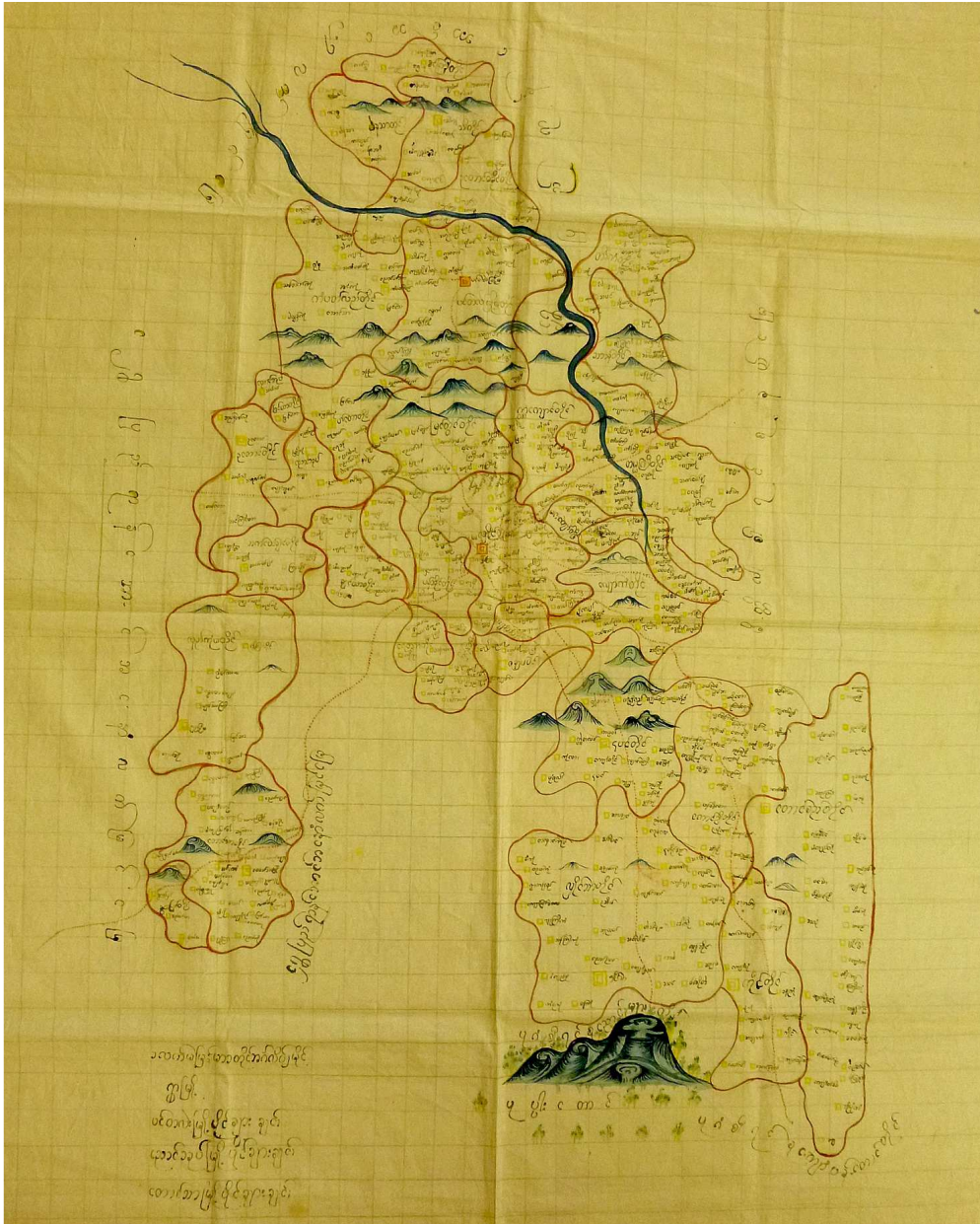
Maps were also produced, for symbolic and operational functions of political power, administration and cadastral surveys for revenue collection. Some (as is the case in the figure below) were made specifically for land allocation purposes, notably for lands given by the King to the horsemen serving the Crown, their families and descendants (de Rugy, 2020, p. 9).

27 Literally meaning “he/she enters, I/we out”. Let’s also note that this term is now barely used although the notion of *dama-u-kya* is still very common.

28 Some archives state that the clearer’s claims were valid for an undetermined period (Bengal revenue department, 1854, report°10 in 1954 IOR/Z/E/4/25/R676), while others mention 10 years or 12 years.

29 G.E. Harvey, History of Burma: From the Earliest Times to 10 March 1824. London: Frank Cass & Co. Ltd. P. 194 in Thin Thin Aye, 2019.

Map 5: Undated precolonial indigenous map, painted cloth map showing the townships of Pindale, Nyaungok and Taungtha, Meiktila district



Source: Scott collection LR13.27, picture in de Rugy, 2020, p. 10.

In addition, the *dhammathat* are precolonial legal codes that were written between the 12th and the 19th centuries, written in Pali or in Burmese, that spelled out many aspects of political and social life. Huxley, who examined Burma's *dhammathats* precolonial compilations of legal and ethical material affirms that it revealed the legalistic and patron-client features of local society:

"Eighteenth century dhammathats such as Manu-gye give a fairly coherent picture of the legal rules linking irrigated land, contracts of loan, debt-slavery, and adoption. (...). I would sum up this village structure as a legalistic and highly status-conscious patron-client system. The Burmese, at least since they first constructed dams and tanks, confirm the legal anthropologists' rule of thumb that irrigators are legalistic." (Huxley, 1997, p. 4).

The *Manu-gye*³⁰, written in 1756 (Harvey, 1925), was highly influential in its outreach to local authorities (Lieberman, 2003, p. 197). It is thought to have influenced many principles of contemporary law and land policy, including through the British colonial administration that sought to integrate these³¹.

The royal orders, touched upon all sorts of different issues for both administrative and social matters. Some of these orders (such as the Great Royal Orders or *Aman Daw Jan Gyi* ROB June 19, 1368, ROB April 29/1597, ROB April 27 and January 28, 1795) written as manuals of administration, integrating customary principles, Buddhist morale, and precedents referring to the ways in which individuals had in the past successfully addressed significant issues with sagacity³² (Than Htun, 1988, volume VII, pp. xv-viii). They were of particular importance and *"would have an ever-lasting effect on administration of Justice as well as the administrative system in Burma."* (Than Htun, 1988, volume VII, p. xviii).

In summary, we can see that prior to British conquest, despite relatively elaborate legal and land administration institutions, there was no "wasteland" category. Land allocation occurred without the use of such notion, because it occurred mainly through relational logic, along social structures: through the King providing crown land for *ahmudan* crown servicemen via their group/regimental chiefs, through permission by *myo-thu-gyi* for their *athi* subjects to clear land under the *dama u kya* principle, or through family inheritance across generations.

Now that we have given a foundational understanding of precolonial land systems in Burma we shall now look into British colonization, and its land-related interventions, notably in terms of establishing a land revenue system and its successive attempts to increase revenue and promote agricultural expansion, in particular through the allocation of "waste" land. This section will also

30 Manu refers to the foundational sage and legislator in Indian mythology. More info in article to find: Furnivall, J. S. (1940). "Manu in Burma: Some Burmese Dhammathats." Rangoon: *Journal of the Burma Research Society*, XXX, Part II, p. 351.

31 Yet, Lammerts highlights that Burmese written law did not have the same functions and modus operandi of Western state law: "the British made no concerted attempt to address dhammasattha as a living, dynamic, and self-critical historical tradition, and they made little effort to comprehend the rationales and function of written law in Burma prior to their occupation of the country, during which period the legal texts did not operate as state law in any direct fashion, as this book amply demonstrates. (...) British appropriations of the genre officially silenced precolonial discourses of the Buddhist Law in Burma of the essential role of law in the service of the *sāsana* by the very same gesture with which they began to construct dhammasatthaas a new form of Buddhist law." (Lammerts, 2018, pp. 8-9).

32 Than Tun, "The Royal Order (Wednesday 28 January 1795) of King Badon", *Journal of Asian & African Studies*, Institute for the Study of Languages and Cultures of Asia and Africa, Tokyo University of Foreign Studies, No. 26, 1983, pp. 153-201, January 28, 1795.

seek to show various reciprocal permeation processes between the colonial norms and those of the Burmese kingdom.

V. BRITISH COLONIZATION (1826-1948) AND THE “BIRTH OF WASTELANDS”

1. FROM 1826 ONWARDS: THE EARLY DAYS OF COLONIZATION IN TENASSERIM, SETTING UP THE REVENUE SYSTEM AND DEFINING “LANDHOLDERS’ RIGHTS” AS A COMPROMISE FOR THE STATE

We have seen in section 3 that upon British victory in the first Anglo-Burmese war (1824-26), the Burmese kingdom lost Assam and Manipur (which joined India and was never reintegrated into Burma) as well as Tenasserim (on the Siam border) and the Arakan provinces (on the India border) which now lie within the boundaries of contemporary Myanmar.

Setting up a sound land revenue system was one of the first challenges taken up by the first colonial commissioners of Tenasserim (the first province to be annexed, along with Arakan) and one of its central debates was on what basis to collect it: ownership or tenancy? In the first decade, the colonial reports on Tenasserim put forward eager proposals to raise income to cover the colonial administration costs. They also often stated that “private property had always existed”. For example, as early as 1833, Commissioner for Tenasserim, Anthony de la Combe Maingy, writes: *“private property in these lands has always existed in these provinces, for even under the Burmese rule, a man could sell, mortgage and bequeath the land held by him and no instances known of a man being deprived of his lands except in the case of some criminal offense”*³³.

We have exposed in section 3 that Tenasserim was annexed to the Burmese Crown empire only after the 1752-57 war, where the king of Burmans defeated the king of Mons. It then faced significant out-migration and a process of acculturation of the remaining Mon population. As a result, there was no crown land and no or very few *ahmudan* people, so the land systems and social structures were also simpler compared those of Upper Burma that have been explained in detail in the previous section. In addition, the appanages that might have existed prior to British annexation were all abolished. This means that land tenure systems in Tenasserim (at least for the areas that fell under colonial administration) were relatively simple. Lands were most probably held quasi-exclusively by the *athi* population and their chiefs (*thu-gyi/taik-gyi/myo-thu-gyi*) and, as a consequence, prevalently appropriated by clearing (following the *dama-u-kya* first clearer’s principle) and inheritance. This probably explains why the colonial officials associated so easily the local tenure systems with private property.

In all cases, the debate within the colonial elites on whether the State should allocate ownership or tenancy rights to people and the final compromise found to allocate “landholders” rights was quite humorously captured by Furnivall with Hobbes’ concept of Leviathan about State formation:

33 Proceeding relating to the Tenasserim provinces, p 124 in Papers regarding the administration of Tenasserim Province - report of the Commissioner for Tenasserim, Anthony de la Combe Maingy, 1833. IOR/F/4/1509/59306.

"A sharp conflict arose. On the one side a masterful Chief Commissioner from India upheld the orthodox position that Leviathan knew no such thing as private property in land. On the other side were the local officers selected to advise him; these insisted with equal vehemence that, if Leviathan knew nothing of private property in land, the Burman did. It was one of those issues that are often termed academic; a question of principle and not of practice. But, like most academic questions, it had a close bearing on practice. For, if Leviathan were to abandon his claim to be the sole landowner, he could no longer pose as a kindly monster for foregoing the full rent, and, on the other hand, if encroachments on his claim were once admitted, it might lead ultimately to his going hungry. In the event a formula was discovered which settled the dispute by evading a solution. Neither Leviathan, nor the cultivator was recognized as owner of the land, but it was decided that the Burman land-holder holds land by a land-holder's right. That was sufficient for the purpose of Leviathan; the private ownership of land has never been acknowledged, so that Leviathan can still pat himself on the back for his generosity in taking less than the whole produce" (Furnivall, 1998, p. 104).

In Tenasserim, officers chose to preserve local customs, although Maingy noted that "the inhabitants of these province do not appear to have any veneration for the dhamma so that it could be easy to develop to new code of laws; based on local customs"³⁴. Oppositely, in Arakan, the colonists applied the Bengale tenure zamindari³⁵ model of dividing territory into estates. As a result, land tax collection in Arakan did not become effective until 1836, while it was relatively well accepted by the population in Tenasserim, with its smaller tax base (Candier, 2020, p. 239, citing IO, F/4/1593 64582, Macsween reports on the administration of Tenasserim and Arakan, 1835; and Leider, 2003, pp. 15-16).

Various land taxation rates were tested. Despite the challenges in getting clear information of the previous systems under Burmese rule³⁶, it seemed that 6% assessment upon the gross produce of the land was the common rule. Yet, in Tenasserim, set the initial assessment to 10% and this was then increased to 20% for paddy land and 25% for garden land (Furnivall, 1998, p. 106). In a letter written by Maingy from July 31, 1833³⁷, he describes a land tax amounting to 25% upon the gross produce of the lands: *"The assessment is usually a village assessment"*, that is *"the commissioner or his assistant in charge of each province settles in concert with the inhabitants of each village and its head man or "thugyi," the whole amount of tax to be paid by the village."* The total amount to be paid by the village is based on what villages paid in previous years, and some information collected on average yields and the measuring of cultivated land. *"The amount Maingy agreed upon is afterwards divided by the villagers among themselves"*. *"The thugyi*

34 Maingy mentions the dhammathat, a "Pali version of the Hindoo laws of Menu and the Yaza, a collection of precedents and of rules and regulations established by different kings of Ava". Draft 422-1587 64563 Bengal revenue department; collection n5, letter dated 29th June n 4 1835. IOR/F/4/1593/64583 (DSCN1044).

35 Zamindari means landholder in Persian, and refers to local lords who draw rents from their lands through tenants.

36 "The disappearance of every vestige of the Burman records, together with every paper in any way connected with the late Government entirely nullified his efforts" (Furnivall, 1998, p. 106, about Maingy's work in Tenasserim).

37 Draft 422-1587 64563 Bengal revenue department; collection n5. 29th June n 4 1835, pp. 24-27 IOR/F/4/1593/64583. The full quote is also found in Furnivall, 1991. Fashioning the Leviathan. p 109.

collects the amount from each and delivers it to the European officer and for this trouble he is allowed a commission of 10% upon the amount which he may collect and pay in to government." The Tenasserim revenue statements from 1833 are accounted for the following provinces: 1) Amherst, 2) Mergui and 3) Tavoy and Ye.

In addition to raising revenue, the land tax was assumed to "greatly enhance the value of landed property and incite the landed proprietors to improve their lands and attempt better modes of tillage and the cultivation of the more valuable products" (p. 27, ref BL n 032). The tax was assessed in triennial settlements and it was proposed to fix tax rates for a period of 15 to 20 years or even perpetuity, so to only pay additional taxes from wastelands that were newly cultivated.

According to Furnivall, two points from this initial period would mark the revenue system in the long term: first, the one-fifth tax over the gross produce became the sole standard rate for over 50 years; second, the payment to headmen of a commission based on the amount of tax collected in the village (Furnivall, 1998, p. 107). I would also add a third enduring feature: a system that would—at least in theory—require regular data collection in villages on cultivated lands and agricultural production. This last issue was also a challenge in itself, and an even more difficult one, given the mobile nature of farming at that time and the "*readiness of cultivators to abandon their lands*". Mr. Blundell, the successor of Maingy, stated that land was often "*taken up or abandoned on a consideration of the profits to be obtained from it.*" *The cultivators, in fact, were to "be looked on rather as speculators than as real agriculturists"* (Furnivall, 1998, p. 109). We shall see that land abandonment would be a persistent issue.

2. THE BIRTH OF WASTELANDS IN 1839, 13 YEARS AFTER THE FIRST ANNEXATION

Historically, the concept of wasteland has biblical roots, which led to a moralized geography of Christian redemption for which the eradication of "putrid", "disgusting" and "dangerous" wastelands, aimed at the development of "soil and soul" (Di Palma, 2014, p. 50). Stemming from "moralized geography", developing wastelands into agricultural fields, pastures, and other legible and controllable landscapes was a civilizational mission. Such moral stance is also easily captured when delving into the writings of colonial officers in archival research, which systematically relate the development of wastelands to "progress", "prosperity", and "development". These lands were defined by their ability to generate rents and taxes rather than from their physical and biopedological properties (Ferguson, 2014, p. 298).

This invention of wastelands as State lands was a major shift in land categorizations. Indeed, prior to the British conquest in Burma, although the King was considered as the "lord of water and earth" (*yé-myé-shin*), land was abundant and unoccupied lands were not systematically considered as "crown lands". As seen in section 4.2, vacant lands could be found across different domains. In the *athi* (*asu*) area, such abandoned or uncleared land within the *thu-gyi* jurisdictions could be worked with the permission of the local *thu-gyi*. (Trager & Koenig, 1979, p. 46).

But the legislation and administration systems introduced by the British colonial power strongly influenced the Burmese King, notably after the second Anglo-Burmese war and the loss of Pegu (Lower Burma) to the British, and would contribute to the emergence of a wasteland category in the Burmese kingdom (see section 4.3 on defensive westernization).

2.1 Making Rules for the Granting of Wastelands in Arakan as soon as 1839

Interestingly, it seems that the first legal documents about the granting of wastelands were formulated specifically for the Arakan province³⁸. The Rules for the Granting of Wastelands in Arakan (Burma Revenue Department, 1906³⁹) were passed in September 1839 and later amended in 1841. They gave no clear definition of wasteland. As in many colonial settings, they just stipulated that wastelands are “the property of the State” (article 1). Such correspondence between the two notions in this law perfectly exemplifies Chouquer’s statement about “*the observation of emptiness, whether real or assumed, is the argument that subsequently leads to the appropriation in the form of colonial or postcolonial dominion*”⁴⁰ (Chouquer, 2011, p. 4). Indeed, creating “State lands” is a unilateral process that allows a government to become the sole and exclusive decision maker for such lands through the notion of “vacant land” (*ibid*).

The 1839 rules authorized the local revenue officers, subject to the confirmation and orders of the Sudder Board of revenue at Fort William, to give grants to persons of all nations and sects, rent-free and liable to future assessment for the periods and at the rates specified in the rule (article 1). The durations of leases and rent-free tenure varied according to the previous land cover (see Table 4), and accordingly included an initial rent-free period and increasing rent rates with time. It required bringing land in cultivation at a certain pace (see Table 4). It stipulated that the leases could be renewed and a maximum grant threshold was set at 10,000 acres for cultivation purposes.

38 For some unknown reason, such law was not made for Tenasserim. This may have been explained by the fact that potential agricultural investment was deemed higher for Arakan as it was contiguous to India and faced lesser labor constraints than Tenasserim. Furthermore, since colonial leaders considered the latter province as a geopolitical bargaining chip that could be handed over, investments there may have been perceived as insecure.

39 IOR/V/27/315/21

40 Translated from French : La constatation du vide, réel ou supposé, est l’argument qui conduit ensuite à l’appropriation sous la forme de la domanialité coloniale ou postcoloniale. La domanialité est un statut attribué à des terres parce qu’on observe ou parce qu’on se satisfait de croire qu’elles sont inoccupées.

Table 4: Rates of assessments over wasteland grants (extracted from the Rules of the granting of wasteland in Arakan, 1839, amended in 1841)

DESCRIPTION.	Duration of rent-free tenure.	RATES OF FUTURE ASSESSMENT.			
		At 4 annas per kanni.	At 8 annas per kanni.	At 12 annas per kanni.	Total.
	Yrs.	Yrs.	Yrs.	Yrs.	Yrs.
1.—Forest jungles on hills ...	32	8	8	16	64
2.—Forest including mangrove and other tree jungle in swamps ...	24	6	6	12	48
3.—Bush jungle, all kinds everywhere ...	16	4	4	8	32
4.—Reed and long grass jungle ...	8	2	2	4	16
5.—Short grass jungle and putit or khilah (fallow) land ...	4	1	1	2	8

The rules also specified the requirements to bring specific proportions of each class into cultivation within the periods stated above, according to the initial forest cover (see Table 5).

Table 5: Obligations in terms of cultivation of wasteland grants

Class.	Description.	One quarter.	One half.	Three quarters.	The remainder to be cultivated or not at the discretion of the grantee.
1	Forest jungle on hills ...	In 8 years.	In 16 years.	In 24 years.	
2	Forest plains, mangrove, etc.	In 6 "	In 12 "	In 18 "	
3	Bush jungle everywhere	In 4 "	In 8 "	In 12 "	
4	Reed and long grass jungle.	In 2 "	In 4 "	In 6 "	
5	Short grass, putit or khilah.	In 1 year	In 3 "	In 3 "	

Extracted from the Rules of the granting of wasteland in Arakan, 1839, amended in 1841.

2.2 A challenging context for agricultural expansion In Tenasserim province

The 1833 report written by the Commissioner for Tenasserim, Anthony de la Combe Maingy⁴¹, highlighted the potential of land development: he states that only “one 120th part”⁴² of land is cultivated (less than 1%) and that the wastelands are fit for export crops such as cotton, tobacco, sugar, pepper and rice. But the key issue was the scarcity of labor (Furnivall, 1998, p. 15). To address this constraint, the Commissioner made a number of proposals to develop the lands and increase revenue: inviting settlers from other countries by proclaiming the allotment of grants in the most favorable terms (ibid, p 125). In a letter from July 31, 1833⁴³, Maingy explored various options in this regard: he stated that Malays have sound cultivation skills and though they are dreaded by the Burmese and Talaing⁴⁴ (similarly as the Chinese are dreaded by the Malays), he suggested to offer lands to King Quedah (from Malacca) and his followers, or to other Malay royal figures. He also considered the local Chinese population although they did not engage in agriculture, but mostly in less physical but risky enterprises. Maingy also proposed measures to promote European colonization. Given the large portion of land “unoccupied and in a state of waste or jungle”, and the fact that “Burmese and Talaing population have no prejudice of caste or peculiar habits opposed to Europeans being settled and intermixed among them”, it is proposed to provide land in the most liberal terms, as a “permanent proprietary right to the land on terms as similar as possible to those enjoyed by our native population” so as to develop the “prosperity and resources of these provinces”.

Maingy also sought to develop the lands and boost timber extraction by suspending government control over logging: “Instead of reserving the exclusiveness of the government, I have since the year 1829 thrown them open to the public and granted “services” to any individual to proceed and cut as much teak timber as he pleases, upon agreeing to pay to the government an ad valorem duty of 15% upon the timber brought down to Moulmein. This measure has encouraged private speculation to explore the forests, the value and resources of which are daily becoming more and more developed”⁴⁵.

2.3. Persisting challenges to colonial agricultural expansion after the annexation of Pegu in 1852

After the second Anglo-Burmese war, the province of Pegu (renamed as Lower Burma) was annexed in 1852 for the British, and the remnants of the Burmese kingdom became a landlocked territory. In the territories of Arakan and Tenasserim already acquired in 1826, the British colonial

41 Proceeding relating to the Tenasserim provinces, p. 124 in Papers regarding the administration of Tenasserim Province—report of the Commissioner for Tenasserim, Anthony de la Combe Maingy, 1833. IOR/F/4/1509/59306.

42 Equivalent to 0.83%.

43 Draft 422-1587 64563 Bengal revenue department; collection n5, letter dated 29th June n 4 1835, pp. 22-69. IOR/F/4/1593/64583.

44 During the precolonial and colonial eras, “Talaing” referred to people of what is now more commonly called “Mon” ethnicity. This name was later dropped as it was perceived as pejorative.

45 Papers regarding the administration of Tenasserim Province, report of the Commissioner for Tenasserim, Anthony de la Combe Maingy, 1833, IOR/F/4/1509/59306.

enterprise of agricultural expansion, investment development, extraction from forests and mining, combined with the objective of increasing revenue incomes, seemed to progress at a rate deemed too slow by its officials.

Various land systems were established (see section 5.4) to develop—at least in theory—a body of peasant landholders, as this was the agricultural model preferred by British colonists. But agricultural expansion would remain challenging until the opening of the Suez Canal in 1869 and subsequent increase of paddy prices.

Even after 1852, the lack of official commitment from authorities in India and England to decide whether the occupation of Tenasserim was to be permanent generated political uncertainties that strongly deterred potential investors, local cultivators and potential immigrants (Furnivall, 1998, p. 16). The lack of labor seemed a crucial limiting factor (ibid, p. 43). A report of the Bengal revenue department of 1854 expressed these frustrations as well as concerns about the practice of abandoning land and right of re-entry but advocated not to interfere with this customary practice (which was most probably directly linked to crops systems that included long fallow periods, notably shifting cultivation systems that still prevail in many parts of Tenasserim nowadays):

“The Tenasserim provinces have been under British rule for about a quarter of a century. During this period, they have exhibited scarcely any progress, either in the condition of the cultivators, or the revenues of government. A great proportion of the land is waste and the proprietary title is founded only on clearance and cultivation and the right of occupation is free and unrestricted. It appears to have been the immemorial usage to give this title a most unqualified recognition, extending even to the right of reentry after a long, if not indefinite absence. The Board of revenue proposed to modify this practice as far as to limit the right of reentry to a period of ten years, to which proposal was 10 years you refused your sanction. [...] “In the acquisition of new territories, where there is much waste land, and where the people are of migratory habits and but little advanced in civilization, it is clearly the duty as well as the interest of Government to hold out every inducement that can increase the population of the district and advance the cultivation of the land. Any loss that might at the outset be entailed on the revenue would eventually perhaps speedily, be converted into positive gain, attended with the concomitant advantages of the advancement and prosperity of the people. Adverting to these reasons, we are of opinion that so long as there is abundance of wasteland which new cultivators can occupy, it is unadvisable to interfere with the ancient practice of the country by abrogating the privilege of indefinite reentry on abandoned land, especially as it may have been abandoned in consequence of an excessive demand on the part of government, and reclaimed when that demand is abated.

But when the province shall be better peopled and cultivated, it will be necessary that land which may be made valuable should not be left continually waste and that the right of re-entry should be restricted in time.”⁴⁶

We see the persistence of the question of land abandonment and the “*readiness of cultivators to abandon their lands*”. Mr. Blundell, the successor of Maingy, stated that land was often “*taken up or abandoned on a consideration of the profits to be obtained from it.*” The cultivators, in fact, were to “*be looked on rather as speculators than as real agriculturists*” (Furnivall, 1998, p. 109). In all cases, the issue of frequent land abandonment seemed to have baffled the first generation of revenue officials (Furnivall, 1909, p. 555). This could have been linked to the fact fishing and salt boiling were important livelihoods (ibid). However, Furnivall and many other colonial officers have mistook fallowing practices as land abandonment by overlooking existing shifting cultivation systems. These have been systematically “misread” and misunderstood by the colonists. Indeed, unlike temperate areas, a land left fallow for a few years in these provinces could resemble a jungle given the tropical monsoon climate. Apart from rare exceptions, the colonists ignored that those long fallows were an integral part of the crop cycle of swidden cultivation systems, allowing restored soil fertility and weed control once the peasant returned to the fallowed plot to clear and burn it for cultivation. Although such systems prevailed in many areas of Southeast Asia, European colonists perceived them as backwards and even “barbaric” (Ducourtieux, 2009; Vliet *et al.*, 2012). In addition, such mobility could also have been linked to socio-political factors, such as population movements linked to the instability brought on by colonial conquests. Furthermore, such mobile agricultural practices could have been strategies of State evasion (notably to avoid land taxes, *corvée* labor and conscription), as opposed to sedentary cereal production, associated with state building processes, as extensively discussed by James C. Scott (Scott, 2009, 2017). In all cases, this issue of “capricious abandonment of land” and ignorance of local cultivation systems would persist and influence land-related legislation for decades to come.

3. FURTHER COLONIAL LEGISLATION FOR THE WASTELAND GRANTS FOR CAPITALIST AGRICULTURE

Taking stock of the limited extension of cultivated areas by local landholders, the grant system was designed specifically to attract capitalists to develop the land into large-scale plantations with guiding rules, when immigration and agricultural expansion through smallholders was deemed too slow (Furnivall, 1957, p. 53). It was hoped such capital would also help to attract immigrants for labor.

3.1 “Unchanging changes” in colonial legislation of wastelands

We have seen that the first Rules of the granting of wasteland were specific to Arakan (1839—amended in 1841). According to Furnivall (1957, p. 53), other Burma studies scholars (Ferguson, 2014), and numerous contemporary reports on land in the grey literature, the colonists

46 IOR/Z/E/4/25/R676 Report n°10 of 1854 of the Bengal revenue department. Point 53-56. See also IOR/V/24/2574 archives on wasteland grants pp. 99, 110-111 and land revenue for Tenasserim as per revenue report 1870-71.

introduced wasteland grants through the “Rules for the Grant of Waste Land”⁴⁷ in 1861. That is somehow incorrect as seen with the prior (and forgotten) legislation for Arakan, over two decades before.

In the 1861 rules, the penal clauses for the resumption of land if not brought under cultivation were rather dissuasive and the system attracted very few investors (Furnivall, 1957, p. 53). The rules were thus abrogated and replaced by the Rules of the Sale of Wastelands in 1863⁴⁸ in which such clauses of resumption were deleted. In addition, there was no requirement to bring a proportion (25%, 50%, and 75%) of land into cultivation within a specified number of years depending on initial land cover (as there was in the 1839/1841 wasteland rules for Arakan—see Table 5). These 1863 rules focused essentially on the process for the sale of lots (of a maximum 5,000 acres without the sanction of the Chief Commissioner) to be sold publicly by auction to the highest bidder above the upset price per acre depending on districts (also fixed in the rules)⁴⁹. Wastelands were defined (article 1) as *“all unassessed waste land in which no right of proprietorship or exclusive occupancy is known to exist, or to have existed and to be capable of revival, are available for purchase under those rules, unless specially reserved under rule 25”*. Unlike prior legislation, it planned survey, demarcation and advertisement processes to make sure *“no claim of proprietary or occupative right”* in the land was made before the grant was sold. This notion of *“occupative right”* is highly interesting to highlight, in contrast to land laws in contemporary Myanmar where unauthorized occupation becomes penalized with fines and prison sentences (see section 8.1 about the 2012 land laws). It also made reference to plenary rights to all products both above the surface and below (while there was no mention of minerals in 1839-1841 legislation, highlighting a probable increased investment interests for mining since then).

In parallel, the Wastelands Claims Act (1863) was also proclaimed to provide procedures for claimants and objections on the lands that could be concerned by such sales and other disposition of the lands by government. Yet, no investor came to buy such lands. As a consequence, British Burma reverted to the initial grant system by enacting the Pegu wasteland rules (Revised Rules for the Granting of Wastelands in British Burma, 1865) with the resumption of the granted land in case grantees fail to fulfil the terms. The close examination of these rules (see

47 However, I have not found a copy of these 1861 rules, nor any archival reference to access it, either online, at the British Library Indian Office archives, or with the various legal experts and historians I have contacted to track down this document. Since most literature on wasteland in Burma (e.g., Furnivall, Ferguson) does not mention the 1839-1941 Rules of the granting of wasteland in Arakan, I had thus come to the personal conclusion that these 1861 rules did not actually exist and that initial authors may have mistakenly confused it with the 1841 amended rules, perhaps due to a typo mistake that was perpetrated across references. However, this is not the case since the revised Rules for the Sale of Wastelands in 1865 mention that the legislation is applicable to grants made under the “Rules for Pegu passed by the governor general of Burma in council on 6th March 1861”.

48 At that time (in the Rules for the Sale of Wastelands 1863), British Burma is presented in these rules as 3 divisions: Pegu division (Rangoon, Bassein, Prome, Myanaung, Toungoo districts), Tenasserim (Amherst, Martaban, Tavoy, Mergui) and Arakan (Akyab, Ramree, Sandoway).

49 Interesting to note as well that the rules stipulated that reserves of inland fisheries, forest land, land for the growth of firewood near towns and stations, building sites, parks and recreation grounds were not to be sold without the sanction of the chief commissioner as well.

Table 6) shows striking similarities with the rules of the granting of wasteland in Arakan (1839 and amended in 1841) that had been developed 25 years earlier. The definition of wasteland (as property of the State), the classification of wasteland as per initial jungle “class”, the maximum grant size, duration of leases, rent-free periods and assessment rates and authorities involved were very similar. In addition, they shared the same conception of the grantee as a landlord that shall contract cultivation through tenants (*ryot* in 1839-41, “settlers” or “cultivators” in 1865). Both included the provision of evidence on potential investment capital but no sanction in case of failure to develop the lands. The only notable changes between the 1839/1841 and the 1865 text concerned the deletion of the requirements to given rates of cultivation in time and conversely the inclusion of 5% royalties on mining products.

Later on, the rules under the 1876 Burma Land and Revenue Act⁵⁰ included a specific section on grants and leases, with further details for those made for grazing, rubber, coffee and tea cultivation, bamboo and other trees. Among the notable changes were the fixed duration of 30 years, the deletion of grantees’ rights over all mining resources now “reserved to the government” and the reintroduction of specific rates of cultivation in time (e.g., three quarters of the land required to be developed after 8 years). Furthermore, more authorities were involved in the allotment of grants and leases, even for small amounts. For any grant of over 25 acres, the sanction of the district commissioner was required. For grants of over 100 acres and for any grants of over 50 acres given to someone who was not “native of Burma”, the financial commissioner (a senior official at provincial level) was required. These points highlight the State’s will to fully control Burma’s highly lucrative extractive sector, as well as rising concerns for more oversight on grants and regulation over foreign land ownership.

As a constant across all legislation on wasteland since 1839, the grants were bounded by a lease duration, but rights were hereditary, renewable and could be sold and transferred⁵¹. The rules excluded grants from areas covered by fishery leases, teak forests, and any right of way.

50 It was also then called “Lower Burma Land and Revenue Act” (The Burma Land and Revenue Act, 1876, with Rules and Directions Framed Thereunder in Force in Lower Burma. Act No. II of 1876, 1890) so to be distinguished from the Upper Burma Land and Revenue Act enacted in 1889, for the newly annexed territories.

51 Although in the 1876 rules, this is only possible five years after the term of tax exemption or after the date of execution of the grant or lease, most probably to avoid short-term speculation initiatives.

Table 6: Comparison of three colonial legislative texts on wastelands (1839-1841, 1863, 1865, 1876)

	Rules of the granting of wastelands in Arakan, 1839, amended in 1841	Rules for the sale of unassessed wastelands (1863) (notification No. 150 A, June 30, 1863)	Revised rules for the granting of wastelands in British Burma 1865 (No. 154 March 30, 1865, replacing rules of notification No. 150 A of June 30, 1863)	Rules related to grants and leases under the Lower Burma Land and Revenue Act (1876)
Stated objectives	The objective is "to cause an influx of population into Arakan and an extension of cultivation by new settlers"	No stated objectives	No stated objectives	No stated objectives
Legal definition	No definition except "the property of the State"	"all unassessed wasteland in which no right of proprietorship or exclusive occupancy is known to exist, or to have existed and to be capable of revival, are available for purchase under those rules, unless specially reserved under rule 25"	No definition except "the property of the State"	No explicit mention of wasteland, but concerns lease and grants for grazing and cultivation including tea, coffee and rubber, growing bamboos and trees
Maximum threshold size	10,000 acres max. in areas which lie beyond 4 miles from the Sudder cutcherries of Ramree, Sandoway, Aeng and Kyaukpyu 100 acres max., in areas within this 4 mile-area (except island of Akyab)	No more than 5,000 acres in one lot, except under sanction of the Chief commissioner, but one person can apply to two or more lots	10,000 acres max. in areas which lie beyond 4 miles of the boundaries of Rangoon, Moulmein and Akyab town jurisdictions and from court houses of the deputy commissioners of all other districts 100 acres max., in areas within this 4 mile-distance	No maximum amount mentioned
Conditions to keep the grant	Requirement to bring proportion (25%, 50% and 75%) of land into cultivation, within a certain number of years depending on initial land cover Requirements in terms of means to redeem the land or capital (rate per acre) according to initial jungle category	No mention (rules focus essentially on the sale procedures of grants)	No requirements in terms of implementation/cultivation rates of grants Requirements in terms of means to redeem the land or capital (rate per acre) according to initial jungle category	For rubber, coffee or tea: specific rates of implementation in time and three quarters of land must be cultivated within 8 years
Duration of grants	8 to 64 years, according to initial jungle class	No mention	8 to 64 years depending on initial "jungle land" class	30 years

	Rules of the granting of wastelands in Arakan, 1839, amended in 1841	Rules for the sale of unassessed wastelands (1863) (notification No. 150 A, June 30, 1863)	Revised rules for the granting of wastelands in British Burma 1865 (No. 154 March 30, 1865, replacing rules of notification No. 150 A of June 30, 1863)	Rules related to grants and leases under the Lower Burma Land and Revenue Act (1876)
Conception of grant	Grantees provide land to tenants (ryot) and are required to give a potta written in local language to each ryot	No mention of tenancy management duties to be ensured by the grantee	Mentions of settlers in the lands allocated to the grantee, and requirement for grantees to furnish each cultivator annually with a bill-of demand in the Burmese language	No mention of tenants
Rights included	Entitled to levy revenue from their ryots	Plenary rights to all products both above the surface and below	Grantee entitled to all products both above the surface and below	Cultivation and logging rights, but "rights to all mines and mineral products, coal, petroleum and quarries under or within any land granted or leased is reserved to the government"
Possibility to transfer lands	Land becomes the hereditary property of the grantees on the fulfillment of the prescribed conditions. Transfers and sales are authorized but they need to be registered so to be recognized	Possible to transfer proprietary rights if duly registered in the office of the deputy commissioner of the district concerned by the grant	Land becomes the hereditary property of the grantees on the fulfillment of the prescribed conditions. Transfers and sales are authorized but they need to be registered so to be recognized.	Only possible after 5 years of the term of exemption or date of execution of the grant or lease
Rents and tax exemption	Rent-free tenure for 4 to 32 years according to initial land cover Ryots (tenants) liable to the capitation tax	Not mentioned. The rules only provide details on the redemption of land tax	-Rent-free tenure for 4 to 32 years according to initial land cover, rent rates to be applicable to grants made under "Rules for Pegu passed by the governor general of Burma in council on 6th March 1861" and the rules of Arakan (1839 and 1841) -Grantee responsible for collection of capitation tax from settlers on granted lands -Mineral products subject to 5% royalties (except coal, which is free)	1 to 15 years' exemption on granted "waste or uncleared land" from tax assessment according to types of crops or according to initial "jungle" class 8 years tax assessment exemption for grants made for rubber, coffee and tea
Sanctions for non-compliance	Grant is to be resumed if grantees fail to fulfill the terms. No fine	No mention	The grant is to be resumed if the grantee neglects to fulfil the terms specified in these rules and becomes ineligible to apply for another grant, without proving failure was beyond his control. No fine	Grant is to be resumed if grantees fail to fulfill the terms. Liable to confiscation of all trees, crops, buildings and salt works

	Rules of the granting of wastelands in Arakan, 1839, amended in 1841	Rules for the sale of unassessed wastelands (1863) (notification No. 150 A, June 30, 1863)	Revised rules for the granting of wastelands in British Burma 1865 (No. 154 March 30, 1865, replacing rules of notification No. 150 A of June 30, 1863)	Rules related to grants and leases under the Lower Burma Land and Revenue Act (1876)
Authorities involved	Local revenue officers authorized to give grants, upon confirmation and orders of the Sudder Board of Revenue at Fort William "Grants of 32 duns and over shall not be placed under the authority of Kyunok Lugri or other manager of the pergunnah or circle"	Sale process mainly under the authority of the deputy commissioner of the concerned district	Local revenue officers authorized to give grants, upon confirmation and orders of the Governor-General in council Grants of under 200 acres may be under authority of the thugyi or other manager of the circle	Under authority of township revenue officers (0-15 acres), division revenue officers (15-25 acres), deputy commissioner (DC) w/ sanction of commissioner (C) (25-100 acres). Over 100 acres, required sanction of financial commissioner (FC) for cultivation For rubber, coffee or tea: under authority of DC w/ sanction of C (0-1,200 acres). Under authority of DC and C, with sanction of FC if over 1,200 acres
Beneficiaries	Mentions "Persons of all nations and sects"	No mention	Only mentions "all persons"	No mention except exclusion of persons under 18. Sanction required by FC for grants of over 50 acres for non- "native of Burma"

Also, the system of granting lands to capitalists as a tool to promote agricultural expansion resulted in dramatic failure as captured in Furnivall's quote below and resonates loudly with its contemporary attempts and extremely low economic performances⁵² (see section 8.1.2):

"When large areas of land were offered at low rates, without conditions, it is not surprising that applicants were numerous; nor is it surprising that few, if any, did anything to extend or improve cultivation. After a few years, it was found that many of the so-called capitalists were "mere speculators, government officials, law advocates, clerks, members of the police, etc.". Some of the grantees, instead of clearing their estates, alienated small holdings to tenants without capital who were often attracted from government land in the vicinity, but in most cases they merely harassed neighbouring cultivators by making them pay for firewood and pasturage. It soon became clear that the Waste Land Grants hindered instead of promoting the development of the country and after a few years the experiment was abandoned. When the land came under survey from 1880 onwards, it was found that many of these estates

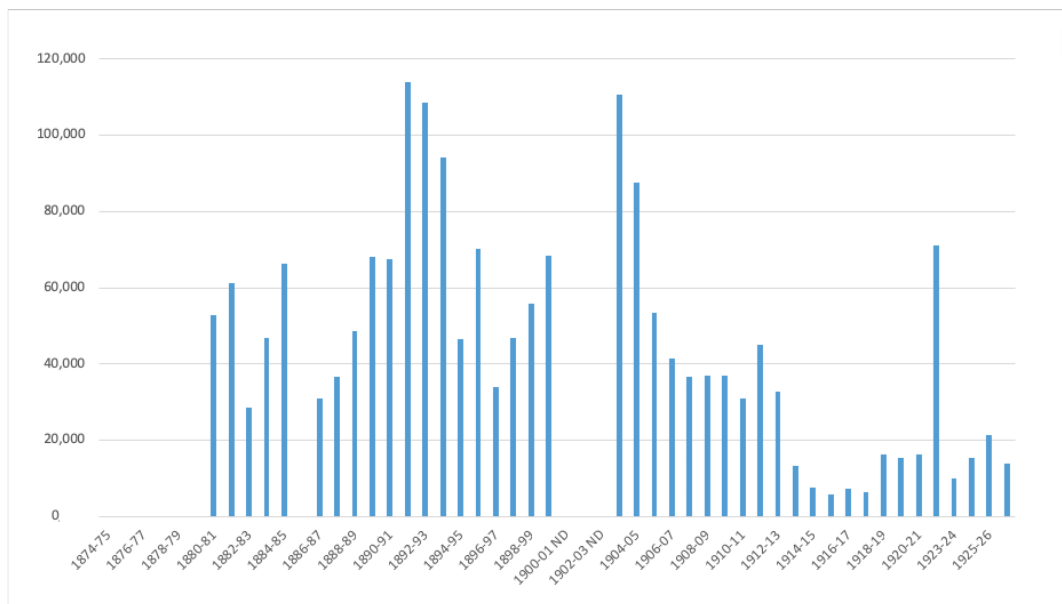
52 See section 8.1.2. Out of the total amount of wasteland/VFV land concessions of over 50 acres allocated from 1992 to 2016, only 14.5% of lands were actually cultivated (San thein *et al.*, 2018, p. 43).

were still lying waste although the surrounding country had long been brought under the plough by peasant cultivators". (Furnivall, 1957, p. 54)

3.2 Sketchy trends in wasteland grant allocations under the colonial period

In 1874, the reporting format of the annual reports on the administration of Burma changed and from then on, there was a specific section to report on wastelands, shedding light on the scales of grants and main trends (see figure below). There are no clear trends with sketchy variations across time. Despite the 1865 law, there were no grants at all in 1876-77 and 1877-78. In the early days, most grants were given in the Ayeyarwady delta. For example, the reclamation of Ma-ubin island with the construction of an embankment around the island in 1883 led to the granting of over 88,825 acres up to 1885⁵³. The figures on wasteland would include both grants and *potta* leases, also referred to as *patta*. However, the term *patta* is a term from India referring to the grant of land ownership or long-term right while *potta* refers to leasing or renting land from a superior authority, such as the State or a landlord. In addition, revenue-free grants were regularly given, though in very small amounts for religious institutions or as appanage of office for *thu-gyis* or *thu-gyi sa*. Grants in Upper Burma started to be reported as of 1893.

Figure 3: Allocation of wasteland grants and leases (in acres) in Burma from 1874 to 1928 (based on annual reports as per Burmese calendar year April to March)



Source: Annual Reports of the administration of Burma (1874-1927). Despite the 1865 law, there were no grants at all in 1876-77 and 1878-79. ND=no data for years 1875-76, 1877-78, 1879-80, 1885-86, 1900-03.

After peaks in the annual total acreage of wasteland grants allocated from 1890 to 1893 and from 1903 to 1905, there was a slump due to the suspension of *potta* leases. The sudden increase of

53 Report on the administration of Burma 1883-84.

grants in 1921-22 was due to land given to returned soldiers in Pegu⁵⁴. In the 1910s and up to 1921-22, large tracts of land were regularly granted for rubber and sugar cane estates in Myitkyina (e.g., 7,400 acres for sugar cane for a European) and various parts of Tenasserim. From 1923 to 1936, there were no grants nor leases and the only items reported in the “wastelands” section would be the “colonization schemes” targeting cooperatives of selected smallholders (see 5.4 below) which later became the government’s estates, notably with Sittang North government estate, Sittan South government estate, Pyuntaza government estate and Yandoon colony government estate (25,396 acres) and other areas as well which had not been notified as such⁵⁵.

4. PROMOTING LAND ACCESS TO PEASANT SMALLHOLDERS FOR AGRICULTURAL EXPANSION IN LOWER BURMA

After the annexation of Lower Burma in 1852, it is only through the notable increase of international paddy market prices after the opening of the Suez Canal in 1869 that the British finally succeeded in turning the province and its vast tracts of unpopulated jungles and wetlands into a major world class rice supplier (see table below) around three main pillars: promoting immigration, providing land to settlers while consolidating land revenue and developing transport and communication infrastructures.

Table 7: Paddy prices and cultivated lands from 1845 to 1900⁵⁶

Year	Wholesale paddy price (Rupees per 100 baskets)	Paddy land annual average acreage lower Burma
1845	8	354
1850	24	679
1855	45	993
1860	45	1,333
1865	50	1,627
1870	70	1,965
1875	65	2,704
1880	85	3,402
1885	95	4,011
1890	95	4,875
1895	95	5,765
1900	95	6,832

Source: Table extracted from Turnell & Vicary, 2008, p. 4, citing data from Cheng, 1965.

This agricultural expansion did not take place through wasteland grants given to investors but directly by enabling smallholders to access land. For this, colonial authorities tested different modes of land systems across the different areas in British Burma (Cheng Siok Hwa, 1965). Cheng

54 Report on the administration of Burma 1921-22.

55 Report on the administration of Burma 1926-27.

56 Unfortunately, sources do not specify whether these are current or constant prices.

Siok Hwa (1965) and Furnivall (1957) make the distinction between systems, notably i) squatter system, ii) *patta*, iii) leases, and iv) colonization schemes⁵⁷.

Table 8: Summary of the key colonial land systems for access to land by smallholders

	Content	Targets	Period of implementation	Advantages
Lease system	5-to-10 years lease contracts to cultivators, with the possibility to extend holdings for free	Migrants, the landless and smallholders	Initial colonial period until 1869	Simple land assessment process Encouraged extension of holdings
Squatter system	Land holding rights obtained through continuous cultivation and payment of land tax	Migrants, the landless and smallholders	By far, the main mechanism for land access in Lower Burma from 1870 to 1942 in terms of number of farmers and acres	Simple and low-cost administrative process to access land for squatters Low administration costs for the State
<i>Patta</i> system	Grants of small areas of land to be cleared (15-20 acres) under specific conditions	Selected smallholders	Tested after 1870 for areas where “controlled” expansion was sought and in remote tracts Abandoned before 1900	Aimed at controlling land occupation and avoiding land abandonment (that the squatter system was said to encourage)
Colonization scheme	Subsidized land reclamation through the grouping of colonists in co-operative societies	Cooperative groups of selected poor agriculturalists	Implemented after 1900 mainly in Pegu and Hanthawaddy districts but remained marginal in acreage	Designed to provide access to land to poor farmers and protect them from losing the lands they have cleared

Source: Combined data from Furnivall, 1857; Cheng Siok Hwa, 1965, and State Colonies Department: *Report on the State Colonies Department, Burma, 1938/39*, IOR/V/24/2590.

In reality, beyond these official modalities “neatly” described by Furnivall, Cheng Siok Hwa and latter authors referring to them, a close examination of archives shows that these systems were not at all so clear-cut since, in annual reports of the administration of Burma, the distinction between leases, *patta* and grants was quite blurry. In the 1876 rules related to grants and leases under the Burma Land and Revenue Act (1876), identical regulations applied to both grants and leases and we struggle to understand the distinction. *Patta* was sometimes referred to as “*potta*

57 As well as the grants for capitalist investors that we’ve already examined above.

leases” or also in other reports considered and accounted for as “grants”. For example, the 1911-12 report on the administration of Burma summarizes the tenures of land on Lower Burma into two categories only, by merging all forms of grants (*patta*, *potta*, grants, etc.⁵⁸) given by the State into one category, the other being landholder rights acquired by continuous occupation through the squatter system. It states: “*all occupied land in Lower Burma (8,927,532 acres comprised in 1,430,148 holdings) is held under one or other of these two tenures*”⁵⁹, referring in short to the permanent, heritable, transferable landholder’s right acquired i) by continuous occupation or ii) by a specific grant from the State (p. 15, point 39).

Initially, the lease system was promoted to encourage extension of cultivation while making land revenue collection much simpler for authorities (no need for annual land measurements). In Lower Burma, it was introduced in 1860 through leases for a duration of ten years during which cultivators paid an annual rent and committed to cultivate their lands (Cheng Siok Hwa, 1965, p. 109). They could extend their cultivation indefinitely without having to pay additional revenue. The lease system aimed at encouraging people to remain on the lands they occupied but without tying them strictly to their initial plots. In 1861, the leases were shortened to five years and to promote agricultural expansion, rents on lands considered “waste” were reduced. Authorities also allowed farmers to select the best lands and provided subsidies to the lessees (ibid). However, a specific tax was collected for leased lands which were left idle unless they were rented out to tenants. As per a system established for Toungoo jurisdiction in 1863 and extended in 1865 to the whole province, the landholder’s right would be transferred to the tenants after 12 years of occupation (Candier, 2020, p. 26260).

However, the lease systems were abandoned after the opening of the Suez Canal (in 1869) as the increase of paddy prices was a sufficient incentive for farmer-driven agricultural expansion, notably through the squatter system (Cheng Siok Hwa, 1965, p. 109). Following the established “*dama-u-gya*” customary rule, anyone could clear and dwell on land in the delta during its fast-agricultural growth. Such land would have become private property under the Burmese kingdom, but under British administration, these people were regarded as “squatters” who lacked formal permission to inhabit what was thought to be public property (Furnivall, 1957, p. 51). They were only permitted to cultivate the land while they were listed as temporary occupants, providing they made the yearly payment required for it (Cheng Siok Hwa, 1965, p. 109). However, they could be forcibly removed after harvest (ibid). The Lower Burma Land and Revenue Act of 1876 brought about a final change by granting more tenure security: as long as one paid the annual land revenue, they could continue to occupy the same plot of land for as long as they wanted, and after 12 years they acquired “landholder rights” over it and were no longer subject to eviction (Furnivall, 1957, p. 51).

58 Making no mention of leases, but it most probably included this, as opposed to landholder rights acquired by continuous occupation.

59 The full sentence includes “With the exception of 12,856 holdings, aggregating 165,489 acres held on grants issued prior to 1876 under special rules, and of four grants totalling 43,351 acres issued on special terms”.

60 Citing UHRC, MF 420, *Report on Land and Revenue, British Burma*, 1867-1868; report of Lloyd, Rangoun, 15-7-1868; *Report on Land and Revenue, British Burma*, 1868-1869 and 1869-1870.

Until the Lower Burma Land and Revenue Act of 1876, the squatter system's relationship to the law and legality was somewhat shadowy. I have not found any specific policy documents pertaining to the "squatter system" and the acquisition of rights by continuous occupation in my (still unfinished) research of archives. The alternative tenure systems, on the other hand, were supported by official processes and regulations. This leads me to believe that it was a de facto policy and that the squatter system was defined in order to integrate the *fait accompli*. Englehart's criticism of Furnivall's skewed description of the "Liberal Leviathan" of British colonialism supports this as well. Despite the British colonists' grand objectives, he affirms: "*British administration was not guided by a master plan. It consisted of a series of short-term improvisations, and much of its impact resulted from an unanticipated consequence of poorly-planned policies, subsequently reinterpreted by Furnivall as a coherent narrative*" (Englehart, 2011, p. 751).

In all cases, the squatter system represented the largest portion of lands and the highest number of cultivators in Lower Burma⁶¹. Indeed, most cultivators, following pre-British precedents, became landholders through the act of clearing and cultivating a piece of jungle or scrub (Adas, 2011b, p. 33). However, the government disapproved of this method of gaining access to land because it permitted "capricious abandonment of land" and made it difficult for them to exert control over land speculation by wealthy individuals or on land accumulation by moneylenders and traders (Furnivall 1957, p. 52).

To counter land abandonment issues, the *patta* system, was brought from India and developed mostly after 1870, when "*expansion needed more control rather than encouragement*" (*ibid*) and it was used mainly to settle newcomers in more remote tracts (Cheng Siok Hwa, 1965). The *patta* system was based on allocating grants of small areas of land (15-20 acres) to selected cultivators under specific conditions. But the system failed because the land administration could not deal with the "great rush of applications" (notably from Upper Burma immigrants) and several years could pass without any effect (*ibid*). "*Genuine cultivators found as a rule that, unless they could afford to bribe the revenue subordinates, their best chance of acquiring land was to settle on it as squatters*" (Furnivall, 1957, p. 56). Not only was access to land made easier by squatting but also, its property value and the amount possible to borrow from moneylenders were higher than for *patta* land which was liable to many binding conditions (Cheng Siok Hwa, 1965). It even encouraged many *patta* holders to burn their titles and the system was abandoned before 1900 (*ibid*, p. 57). As a result, the squatter system continued to thrive as observed in successive colonial reports of the administration of Burma, here with an excerpt from the 1911-12 report: "*In the earlier years of the decade, grants were issued freely to applicants, but difficulties in connection with the disposal of the applications and the discovery of abuses have led in recent years to a restriction in the numbers issued, and cultivators desirous of fresh land now usually take possession of it as squatters and acquire the permanent, heritable, and transferable right of a landholder by continuous occupation.*"⁶²

61 See the tables on land tenure in the settlement reports for Lower Burma until about 1905, and *Settlement Reports-Myaungmya-Bassein* (1901-2), p. 11; *Hanthawaddy* (1907-10), p. 12.

62 1911-12 report on the administration of Burma (p. 15, point 39).

The colonization system⁶³ was implemented much later than the other systems and notably after the failure of the *patta* system. To develop wasteland, the British tried to form “government estates” with funding for land reclamation through the grouping of selected colonists in co-operative societies (Furnivall, 1957, p. 54). A special “government estates department”, later renamed as “State colonies department” in 1938 had the main duty “to settle poor agriculturists on available culturable waste land of the state in a systematic manner and to see that they are protected from losing the lands which they have cleared”⁶⁴ as it addressed the agricultural crisis issues that arose in the 1900s and that became acute with the 1929 Great depression (see sections 6.1). Yet it remained a marginal mode of access to land.

We have shown how agricultural expansion was finally obtained in British Burma by providing direct access to land for agriculturists, notably through the squatter system, based on the Burmese customary principle of *dama-u-kya*, despite multiple legislations for the grants of wastelands aiming at attracting investors. In the following section, we shall also examine the permeation of British colonial principles into the Burmese Crown’s land policies including on the question of wastelands.

5. “DEFENSIVE WESTERNIZATION” IN THE LAST DECADES OF THE BURMESE KINGDOM IN UPPER BURMA

In the three decades preceding the British annexation of Upper Burma in 1885-86, King Mindon (1853-78) implemented a deep reform of the administration and revenue system (Candier, 2020; Lieberman, 1987) which was deeply influenced by British colonial institutions in what Lieberman coined “defensive westernization” (Lieberman, 1987).

“Following Burma's defeat in the Second Anglo-Burmese War, King Mindon (1853-78) initiated a program of defensive Westernization designed to develop state's resources and to curb that element of residual provincial autonomy that he recognized had helped to precipitate war with Britain. The crown attempted to centralize judicial functions, to regroup provinces into larger units, to expand the use of cash taxes in both lowlands and hills, to develop a variety of commercial monopolies, and to rationalize military affairs and communications along Western lines. The fact that many of Mindon's programs lacked consistent implementation and failed in their ultimate goal of preserving independence in no way negates the fact that they represented yet another, and this time a particularly self-conscious and imitative, effort to modify institutions in response to external threat.” (Lieberman, 1987, p. 182).

Among these “imitative” and “defensive westernization” measures, we shall look into tax reform and specific legislation for land allocation and the granting of wastelands (see Table 9).

63 See as an example the collection of reports on the Yandoon Island Colonisation Scheme in the Ma-Ubin District during the years 1912 to 1922. Rangoon, 192, IOR/V/27/315/23.

64 Burma. State Colonies Department: *Report on the State Colonies Department*, Burma, 1938/39. IOR/V/24/2590.

Table 9: Some land-related issues in the Burmese kingdom's "defensive westernization" reforms

	British Burma legislation	Burmese kingdom's adaptations	Measures inspired from the British
Revenue system ⁶⁵	Revenue regulations of British Burma	1864 decree on the <i>thathameda</i> tax under King Mindon	Standardization of the tax by making it more uniform and predictable: standard units of agricultural area, the establishment of a land ownership register, calculations of land productivity, etc. Encouraging the cultivation of "vacant" land
Lease system ⁶⁶	Lease system in Lower Burma (as enacted in Pegu in 1860)	1868 lease system under King Mindon	Promotion of agricultural expansion. Provision of tax exemption and subsidies to lessees
Wasteland grants (sources in 5.5.3)	Wasteland legislation	Royal Wastelands acts and the rules (1885) under King Thibaw	Allocation of wasteland considered at the disposal of the State for cultivation, administrative process for grant application, rent exemption periods and land resumption in case of land abandonment (after 10 years, or 5 years if townland), involvement of higher-level authorities as per grant size

5.1 A tax reform with some British inspiration

The tax reforms launched by King Mindon notably aimed to compensate the loss of revenue that used to be collected in Lower Burma by creating a new tax; the *thathameda* tax⁶⁷ which was supposed to replace all other taxes that existed under previous kings. It was also meant to increase public income while alleviating the tax burden upon peasant smallholders and tenants (Candier, 2020, pp. 258-262). The tax targeted the landed owners and local chiefs who possessed large estates. Several decrees were made in 1864, 1867 and 1868 to adjust the *thathameda* tax modalities, with significant inspiration taken from the British colonial system (Candier, 2020, pp. 258-262). Revenue was collected in-kind or in cash from each household. With the decree of 1868, the tax rate was finally limited to a maximum of 10% of annual income, and *thu-gyis* were made responsible of the reliability of data in registers, while omissions were considered crime of *lèse-majesté* (Candier, 2020, p. 261). However it seems that the previous social organization and complicated tax system endured until the British annexation of Upper Burma in 1885-86 (Thant Myint-U, 2001, p. 34).

65 Candier, 2020, p. 250-253, Citing UHRC, MF 1 (5-1865), journal of Williams, Mandalay, 6-6-1864, 16-8-1864.

66 Candier, 2020, pp. 262-263.

67 In Pāli *sassamedha* literally means "sacrifice of the harvest" (Candier, 2020, p. 233).

5.2 Copying the British lease system to promote agricultural expansion

With the 1864 decree on the *thathameda* tax mentioned above, the King already aimed to enhance agricultural productivity and promote the sedentation of rural people and agricultural expansion. Eight years after the British adopted the lease system in Lower Burma in 1860, King Mindon introduced a similar system in his realm in 1868, building on lessons learnt from the South (Candier, 2020, p. 263⁶⁸). Probably as a measure to boost revenue and curb out-migration to Lower Burma, it was proposed to develop all wasteland, fallow lands and virgin lands (including forests), regardless of their tenure (whether they were ownerless, crown lands, private lands under *bobapaing* or *boba dama-u-gya*). A portion of the *thathameda* revenue was used to pay the land clearers. If the workers wanted to cultivate them, they would take an oath with the witnessing of monks, to do so during a specified period. Once under oath, the lessees would be exempted from the *thathameda* tax and smallholders could receive subsidies with seeds, livestock and labor (Candier, 2020, p. 263⁶⁹). These favorable measures were taken in response to the rumors of mass exodus towards Lower Burma being pushed by increased direct taxation under the 1860 tax reform (Candier, 2020 p. 257).

5.3 Wasteland grants in King Thibaw's Upper Burma in 1885 as a desperate response to counter migration towards the delta?

It is widely discussed and understood that wastelands are a colonial invention meant to establish the State's control over the territory it claims. However, during my archival research in the Burmese language, I stumbled upon an interesting royal order from 1885 for the "grant of wastelands" (note that this order is not found in those compiled by Than Tun). This finding proves that legislation for the granting of wastelands had not been specific to British colonists. Indeed, a royal order on the granting of wastelands⁷⁰ was made on February 1, 1885 by King Thibaw, less than ten months before the collapse of the Burmese kingdom and annexation of Upper Burma by the British (1885-86):

"It is the duty of the king, the lord of the earth, to steadfastly consider the welfare of Sangha (monks) and the people in the kingdom and to persistently strive for their development. As such, I contemplate over how living beings in my kingdom can go about their businesses to work well, eat well and prosper. More than any other commercial activities, farming is a fundamental activity that creates prosperity without grudge and difficulty. Only kings, the lord of the earth, can bring about a condition where farming can be carried out as a farmer wishes. In the kingdom, except for entitled land [dama-u-kya mye] and land sold and leased in the towns and villages far and near, anyone wishes to clear and cultivate the wasteland [mye hlut mye lat] in the areas belonged in Ayadaw may do so in accordance with the prescribed rights and regulations of the farmland law.

68 Citing CU 3, pp. 81-83.

69 Citing CU 3, pp. 81-83.

70 Royal Order of King Thibaw commanding the reclamation and cultivation of wasteland under the Royal Wastelands acts and the rules there-under, issued on the 1st Waxing Day of Tabotwe, 1246, (February 1, 1885), at Min Hla Min Htin Kyaw). Selections from the records of *Hluttaw* (1889). Chapter 1, Royal Order n°17 (Taw Sein Ko, 1977).

Cultivated land, as long as the laws are not breached, shall not be taken away nor appropriated. The land may be passed down to generations as inheritance. Let all deputy commissioners (district officer), governors (town officer), sit ke71 of towns and villages across the kingdom be entrusted with the law to be thoroughly interpreted and instructed.” (Selections from the records the Hluttaw (1889), Chapter 1, royal order n°17 in Taw Sein Ko, 1977)

The examination of the rules attached to this Royal Order reveals remarkable resemblances with the colonial texts enforced in the provinces annexed earlier by the British (1839-41: Rules of the granting of wastelands in Arakan and the Pegu waste land rules). In a book written in Burmese script, Kan Hla, a Burmese land administration retiree⁷² makes the assumption that this “truly unique” Royal Order was made to keep Upper Burma folks in the region and reduce migration flows to Lower Burma pulled by the opportunities offered by the agricultural expansion of the Ayeyarwady delta under colonial rule (Kan Hla, 2015). In all cases, the Burmese Crown’s legislation on wastelands, inspired from colonial political instruments, appears to have been mainly a discourse of political and territorial assertion against the British and just another measure of “defensive westernization”.

In relation to the order, the Rules for the Granting of Wastelands specified the number of years for which the person who cleared the land was exempt from tax according to the classification of land based on initial land cover, in a very similar fashion to the articles of the 1839-41: Rules of the granting of wastelands in Arakan and the Pegu waste land rules (Revised Rules for the Granting of Wastelands in British Burma, 1865), but with much shorter rent-free periods (3 to 12 years instead of 4 to 32 years for the British rules of 1839/1841 and 1865 (see

Table 10).

The rules were quite detailed with specific conditions, for example they specified who were the different authorities in charge of the grants according to the size of allocated land tracts⁷³. They also specified administrative procedures for application, boundary delineation, objection and approval that also mirror procedures of contemporary Myanmar land administration. It is also stipulated that the land tax would be no more than one tenth of the produce. The land granted by the Kingdom could be passed on as inheritance and sold. The rules also planned fines for those who abandoned the cleared lands: the person had to pay one-tenth of the yield from all the land used during all the tax-free years as a fine. If the land had been abandoned for over 10 years, land was to be taken back by the government and given to anyone wishing to work on it, according to the law. If the land was abandoned for less than 10 years, the person could still remain to cultivate

71 Civil officer attached to the mayor/governor.

72 Kan Hla, 2015, History of Myanmar’s land Administration “မြန်မာ့မြေယာအုပ်ချုပ်ပုံသမိုင်း”, first edition, Page 191, Zin Yatana Saw Hcar Pay, Yangon.

73 “7. If anyone wishes to work on the above-mentioned type of waste land not larger than 4 pe (7 acres), the governor or village head has the authority to grant such land. For more than 4 pe but no more than 100 pe of waste land, the town office can grant such amount. For more than 100 pe, either deputy commissioner (district level officer), or a representative appointed by the Hluttaw (Supreme Council/parliament) has to look into it and carry of the grant.”

the land. Lastly and contrarily to the legislation on wastelands that would come one century later in 1991 and 2012, it did clearly stipulate that abandonment did not include fallowing, when work on the land is temporarily paused in order to improve soil fertility.

Despite analogies with previous rules from British Burma (1939, 1941, 1865, 1876), the Rules for the Granting of Wastelands under King Thibaw also had major differences (see

Table 10). First, grants were not time-bound and made no mention of mining. Also, the crops cited for the grants (coconut, toddy palm sugar, talipot palm, betel nut, fruit trees, banana, betel leave, seasonal crop) targeted the domestic needs of the Kingdom, contrary to the 1876 Rules for Lower Burma that gave special attention to export crops (rubber, tea and coffee). This also reveals the export-oriented and extractive dimension of colonial wastelands, in contrast to the anti-mercantilist stance of Burmese kings.

Table 10: Comparing colonial legislative texts on wastelands (1965, 1876) with King Thibaw's Royal Orders for wasteland grants (1885)

	Revised rules for the granting of wastelands in British Burma 1865	Rules related to grants and leases under the Lower Burma Land and Revenue Act (1876)	Wasteland grants under royal order of February 1, 1885 (and attached Rules)
Stated objectives	No stated objectives	No stated objectives	Refers to the King's consideration for the welfare and development of the people, "to work well, eat well and prosper"
Types of crops mentioned	No mention of specific crops	Specific mention of rubber, coffee, tea, bamboo, and grazing	Specific mention of coconut, toddy palm sugar, talipot palm, betel nut, fruit trees (mango, jackfruit, custard apple, guava, citrus, etc.), banana, betel leave, noni plant (<i>Morinda citrifolia</i>), Achiote tree (<i>Bixa orellana</i>), turmeric, seasonal crops
Legal definition	No definition except "the property of the State"	No explicit mention of wasteland	Wasteland (<i>mye hlut mye lat</i>) in the areas belonging to "Ayadaw", excluding all cultivated lands

	Revised rules for the granting of wastelands in British Burma 1865	Rules related to grants and leases under the Lower Burma Land and Revenue Act (1876)	Wasteland grants under royal order of February 1, 1885 (and attached Rules)
Maximum threshold size	10,000 acres max. in areas which lie beyond 4 miles of the boundaries of Rangoon, Moulmein Akyab town jurisdictions and from court houses of the deputy commissioners of all other districts 100 acres max. in areas within this 4 mile-distance	No maximum amount mentioned	No mention
Conditions to keep the grant	No requirements in terms of implementation/cultivation rates of grants Requirements in terms of means to redeem the land or capital (rate per acre) according to initial jungle category	For rubber, coffee or tea: specific rates of implementation in time and three quarters of land must be cultivated within 8 years	On grants made in town land areas, that are neglected for 5 years, anyone shall have the right to cultivate it Land not be left idle for more than 10 years
Duration of grants	8 to 64 years depending on initial "jungle land" class	30 years	No mention
Rights included	Grantee entitled to all products both above the surface and below	Cultivation and logging rights, but "rights to all mines and mineral products, coal, petroleum and quarries under or within any land granted or leased is reserved to the government"	No mention of mining. Focused on cultivation
Possibility to transfer lands	Land becomes the hereditary property of the grantees on the fulfillment of the prescribed conditions. Transfers and sales are authorized but they need to be registered so to be recognized	Only possible after 5 years of the term of exemption or date of execution of the grant or lease	The land granted by the King could be passed on as inheritance and sold, but must be registered in town office

	Revised rules for the granting of wastelands in British Burma 1865	Rules related to grants and leases under the Lower Burma Land and Revenue Act (1876)	Wasteland grants under royal order of February 1, 1885 (and attached Rules)
Rents and tax exemption	Rent-free tenure for 4 to 32 years according to initial land cover Grantee responsible for collection of capitation tax from settlers on granted lands Mineral products subject to 5% royalties (except coal, which is free)	1 to 15 years exemption on granted "waste or uncleared land" from tax assessment according to types of crops or according to initial "jungle" class 8 years tax assessment exemption for grants made for rubber, coffee and tea	Rent-free for 3 to 7 years for seasonal/annual crops according to initial forest cover, 8 years for growing fruit trees and 12 years for growing palm trees (toddy, coconut, betel nut...) Grantee to pay one tenth of the yield from all the land used during all the tax-free years as a fine Land may be taken back if land is abandoned for over 10 years (excluding fallow for soil fertility)
Sanctions for non-compliance to conditions	The grant is to be resumed if the grantee neglects to fulfil the terms specified in these rules and becomes ineligible to apply for another grant, without proving failure was beyond his control. No fine	Grant is to be resumed if grantees fail to fulfill the terms. Liable to confiscation of all trees, crops, buildings and salt works	If uncultivated, a fine to be paid of one tenth of the yield during all the tax-free years as a fine. Land can taken back by government and considered abandoned if not cultivated for over 10 years (excluding fallow for soil fertility)
Authorities involved	Local revenue officers authorized to give grants, upon confirmation and orders of the Governor-General in council Grants of under 200 acres may be under authority of the thu-gyi or other manager of the circle	Under authority of township revenue officers (0-15 acres), division revenue officers (15-25 acres), deputy commissioner (DC) w/ sanction of commissioner (C) (25-100 acres). Over 100 acres, required sanction of financial commissioner (FC) for cultivation For rubber, coffee or tea: under authority of DC w/ sanction of C (0-1,200 acres). Under authority of DC and C, with sanction of FC if over 1,200 acres	Under 4 pe (7 acres), the governor or village head has the authority For more than 100 pe (175 acres), either deputy commissioner (district level officer), or a representative appointed by the Hluttaw (Supreme Council/parliament) has authority
Potential beneficiaries	Only mentions " <i>all persons</i> "	No mention except exclusion of persons under 18. Sanction required by FC for grants of over 50 acres for non- "native of Burma"	Anyone who wishes to clear and cultivate the land"/subjects of the King

6. FROM CROWN LANDS TO STATE LANDS IN UPPER BURMA AT THE FALL OF THE BURMESE KINGDOM

We have seen in the previous sections that the King considered himself as the "the lord of the earth". Crown lands formed a specific land domain, among others, and thus it did not include all lands. When the British annexed Upper Burma, they took this latter specificity into account and produced regulations different from those of Lower Burma where there had not been any crown

lands. The British classified lands in two main categories: State land and non-State land. This division was based on “*the understanding that state land in ‘Burmese times’ paid rent to the royal treasury above and beyond any ordinary assessment.*” (Thant Myint-U 2001, p. 229).

The 1889 Upper Burma Land and Revenue Regulation was the legal basis for settlement and provided that State land is liable to the payment of rent, private land liable to the payment of land revenue and irrigated land liable to a water fee⁷⁴. It defined “State land” as in table below.

Table 11: Connecting the different categories listed as State land in the 1889 Upper Burma Land and Revenue Regulation with precolonial land categories linked to crown land

Definition of State land as per the 1889 Upper Burma Land and Revenue Regulation	Correspondence with land categories from the Burmese kingdom
(a) land formerly termed royal land;	Royal/crown land
(b) land held on condition of rendering public service or as an appanage to or emolument of a public office	Crown land given by the King to <i>ahmudan</i> or to officials during the term of their service, or as appanage
(c) islands and alluvial formations in rivers	Alluvial formations (highly fertile) would systematically be considered crown land or <i>aya-daw</i> land (at the disposal of the King) (Furnivall, 1957)
(d) wasteland	Wasteland as per King Thibaw’s rules for wasteland grants (1885)
e) land included within reserved forests	“Reserved forest” category did not exist in royal Burma. Forest management under the Crown was not spatially defined based on delimited forested areas: it concerned essentially the collection of revenue upon forest products ⁷⁵
f) land which has been under cultivation but has been abandoned and the ownership of which no claim is preferred within two years from July 13, 1889	In the last period of precolonial Burma, land, if uncultivated for 10 years (or 5 years in urban areas) could be considered abandoned and taken back by the Crown (or another cultivator) as per King Thibaw’s 1885 wasteland grant rules.

74 Burma. *Land Revenue and Agriculture Department*. 1899 A collection of papers on settlement questions in Upper Burma with an explanatory note: Vol 1. Rangoon, 1899-1904 IOR/V/27/310/37.

75 As there is no or very little scholarship on precolonial forest management (as an example, the key reference, *The Political Ecology of Forestry in Burma 1824-1994* (Bryant, 1997) starts with British colonization with no mention of prior norms), I assume this based on my reading of the royal orders (Than Tun, 1983) in which most occurrences of the word “forest” are in orders of punishment for disobedient, seditious or corrupt people to be sent in exile in “deep forest” or to document sites for the capture of wild elephants. There is only one mention of a religious forest sanctuary (Kun Bon forest) where the killing of animals is forbidden. However, there is mention of a “Thit taw Wun” (officer of Forest), appointed to an advisory council on laws in the administration and a “Conservator of Forest” for the extraction and taxation of Forest Products.

	Before that, such abandoned land could just be taken by anyone in the name of the <i>thu-win-nga-twet</i> principle
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As observed in the table above, the correspondence of State land with previous precolonial categories is striking (except for “reserved” forests). The main cause of such continuity is that the British integrated some principles of the Burmese monarchy such as the King being the ‘lord of water and earth’ (*yé-myé-shin*) to establish and legitimize this new “State land” category and the British India concept of the State as ultimate owner of the land (Thant Myint-U 2001, p. 229). It could also help ensure the social acceptance of land revenue payment, since in precolonial times, taxation⁷⁶ was viewed both as a return for tenancy as well as a payment for the King’s ruling to ensure orderly and secure social life for his subjects (Trager & Koenig, 1979, p 45). This is captured in the following extract from a royal order of 1785:

“The King owns Le Ya Mo Myay - cultivable land between sky and earth. King allows his subjects to work in these lands. In this sense, King alone owns all land and a person's ownership of a certain plot of land simply means that he has the king's permission to work in that plot. This right, in customary law, becomes inheritable and transferrable, leading men to assume that this right is as good as or the same with land ownership. Nevertheless, the fact that payment of one-tenth of the yearly agricultural produce as tax to the king is in acknowledgement of king's ownership of all land in his territories” (ROB: July 27, 1785)

However, one needs to be cautious when understanding the King’s paramount ownership of all lands in Burma, since there were also other norms from Buddhist principles and *dhammathat* (see section 4.3) to regulate his power:

“As owner of all the land, the ruler was entitled to his share of the treasure, minerals and produce of the land and water and could evict defaulters or claim the property of those dying heirless. Burmese tradition, however, placed limits on the proprietary rights of the ruler, for as the Manu-gye Dhammathat stated: “he has a right to duty collected but he shall not take the whole”⁷⁷” (Trager & Koenig, 1979, p. 45).

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- 76 Traditionally one tenth of the produce in Upper Burma, based on the Theravada Buddhist notion of the “Four Sangahas”. In Lower and Central Burma, assessments were rather made per unit of land cultivated, such as a fixed amount of baskets per “yoke of buffalo”, referring to the area that could be worked in a season with a yoke of buffalos (Trager & Loenig, 1979, p. 43). This varied according to crops and localities but it generally corresponded to 8 to 10 acres of paddy land, 10 to 12 acres of kaing and 12 to 15 acres of ya dry land crops. The pe unit was generally of 1.75 acres but could also vary (up to 3.5 acres) from one locale to another (Trager & Loenig, 1979, p. 43). There was thus different ways of assessing land tax, fixed and variable assessments, according to the regions.
- 77 In the original dhammathat, or law of Menoo, the full translated quote is: “But the king who is master must abide by the ten laws, for the guidance of kings, and although property which has an owner is called the property of the king, yet he has no right to take the whole of fields, gardens, tanks and canals, all the works of man's hands ; he has a right to duty collected, but he shall not take the whole.” (Richardson, 1874, p. 180)

In all cases, with the end of the Burmese monarchy, the British merged all lands which were previously held by the King, the highly fertile riparian alluvial formations on which the King drew rents, and official lands of the King's servicemen. Loyal to colonial principles, these State lands also included all wastelands, so technically it would include abandoned lands from all domains including those under private ownership, although during the King's granting of wastelands, it referred mainly to those belonging to *aya-daw* royal domain.

By contrast, the term "non-State lands" cannot even be found in the Regulation *per se*. Nevertheless, the term was used by administrators and scholars. Article 24 of the 1889 Regulation did provide clauses for ownership and possession claims to be considered, but within a one-year limit after the declaration: Article 24 (1) "*Any land which before the 13th July, 1889, has been or thereafter may be declared by the Collector to be State land shall be deemed to be such land until the contrary is proved*". The legal text had avoided to use such terminology of "non-State" lands. Yet it created from its own "absences" a land category liable to a potential exemption within the pre-assumed all-encompassing State land domain as captured in this extract about Upper Burma of an administration report of year 1921-22⁷⁸:

"Non-state land has not been defined. It is the land other than State land, that is, land cleared or acquired before the passing of the Regulation. Claims to non-State rights were dealt with by the Deputy Commissioner or more usually by the Settlement officers; and the land then admitted as non-State ordinarily retains this title, all other land being classed as State. The total area of non-state land is estimated at rather under 5,5 million acres, which represent over 60% of the occupied area".

In practice, non-State lands were characterized by having inheritable rights and covered lands with ownership and possession claims, based on the *dama-u-kya* principle (first clearer) and inheritance. They were understood as being equivalent to individual private property (Hardiman in Huard, p. 216). We have seen the diversity and complexity of social structures and land tenure in Upper Burma in section 4. These systems were poorly understood by the British, who came with their views, practices and categories from land administration in Lower Burma. The registers were built on the land practices of Lower Burma which were "simpler". It was assumed that the cultivator of a land was the sole owner while in many cases, family property was not divided and the occupant would be a tenant or a mortgagee of the family. In addition, there were no crown lands, fewer or no *ahmudan* classes and thus official lands. Thus, the registers of the Land Records Department were developed carelessly during settlement operations and became the "record of Wrongs" (Furnivall, 1957) and resulted in the multiplication of land conflicts and court cases.

"One result was that the settlement records became grossly inaccurate, even as a record of occupancy, within a year or two of their preparation: a large proportion of the demands for taxes were made out in the wrong names and only the local headman, if any one, knew for whom they were intended. The Record of Rights became, as has been said, a Record of Wrongs. Thus the ordinary registers of the Land Records Department

78 Point 48 about tenure of land in Upper Burma in 1921-22 report on the administration of Burma.

give a very misleading idea of the conditions of occupancy in Upper Burma.”(Furnivall, 1957, p. 92).

Unsurprisingly, the State/non-State land categorization was difficult to operate: “officers paid more attention on deciding whether land should be classified as State Land or Non State land under a definition which had little relation to the facts.” (Furnivall, 1957, p. 212). It would indeed include all abandoned lands on which ownership claims would not be made in the two years following the passing of the act. Beyond, claims on abandoned land would be extinguished.

The regulation (Upper Burma Land and Revenue Regulation 1889)⁷⁹, also made provisions about State land occupants’ rights, restrictions to any possibility of transfer and inheritance, and their liability to ejection as in its Article 25:

“(a) an occupier of State land can have no heritable or transferable right of use or occupancy therein, nor can any rights adverse to the Government exist in such land unless they have been created or continued by a grant made by or on behalf of the [...] Government;

(b) [...]”⁸⁰

(c) an occupier of State land may not, except for default in the payment of land-revenue due from him to the Government, be ejected from such land without such notice as may be prescribed by rules to be made by the President of the Union in this behalf or, failing such notice, such compensation as, subject to any such rules, the Collector may, having regard to all the circumstances of the case, deem just;

(d) a person occupying State land without the permission of the Collector or of some other officer authorized by rules to be made by the President of the Union in this behalf, or occupying such land with such permission and making default in the payment of the land revenue due from him to the Government in respect thereof, may at any time be ejected from the land by order of the Collector.”

The rules of the regulation also stated that persons holding non-State land were to be assessed for land revenue at full rates and those having no other means of livelihoods were exempted from liability to pay the *thathameda* tax⁸¹.

Throughout the years, many debates and conferences (Mandalay and Rangoon conferences in 1895) took place among the colonists to decide on the modalities of settlements, the abolishment of the *thathameda* tax or not, or the adjustments to make to it and deletion of the distinction between non-State and State lands. Finally, in 1898, it was proposed that the principle of *thathameda* was not to be abolished given its advantages (*“familiar to the people, elastic,*

⁷⁹ The 1889 Regulations can be found in Leckie & Simperingham, 2009 (as well as online <https://myanmar-law-library.org/topics/myanmar-property-law/>).

⁸⁰ This section was deleted by Act VII, 1947 and the original text of this missing article could not be found. But article 25(b) basically stated that State land is liable to the payment of rent.

⁸¹ Mentioning rule 81 of revenue regulation rules published in 1892 (Burma. Land Revenue and Agriculture Department, IOR/V/27/310/37).

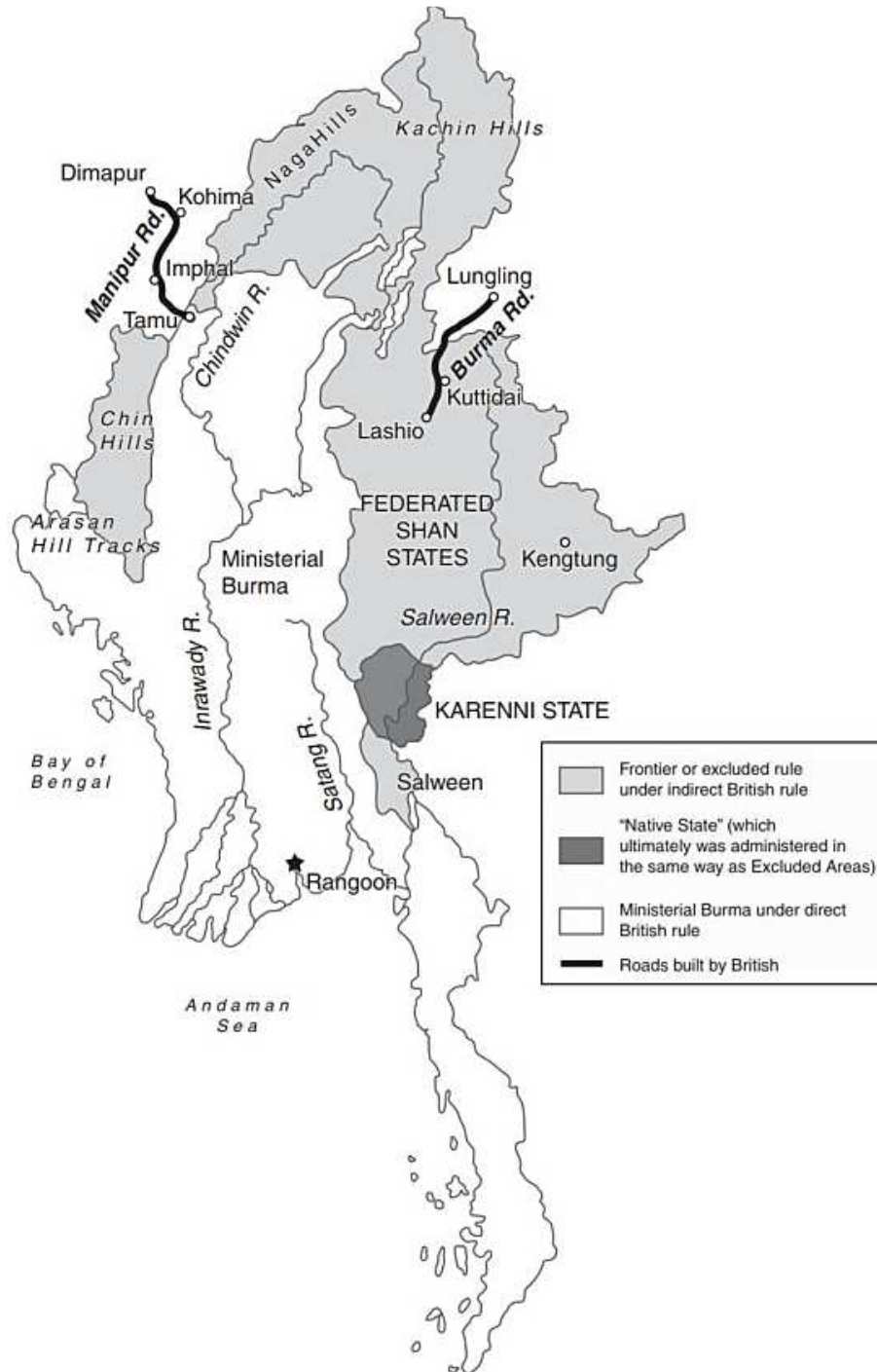
equitably assessed and well adapted to a country in which there was little distinction between classes and occupations"⁸²). Land revenue would also be paid concurrently, and those paying land revenue would have a rebate on the *thathameda* tax. Non-State land would be subject to land revenue but at lower rates than the rent rates of State land. In the end, it was decided that Upper Burma would be assimilated to Lower Burma, with the replacement of the *thathameda* tax with the capitation tax, and by abolishing the distinction between non-State and State lands, both in terms of tenure and land revenue assessment" (*ibid*, p. xix IOR/V/27/310/37).

7. INDIRECT STATE RELATIONS WITH PERIPHERAL AREAS: "UNSURVEYED" AREAS OR TERRA NULLIUS?

The previous sections of this report have focused on Lower Burma and Upper Burma, the heartlands of the Burmese kingdom. However, the genealogy of wastelands also needs to integrate the peripheral areas which remained autonomous, apart from tributary relations with the Burmese Crown. These peripheries would become the "frontier areas" under the colonial era. Also known as "Scheduled areas", they were then politically segregated from "Ministerial Burma" (see map below). The latter referred to Upper and Lower Burma (to which Arakan and Tenasserim were integrated) and was under the direct governance of colonial administrators. Taxes were directly collected through the village headmen.

In contrast, the frontier areas, covered 40% of the country's land area (Smith, 1999, p. 27) and were ruled through indirect governance, by granting them a degree of autonomy as traditional local leaders oversaw local matters and were tasked with the duty of collecting taxes on behalf of the British and ensuring peace, security and stability in their territory. These areas did not use the territorial grid of Ministerial Burma.

82 Burma. Land Revenue and Agriculture Department, 1899 A collection of papers on settlement questions in Upper Burma with an explanatory note: Vol 1. Rangoon, 1899-1904, p. xxi (IOR/V/27/310/37).

Map 6: Ministerial Burma and areas of indirect rule under the British

Source: Callahan, Mary. 2003. *Making Enemies: War and State Building in Burma*. Ithaca: Cornell University Press, p. 28.

A close examination of annual administration reports from the colonial period provides some insights into the territorial grid and its consequences on the administration of land and recognition of land rights. It also sheds light on the State formation process and the fluidity of spatial administrative units and frontier areas, some of which appear, disappear, merge, separate, change names from year to year. One may also observe that the frontiers' administrative reattachment to a higher-level administrative unit (division, district, etc.) could also change very regularly.

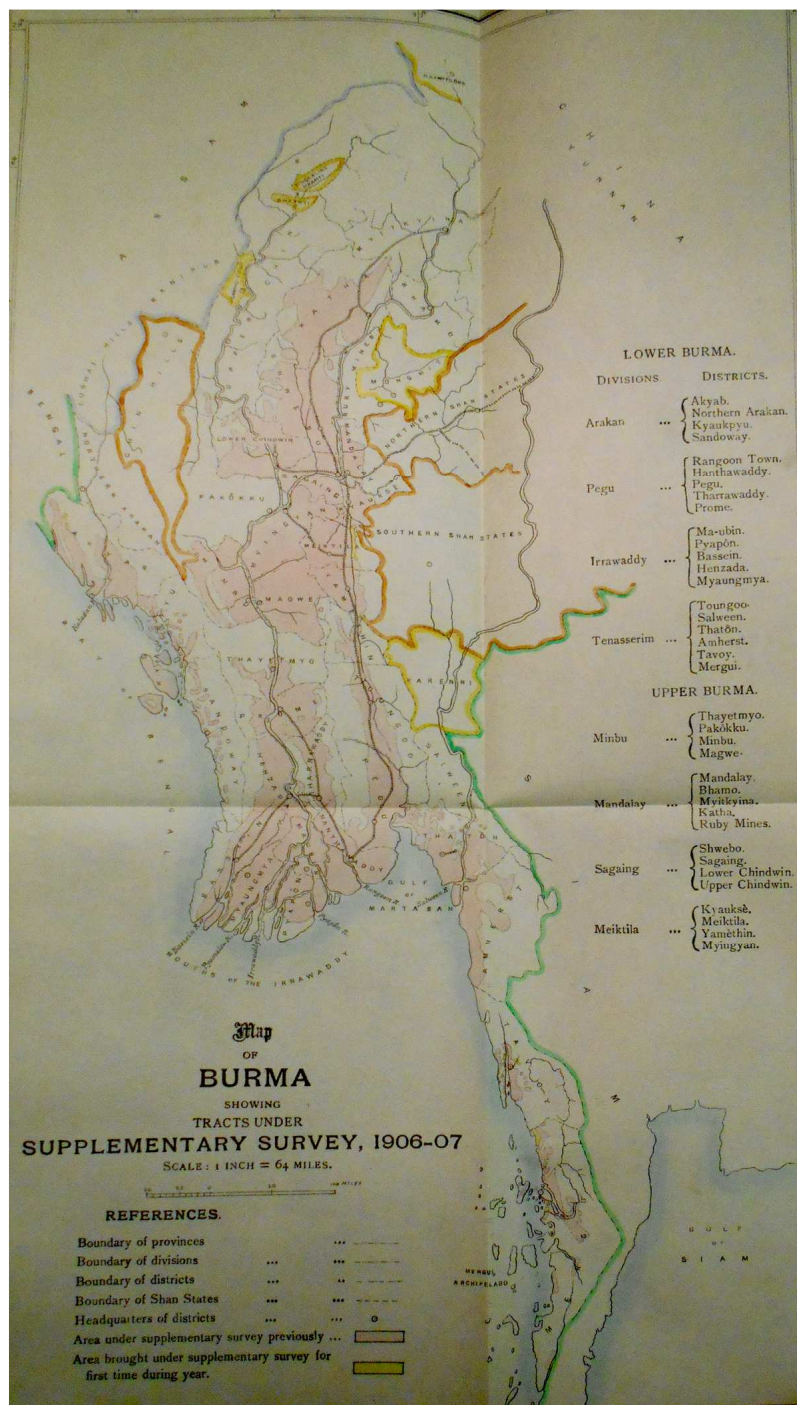
At that time, the surveying of land use rights was quite diligently conducted since it enabled tax assessment. In Ministerial Burma, the settlement department was responsible for settling the revenue rates, in other words, to determine how much land revenue would be required to be paid, for what areas and by whom. The settlement officers usually settled the rates according to the various types and qualities of lands. They prepared the *kwin* maps (1:3960 maps) showing holdings and fields. The Land Records Department was in charge of the assessment of the demand, preparing assessment lists for each season, and updating and maintaining maps and records of settlements and registers of holdings. (Furnivall, 1957, p. 198-220). Proper land administration was crucial as land revenue provided over 50% of Burma's revenue income (Furnivall, 1957, p. 204).

In a map of a land revenue report of 1906 (see Map 7), these frontier areas were sketched as follows: Karenni, Northern Shan states, Southern Shan states, Chin hills, and smaller territories with Möngmit (Momeik), Hsawng Hsup (Thaungthut), Shkamti, Singkaling Hkamti in Upper Chindwin, and Hkamptilong in the Kachin hills⁸³. However, none of the data in the rest of the report about land revenue contained anything on these frontier areas, since the report's geographical scope was limited to Upper and Lower Burma. This absence was due to the fact revenue collection in frontier areas was under the responsibility of customary chiefs. As a consequence, survey and settlement operations were not conducted as in Ministerial Burma. We have also seen that the acknowledgement of landholders' rights was based on the continuous cultivation and payment of land revenue in Lower Burma. Although the process for the recognition of land use rights was different for Upper Burma State and non-State lands, it resulted overall in the same reality: where land revenue was not directly collected by colonial authorities, land administration institutions did not operate, and the recognition of land rights was left to the discretion of customary chiefs. This is demonstrated by the spatial correspondence of frontier areas with areas that would never be surveyed by the land administration, comparing the area of Ministerial Burma (white area in Map 4) with the areas classed as under previous "supplementary survey" (pink area in Map 7, and orange areas in Map 8 below).

As such, these maps are a clear illustration of the lowland-upland divides in terms of the outreach of land administration and the recognition of land rights back under colonial rule.

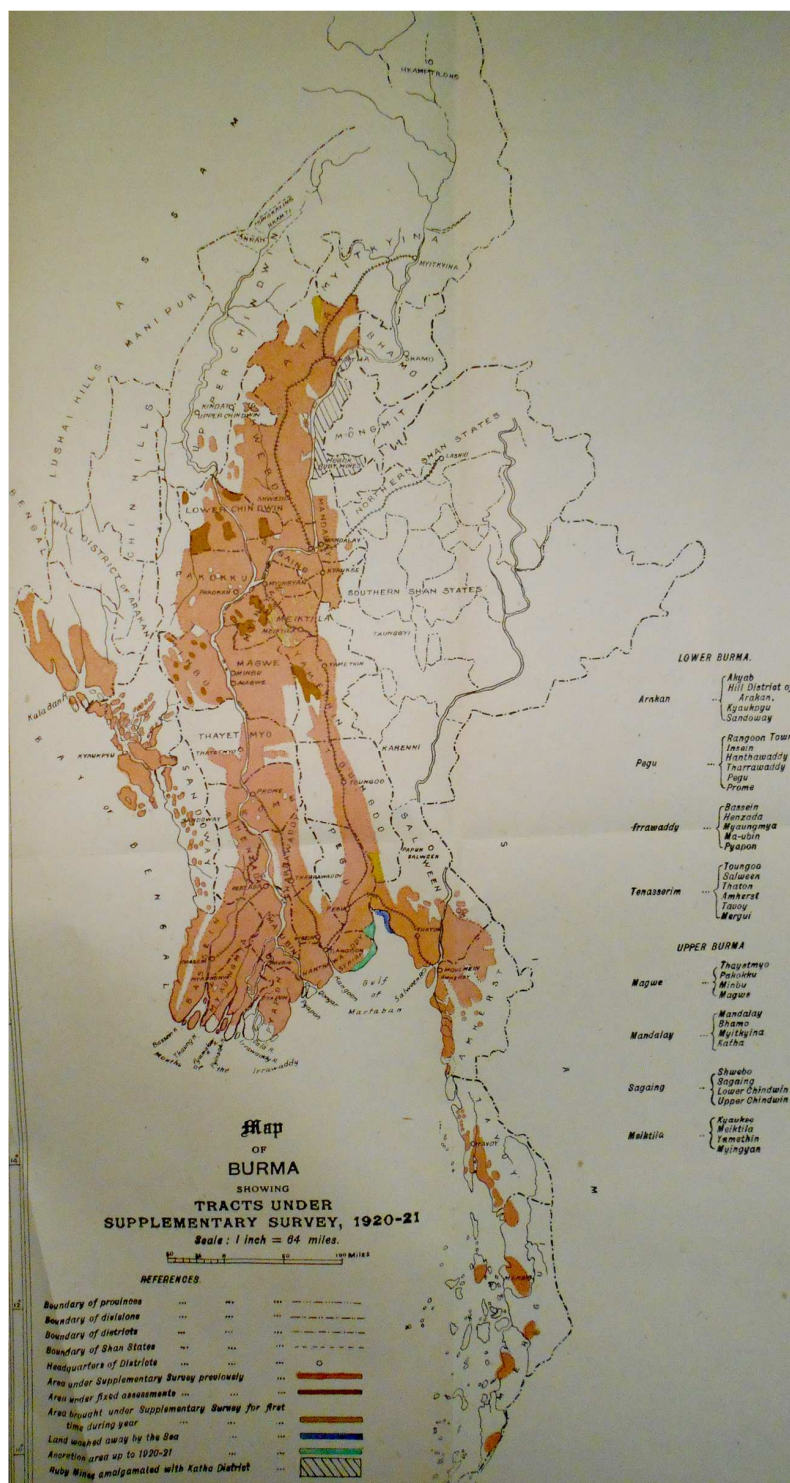
83 A gazetteer on Upper Burma and Shan states, part 1 volume 1 (1900) listed semi-dependent States differently as: "the Northern and Southern Shah States, described separately; the State of Möng Mit (Momeik) with its dependency, Möng Lang (Mohlaing), under the supervision of the Commissioner, Mandalay Division; the State of Hkamtilong, which with the Kachin Hills north of the continence of the upper branches of the Irrawaddy is only indirectly under administration; the States of Hsawng Hsup and Singkaling Hkamti (Zinglein Kanti) in the Upper Chindwin district; and the Chin Hills under a Political Office" (p. 1).

Map 7: Map of Burma showing tracts under supplementary survey in 1906-07



Source: Report on the land records administration of Burma, 1906/07-1921/22 (IOR/V/24/2587).

Map 8: Map of Burma showing tracts under supplementary survey in 1920-21



Source: Report on the land records administration of Burma, 1920/21 (IOR/V/24/2587).

In sum, the British colonization of Burma introduced significant changes to precolonial land systems, by establishing the concept of "wastelands" and formalizing land revenue systems to serve colonial objectives. It also deeply modified social structures through the passing of the village act, marking the end of *myo-thu-gyi* and *taik* thugyis (Callahan, 2003; Ferguson, 2014) and thus consequently, the relational land management systems. These policies, often based on misunderstandings of local practices (such as shifting cultivation and "indigenous" forms of tenure), were aimed at maximizing agricultural productivity and State control but frequently clashed with traditional Burmese systems. Despite efforts to integrate local customs, colonial frameworks prioritized economic extraction and laid some basis for land-related inequities, notably in Lower Burma. The British introduced the concept of "wastelands" to categorize land as State property, contrasting sharply with precolonial practices where unclaimed lands were often managed through local systems, by being cleared and cultivated with permission from local chiefs (*myo-thu-gyis*) or reverting to others upon abandonment. The British notion of the State as the ultimate landowner (through wasteland grants and State-land classifications) clashed with the Burmese understanding of the King as a steward of the land, constrained by Buddhist principles and customary laws. In addition, colonial authorities favored certain Christian-converted ethnic groups for roles in the military and administration⁸⁴ (Sadan, 2007; Thawnghmung, 2012), and created rigid ethnic categorizations that replaced the previously fluid social and identity structures (Sadan, 2007; Scott, 2009). With its rigid territorial divisions, the British colonization exacerbated ethnic tensions, by "politicizing violence along territorial and racial lines" (Callahan, 2003, p. 16) between Burmese lowland and frontier areas.

As Burma approached independence, these systems left a legacy of administrative centralization, potential conflicts with ethnic minorities, and the structural disenfranchisement of smallholder farmers in Lower Burma. This historical trajectory would set the stage for the complex challenges of the newly independent Burma that would urgently seek to curb insurgencies and address its major agrarian problems.

84 This had lasting effects post independence, including the systematic removal of Karen officers from the Burmese army and the rise of nationalist movements like the Karen National Union (Thawnghmung, 2012).

VI. 1948: THE INDEPENDENCE OF BURMA AND BUILDING NEW RELATIONS TO LAND

After the colonial creation of the concept of State lands, itself enhanced by the monarchical reference to the Burmese King being the “lord of water and earth” (*yé-myé-shin*), the independence of Burma would also be an important event in changing the State’s and people’s relations to land. Land nationalization would be one of the first major reforms to be implemented by the new State, once it formally obtained independence on January 4, 1948 after World War II and the subsequent Japanese occupation. Subsection 6.1 looks at the origins of the anti-landlordism motives of this reform, while subsection 6.2 examines the land nationalization reforms of 1948-50 and 1953-59 under U Nu’s government. Subsection 6.3 looks at the further measures taken by Ne Win’s socialist regime (1962-88) to abolish landlords and make farmers State tenants. Those various major reforms do not directly relate to wastelands, yet they are crucial in understanding the major shifts in property relations to land. Subsection 6.4 comes back more specifically to the wasteland category.

1. THE URGENCY TO ADDRESS AGRARIAN ISSUES FROM FIVE DECADES OF AGRICULTURAL CRISIS

We shall first look into the roots of the land reform, notably those stemming from an agricultural crisis that had started to manifest in Lower Burma already in the early 1900s, due to the progressive closure of the agricultural frontier, subsequent increase of land prices and rents, declining yields and inaction of colonial authorities to address the deterioration of living conditions for many cultivators (Adas, 2011, p. 128-130). The lack of available cultivable lands reduced both cultivators’ geographic and social mobilities. The previous frontier social ladder of moving from landless to tenant and from tenant to landholder within a limited number of years only was broken.

Despite the initial policy support, agriculture and free rice trade characterized the British colonial *laissez faire* policy. For example, land sales were never regulated and there were no ceilings fixed to the size of holdings. According to Furnivall, it is the lack of regulation that resulted, within sixty years, in class differentiation between landless laborers, cultivators and landlords with large estates of 500 to 1,000 acres (Furnivall, 1957 p. 59). He asserts that the development of Lower Burma was no less than an “unregulated scramble for land” mainly by “moneyless immigrants from Upper Burma” (ibid). Most of the heavy clearing work of new cultivated areas from swamps and jungles had been done by small agriculturalists to cultivate them, and the latter nevertheless ended up losing them to other classes due to indebtedness (Cheng Siok Hwa, 1965). However, for Adas (2011, p. 142), this accumulation of lands was also a result of bribes and force from landowners and “local land magnates”, with the collusion of employees from the Burma Land Records Department and local officials.

Land accumulation by absentee landlords was a gradual process: statistics (from the annual reports of the land revenue administration in Burma) from 1901 to 1939 show a steady increase of the proportion of land held by non-agriculturists and notably by non-resident ones, at the cost

of agriculturalists (Cheng Siok Hwa, 1965). This trend was even stronger in Lower Burma (see Table 12) and even more so in its thirteen principal rice-producing districts⁸⁵.

Table 12: Proportion of cultivated land held by agriculturalists and non-agriculturalists

		% over total area of cultivated area				Total acreage of cultivated land	% extension cultivated land 1901-39
		Agriculturalists	Agriculturalists				
			Resident	Non- resident	Total		
Burma	1901-05	81.6	5.3	8.6	13.9	11,699	66%
	1935-39	66.6	7.5	25.9	33.4	19,399	
Lower Burma	1901-03	81.9	6.5	11.6	18.1	7,159	57%
	1935-39	52.5	8.7	38.8	47.5	11,213	
LB top 13 rice- producing districts	1901-02	82.8	6.5	10.7	17.2	5,782	68%
	1938-39	48.6	9.1	42.2	51.3	9,722	

Source: Data from Cheng Siok Hwa 1965 "Land tenure problems in Burma" (based on Annual Reports on the Land Revenue Administration of Burma)⁸⁶.

The agrarian crisis worsened with the Great Depression in the 1930s and the subsequent crash of paddy prices (see Table 13). Landlessness soared and land accumulated into moneylenders' hands due to farmers' insolvency and mortgage foreclosures (Adas, 1974, 2011; Turnell, 2009), that would fuel an important rebellion that spread through the whole Delta region in the 1930s (Brown, 2014) and participated in the formation of nationalist movements for the decades to come.

⁸⁵ Pegu, Tharrawaddy, Hanthawaddy, Insein, Toungoo Prome, Bassein, Henzada, Myaungmya, Maubin, Pyapon, Thaton, Amherst. In the top rice producing districts, the increase of the proportion of land in the hands of non-resident non-agriculturalists rose sharply from the 1930 onwards with the Great Depression.

⁸⁶ Upper Burma figures in 1939 can be found in Andrus, 1946, if needed.

Table 13: Paddy prices (Rs/100 baskets)⁸⁷

Year	Price	Year	Price
1926	202	1933	64
1927	190	1934	70
1928	169	1935	93
1929	169	1936	89
1930	133	1937	97
1931	80	1938	90
1932	92	1939	97

Source: Turnell & Vicary, 2008, p. 12.

The concerns of such land accumulation in the hands of non-agriculturalists had been identified as an issue by the British colonists as soon as the 1880s (Cheng Siok Hwa, 1965). It became a genuine political concern since lands were falling into the hands of foreign absentee landlords. This was mainly due to mortgage foreclosures to Chettiers (a money lending caste from South India that provided the majority of credit mobilized by farmers in the agricultural expansion of Lower Burma⁸⁸) after the collapse of world cereal prices. With the subsequent fall of land prices, more land needed to be mortgaged to cover outstanding debts. As a result, between 1930 and 1937, the percentage of cultivated land in the hands of Chettiers rose from 6% to 25% (Cheng Siok Hwa, 1965). In parallel, contractual conditions for tenants were becoming harsher and increasingly precarious (Adas, 2011; Cheng Siok Hwa, 1965, Andrus, 1946).

For over 50 years, a number of legislative attempts under the colonial period were made to regulate land alienation and tenancy issues: a bill on tenancy and rents in 1892, a bill designed to deal with the problems of security of tenure and fair rent in 1892, the Burma Tenancy Bill in 1900 followed by another one in 1906, the Land Alienation Bill in 1907, the Burma Agrarian Bill in 1927, a fruitless set up of investigation committees on agrarian conditions between 1931-34, the Burma Tenancy Bill and the Burma Padi Rents Control Bill in 1937, and U Ba's Burma Alienation of Land Prevention Bill in 1937. The initiatives were supported by influential senior officials. Yet all these initiatives failed, due to the resistance of a wide set of actors with different motives, from the lobby of European merchants, Burmese and foreign land owning classes and even owner-cultivators themselves who feared that their borrowing capacity would be reduced by such regulations (Cheng Siok Hwa, 1965).

Under the Ba Maw Government (1937-39) when Burma became a separate colony from British India, a Land and Agriculture Committee was set up in 1938 to look up these concerns and produced four reports in 1939 on: 1) tenancy, 2) land alienation, 3) agricultural finance,

⁸⁷ Sources do not mention whether it is in current and constant prices.

⁸⁸ For more information on Chettiers, refer to Adas 2011 and Turnell & Vicary, 2008.

colonization and land purchase, and 4) the regulation of money lending. It consisted of both Burmese and British high-ranking political leaders and senior civil servants. Drawing from its proposals, several bills were drafted, but none were implemented, because they proved to be unworkable or had come too late to be put into effect with the Japanese invasion in December 1941 (Andrus, 1946; Cheng Siok Hwa, 1965). Added to this were the administrative challenges of Burma and the “*so baffling a problem within the political and legal framework of the Burma constitution of 1935*”⁸⁹ (Cady, 1965, p. 404). In conclusion, over the course of half a century, British Burma failed remarkably in addressing the agrarian issues that had already appeared since the end of 1880s (Cheng Siok Hwa, 1965).

2. LAND REFORM THROUGH LAND NATIONALIZATION: THE NEW STATE’S TOP PRIORITY

In 1947, the Anti-Fascist People’s Freedom League (AFPFL) headed by Aung San led negotiations for independence with the British. In its 1947 convention, the AFPFL addressed this enduring and unresolved agrarian problem by declaring: “*lands must be in the hands of those who work the land*”. Once it won the elections of the Constituent Assembly, it drafted a constitution that already had explicit positions to land and in which landlordism was already openly condemned: “30. (1) *The State is the ultimate owner of all lands. (2) Subject to the provisions of this Constitution, the State shall have the right to regulate, alter, or abolish land tenures or resume possession of any land and distribute the same for collective or co-operative farming or to agricultural tenants. (3) There can be no large land-holding on any basis whatsoever. The maximum size of private land-holding shall, as soon, as circumstances permit, be determined by law.*” (Chapter III, paragraph 30 of the 1947 Constitution). Legislation for the nationalization of lands to end landlordism would be one of the first measures taken by the new State, upon Burma’s independence in 1948, after several years of “self-government without independence”⁹⁰ (Charney, 2010).

In those years, AFPFL’s key priority was also to address the question of insurgency, before coming to the immense task of rebuilding the nation after World War II and the Japanese occupation (1942-45). To counter such rebels, it was urgent for the AFPFL to recover peasant popular support and prevent peasants’ enrolment in the leftist movements who were already advocating for land re-distribution to the tillers (Taylor, 2009; Yin Yin Nwe, 2007).

As land reforms are indeed instruments for the reconfiguration or consolidation of political regimes due to their effects on power relations (Léonard & Colin, 2023), the AFPFL rushed its own land nationalization program. It was also pushed by urgent and deep political, social and economic concerns to redress the situation of tenancy and non-agriculturist landlordism in the

89 A new constitution through the “Government of Burma Act” was approved in 1935. It sought to enhance democratic self-government in response to rising nationalist concerns. However, the governor was still to control the administration of the “Scheduled areas” and jurisdiction over key functions such as “*defense, foreign relations and monetary policy*” (Cady, p 353). In 1937, The Burma colony was separated from British India. Although still under British control, Burma had its own elected assembly and powers were finally delegated to the Burmese.

90 In “The History of Modern Myanmar”, Charney proposes to consider the final stage of the colonial period and World War II’s Japanese occupation of Burma as one single period from 1937 to 1947 of “*self-government without independence*” (Charney, 2010).

country. In addition to this reform, the government took over the rice trade and the timber industry, which was previously in the hands of foreign firms (Myat Thein, 2004).

The land reform had many correspondences with the post-colonial land reforms occurring during this period in the newly independent states of Asia and Africa between the 1950s and 1970s and their nation-centered developmentalist policies, in a period where socialist ideas had much traction. For example, in 1955, the Bandung conference, for which Burma (represented by U Nu) was among the main organizers, brought together 29 recently-independent countries from Asia and Africa, to affirm their shared desire for independence and non-alignment with world powers. However, the new Independent State had maintained most of the colonial legal framework and administration tools.

In his speech to introduce the 1948 Land Nationalization Act, Thakin Tin states that the bill is “one hundred per cent revolutionary” and “an atomic cure to the ills of the Union of Burma” on October 11, 1948, The agrarian problem was apprehended into three main issues: i) indebtedness of the agriculturists, ii) high rates of tenancy rents and insecurity of tenure, and iii) landlessness of the agriculturists. The act provided for the nationalization of all lands held by non-agriculturists. Since 49% of lands in Lower Burma were owned by non-agriculturalists (see Table 14), it was assumed that the majority of the nationalized lands (77% to 95%, see Table 15) would principally benefit the tenants who already tilled them, and they would continue to cultivate as State tenants. In addition, ceilings were defined from the land held by agriculturists: up to 50 acres for paddy and sugarcane lands, up to 25 acres for non-rice lands (*ya*) and up to 10 acres for alluvial lands (*kaing*). This would impact only 2% of agriculturalists in Upper and Lower Burma. Rubber plantation estates, religious lands, *dhani* and garden lands were not confiscated. Interestingly, the act makes no critique of the prior existing legislation on wasteland grants.

Table 14: Tenure statistics of 1946-47 in Lower and Upper Burma

	Lower Burma		Upper Burma	
	acres	%	acres	%
Agriculturalists	5,745,263	51.7%	7,125,710	86.9%
Resident non-agriculturalists	962,327	8.7%	454,473	5.5%
Non-resident non-agriculturalists	4,412,753	39.7%	623,315	7.6%
Total	11,120,343	100%	8,203,498	100%

Source: Compiled from data in Thakin Tin's speech for the 1948 Land Nationalization Act

Table 15: Area to be confiscated and proportion of rented areas as per Thakin Tin's speech for the 1948 land nationalization act

	Lower Burma		Upper Burma	
	Minimum estimate	Maximum estimate	Minimum estimate	Maximum estimate
Area to be nationalized and distributed to agriculturalists (acres) = A	5,549,773	6,229,754	1,890,266	2,134,318
Land within A that is already rented out (1946-7) = B	4,795,333	4,795,333	1,795,333	1,795,333
% of rented lands = B/A	86%	77%	95%	84%

Source: Compiled from data in Thakin Tin's speech for the 1948 Land Nationalization Act.

It is commonly admitted that the 1948-50 land nationalization reform was a failure (Myat Thein, 2004; Taylor, 2009; Than Aung, 1973). This was most probably due to a combination of factors: *"It had to be done hurriedly, before the new agricultural season, and of course there were some mistakes, some favouritism and some, though apparently not very much, bribery"* (Furnivall, 1949, p. 159). After the lobbying of the Chettiars who had vast amounts of properties to lose from the act and the subsequent intervention of the government of India in 1950 to demand compensation for the nearly 5 million acres of land held by Indian and other foreign landlords, the compensation clause was excluded and the act became impossible to implement (Taylor, 2009, p. 278). Last but not least, nationwide insurgency paralyzed the proper rolling out of policies and agricultural production still lagged behind.

It is only a few years later once the country "stabilized", that the Land Nationalization Act 1953 was enacted to replace the previous act. It had the same key objective of confiscating lands from foreign or national landlords (based on the same land acreage ceilings, as in the 1948 act) and redistributing them to cultivators. The landholder had the duty to cultivate the agricultural lands and not leave it fallow without "sufficient cause". If failing to do so, the land could be resumed without any compensation.

The new land nationalization first started for eight districts and extended up to 68 townships and 30 districts (Than Aung, 1973, p 83 citing Economic Survey of Burma 1958, pp. 81-83). Figures and statistics (see table below) vary according to various sources, including ostensible miscalculations and errors⁹¹. However, trends and totals sum up to roughly similar estimates: up to 1958, out of 3,356,000 acres of nationalized lands, 48.4% (1,625,000 acres) were confiscated and released, and among these, 1,449,000 acres were distributed to 190,000 cultivating households (Than

91 Yin Yin Nwe, 2007 using some national archives and tables containing calculation errors, Than Aung, 1973 using the Economic Survey of Burma data and Taylor (2009) references taken from Silverstein.

Aung, 1973, citing ESB annual report figures from 1955 to 1958)⁹², thus leaving a considerable amount of released land yet to be distributed (176,000 acres). The other half (51.6%) of nationalized resurveyed lands (1,731,000 acres) was already in the hands of 305,490 households (notably for owners who already held and cultivated lands, with acreages under the holding size ceilings) and thus exempted from confiscation (ibid).

Table 16: Land nationalization statistics (in thousands of acres)⁹³

	1953-54	1954-55	1955-56	1956-57	1957-58	Total
Total nationalized lands	261	1,025	732	561	676	3,255
Nationalized land exempted from confiscation	112	506	348	276	362	1,604
Nationalized land available for redistribution	147	509	379	283	313	1,631
-Redistributed	127	432	338	256	263	1,416
-Remaining to be distributed	20	77	41	27	50	215

Source: BSPP (1970, Burman's Agrarian history (Leiyar Thamaing), part II, p. 198 (Rangon) cited in Mya Than, 1984, 743 and Yin Yin Nwe, p. 74.

The implementation of the policy was hindered by insurgency and lack of security in various parts of the country. While Huard asserts that *"the delivery of land titles around 1956, when the central government regained power in the Monywa Region, was considered a mere formality by villagers"* (Huard, 2020, p. 93), it seems that operations in other sites were much more contentious, such as the case of Mayin village in the delta, where Pfanner conducted a rare ethnographic research on agriculture in 1959-60, and witnessed a stormy and conflictual process: *"since the very beginning, disputes arose concerning the awards made by the committee, the villagers attacked the committee; the committee itself split into two factions which attacked one another; litigation began in the courts by at least 20 unsatisfied Mayin cultivators, and finally, the committee was abolished and its work suspended while an investigation was conducted"* (Pfanner, 1962, p. 242).

With rising resentment from all sides of the land reform, an enquiry commission was launched in April 1959 to examine and evaluate the land nationalization program, under the Caretaker

92 Silverstein, Burma military rule, p. 75, cited by Taylor (2009) mentions "Out of these 3,357,000 acres, only 1,480,000 was actually redistributed to 178,540 previous tenant cultivators, while more than half of the resurveyed land was confirmed to be in the control of 305,490 households".

93 Also contains typos or miscalculations since totals do not to sum up.

government headed by General Ne Win (1958-60). It identified many weaknesses: tenants were only given a small acreage of land, often less than they originally cultivated, over-exemption (non-respect of land ceilings), abusive exemption of lands towards unworthy landlords and non-agriculturalists, land distribution to non-agriculturalists, favoritism towards relatives of land committees, bribery and corruption of the land committee, authorities and service personnel (Yin Yin Nwe, 2007, citing the 1959 enquiry report and statements made in *Hluttaw* sessions). The lack of genuine commitment at the highest levels of policy-makers, the technical shortcomings of the enactments, the inability to offer essential follow-up supporting systems of services to beneficiaries, and lastly the beneficiaries' lack of solid organization were the real weaknesses of the land reform (Mya Than 1984, p. 744).

Despite all this discontent of the outcomes of this law, it is interesting to note that the 1953 land nationalization law survived through the decades and successive regimes and was only repealed in 2012 (by the 2012 Farmland law). Indeed, it was a “convenient” law for the State to assert its control over the lands, and facilitate land confiscation of all sorts since it provided many avenues for the resumption of lands without compensation. In addition, the Land Nationalization Ministry formed in 1952 to implement the land reform and under which the Land Settlement and Records Department (the key institution in terms of land administration) was placed, remained as a full ministry until 1972 and its reorganization as Ministry of Agriculture and Forestry (MAF).

3. FURTHER STEPS IN TURNING CULTIVATORS INTO STATE TENANTS UNDER THE SOCIALIST PERIOD (1962-1988)

With the land nationalization, many land rights concerning large holdings had been dismissed. From there, the land redistributed to cultivators was not owned by them, but considered the property of the State, as per the constitution. They merely became the State's tenants, with the state permitting them to farm the land with the annual approval of the village Land Committees, generally to keep cultivating the same fields from year to year.

With Ne Win's military coup in 1962 and the advent of the “Burmese way to socialism”, “*a strange blend of Buddhism, nationalism and command economics*” (Callahan, 2009, p. 41), various important measures were taken as forced paddy procurement and control over the agricultural sector. As before the coup, land was considered the property of the State. The cultivator just had a land tiller right, given through the annual authorization of the village land committee. This right could not be sold, rented nor mortgaged legally. It could only be transferred to heirs if they remained cultivators on these lands. However, out of 19,574,471 acres of registered farmlands, only 17% had been nationalized and distributed (Saito, 1981; Taylor, 2009; Yin Yin Nwe, 2007) after the 1953-58 land reform. The remaining 83% was still held in the name of private owners, whether they were landlords or cultivators (Taylor, 2009, p. 351).

The ruling party as of 1962, the Burmese socialist program party (BSPP), was relatively critical about the land nationalization. Its main critique was that instead of implementing the “Land to the Tiller” principle, the AFPFL government had just sought to establish new classes of wealthy farmers and of small landowners (cited from BSPP 1970 Burma's agrarian history, part II, Rangoon, p 188 in Mya Than, 1984, p. 744). Although it assumedly lacks independence, the same

BSPP reference affirms the land reform failed to achieve its aims since land owned by non-agriculturalists had increased by 1% from 1957-58 to 1960-61 (ibid).

To address the remaining issues, the revolutionary council did not conduct any radical “land reform”. However, it did rapidly take measures to abolish tenancy rent and landlordism on all lands, to accomplish the “unfulfilled mission” of the Land Nationalization Act (Thawngnhmung, 2004). First with the 1963 Tenancy law, landlords no longer had the right to choose their tenants; this was to be decided by the village Land Committee, rent payment had a fixed maximum ceiling, and rents were only allowed to be paid in cash. With the 1963 Peasants’ Safeguarding rights, creditors could no longer seize lands in case of default in repayment of loans. Under the 1964 Procedures Conferring the Rights to Cultivate Land (rule 64/1), farmers could claim their “right to cultivate” (*lok-paing-hkwint*) if they had tilled the land for over 5 years⁹⁴. Combined with the State monopoly over all aspects of agriculture and the rigid system of paddy procurement (forcing farmers to sell quotas of paddy to the State at low prices, far below market levels), these measures would give significant power to the land committees.

These various reforms, aimed at abolishing landlordism notably in Lower Burma, had very different outcomes and objectives in the ethnic areas, which had totally different agrarian issues. Based on subsistence farming, these areas did not share the concerns of the delta’s commercial and highly-specialized paddy cropping systems about dispossession through debt foreclosures, land accumulation in the hands of moneylenders and degraded farm tenancy conditions. For example, in Hakha township, in Chin state, where Ne Win’s regime gradually managed to implant and strengthen its influence, it was found that the land nationalization and the measures taken on tenancy were heavy blows (adding to the impacts of British colonialization and Christianization) on local political systems and led to a decline in power of the customary ethnic chiefs (Boutry et al., 2018) by stripping them from roles as the spiritual lords of the lands.

4. A WASTE LAND CATEGORY “ERASED” BY LAND NATIONALIZATION POLICIES

At local level, the development of “vacant” lands fell under the 1953 Land Nationalization Act⁹⁵ and the 1963 Tenancy Act, with the annual authorization of use rights by the village land committees. As such, the management of vacant land was delegated to the village land

94 This procedure would be brought forward five decades later by tenants to claim land property rights during the “democratic window” after 2011.

95 As per the 1954 rules of the Land Nationalization Act and regulations (section 12, rule 152): the term “vacant land suitable for cultivation” (coined then as “*mye yain*”) included the following categories of farmland: i) culturable land that the State can utilize as needed; ii) farmland repossessed by the President of the State under Section 5 of the law, with the remaining land after redistribution under Section 7; iii) farmland repossessed or purchased by the government due to non-payment of land tax; iv) farmland once exempted under Section 6 of the law, and v) farmland redistributed under Section 7 of the law and later returned.

Additionally, according to Clause 32 of the Central Land Committee’s directives: “Vacant land refers to agricultural land that was once cultivated but has been abandoned, whether it has been registered or not (*u-paing*). It also includes land recovered under the government’s agricultural land reclamation plan or other government programs and projects, which can be reclaimed and made suitable for cultivation.”

committee, with the verification of district agriculture minister⁹⁶. This land category was fluid both in practice and in legal terms, since it was considered cultivated farmland whenever a use right was attributed by the committee and reversely, could fall back as vacant if it was not cultivated. The reforms would have lasting effects on the local governance of land, notably on the crucial role of village committees and leaders in defining vacant land and the allocation of land use rights to villagers. It had deep changes on the conception of land use rights and property rights by the State and created an ambivalent sense of “entitlement” for land perceived by local people, influenced both by customary property relations and the socialist State’s tenancy relations. While in precolonial Burma and British Burma one was free to clear jungle to cultivate any crop and obtain a transferable permanent right to land, property rights under the socialist period resembled more of a temporary permission that could not be sold, leased or mortgaged, and would be liable to annual approval by the village land committee to cultivate land, as per State-imposed crop choices.

Furthermore, with land reforms focused on fighting landlordism, the Burmese State’s desire to distance itself from potential interference by colonial powers, and the moment’s focus on self-centered development (and perhaps the comeback of the Burmese kings’ anti-mercantilism), the question of agricultural foreign investment was completely out of sight for the decades to come. With this, the “wasteland” category, as *“an economic classification with the ultimate goal to bring more of the country’s natural sources and agricultural products into the fold of global capitalism”* (Ferguson, 2014, p. 296), was simply emptied of its substance although rubber estates had been spared from the land nationalization reform.

In its early days, Ne Win’s regime opposed all forms of private entrepreneurship, by enacting the Enterprise Nationalization Law and forbidding new private-sector activities (Cook, 1994). But in the short term, as soon as 1966, Ne Win’s revolution showed poor economic performance: *“The overall results have been a decline in foreign exchange, commodity shortages, black markets, and a decrease in national production”* (Silverstein, 1966, p. 97). The economic decline might have given some impetus to lift, timorously, some restrictions. The passing of the 1977 Right of Private Enterprise Act provided some space and security for private entrepreneurship, notably by protecting enterprises from nationalization until 1994 (Aung Kin, 1980; Cook, 1994). With this, it was made possible for a person or a company to apply for up to 50 acres of land, at the disposal of the State, for agribusiness purposes at township level through the township People’s Council executive committee⁹⁷ (up until 1987 when the act was repealed). However, such private sector initiatives remained marginal under Ne Win’s socialist rule. Oppositely, agricultural lands could be claimed by State-owned agricultural enterprises aimed at developing crops deemed *“beneficial to the State’s and cultivators’ interests”* through article 38 of the Land Nationalization Act⁹⁸. This

96 According to the rules of the Land Nationalization Act (n°153 to 161).

97 U Zaw Min, DVB Law Lab. Facebook post dated January 21, 2021, while the article itself was authored on January 14, 2021 (but removed since the coup).

98 *“If the President may deem benefitable to the State or to the agriculturalists, by growing some specific crops in some areas and by using specific means to agricultural lands, the President may deem to apply or ask to apply specific crops or specific means to use on agricultural land respectively.”*

was used to establish State-owned industrial crop projects, as in the example of two of my PhD case studies.

The post-independence era in Burma marked a radical shift in land relations, beginning with the nationalization of land and the abolition of landlordism. While these reforms aimed to address a longstanding agrarian crisis, they also centralized State control over land, transforming cultivators into State tenants under a socialist framework from 1962 to 1988. With the period's national focus on self-sufficiency and its distancing from colonial legacies, the wasteland category was erased for several decades and was simply integrated into an all-encompassing State domain, at the service of the State and its socialist policies. Under the "Burmese Way to Socialism", land management became tightly controlled by village land committees, tied to State directives for agricultural production. These authoritarian policies laid the groundwork for the further militarization of land management and its strategic use as a tool for State consolidation and economic control, a theme that would dominate Burma's governance in the decades to come. After analyzing the linkages between the military and agriculture, we shall see how the "wasteland" instrument would soon be reactivated with the end of N Win's rule.

VII. RETRACING THE FAVORABLE SETTINGS FOR THE LIBERAL PRAETORIAN REGIME'S CRONY CAPITALISM AND REACTIVATION OF THE WASTELAND CATEGORY

This section shall explore the linkages between the military and wasteland, and their linkages with State building processes, which involves “*the creation of concrete, identifiable administrative and political institutions*” (Callahan, 2003, p. 13⁹⁹). We depart from Egretau’s argument that Myanmar is a remarkably enduring “praetorian” state (Egretau, 2010). This regime is defined by the fundamental and unchallenged influence exerted by the military in shaping and managing all aspects of State activities, including politics, strategy, socio-economics, and culture (ibid, p. 16), and of course agriculture (see section 7.2) and land (section 7.3). We shall look into its historical roots (section 7.1) and how the contemporary military regime has shaped land administration practices and enhanced its influence over agriculture (section 7.4). We also look into the specific regime change with the fall of Ne Win in 1988 and subsequent shifts in liberal land policies, notably with the revival of wasteland allocations.

The interplay between Burma’s foundational authoritarian land management, economic liberalization and further militarization policies post 1988 created an institutional framework that fostered conditions highly conducive to crony capitalism, characterized by preferential access to land and resources for military elites and their allied interest groups. This dynamic was “institutionalized” with the reactivation of the waste land category which would facilitate large-scale land acquisitions and resource capture, often at the expense of marginalized communities.

1. LOOKING BACK AT THE ORIGINS OF THE ARMY’S CENTRAL ROLE IN BURMA

The antecedents of Burmese authoritarianism can be traced back to far before independence:

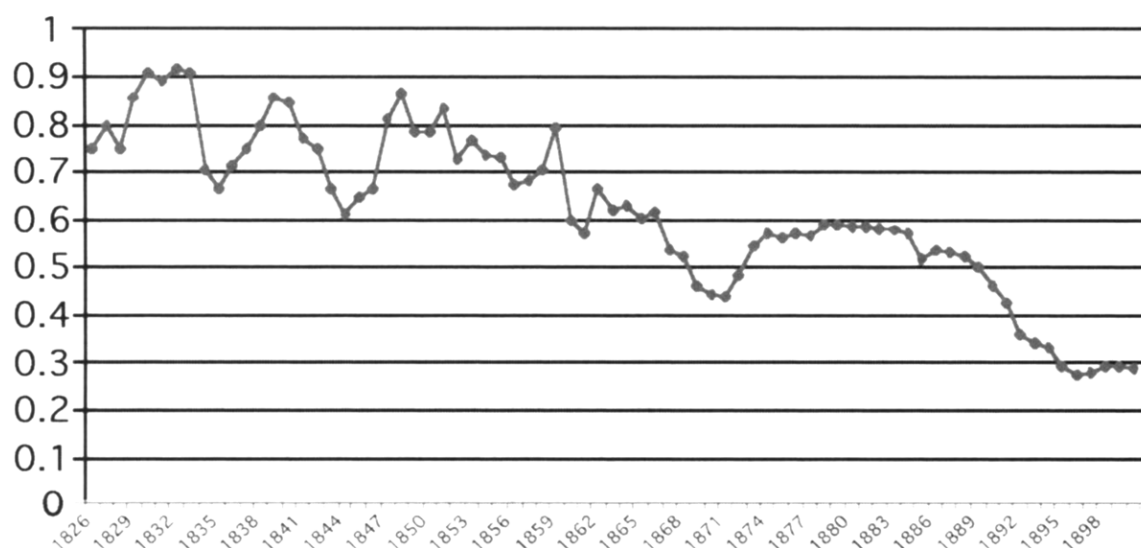
“it should also be remembered that in practice the British regime was far more monolithic and directive than the late 1930s parliamentary façade would indicate. The forcible seizure of power and the concentration of all genuine authority in the executive are as consistent with British (or indeed Japanese wartime) practice as with precolonial Burmese custom-and, no doubt, better remembered” (Lieberman 1987, p. 186).

Even under the British colonial rule, Burma was classified as a “non-regulation” province; under provisions that were usually made for newly annexed territories under turmoil or in tribal areas where a standard system of taxation and administration seemed too challenging to implement (Englehart, 2011, p. 767). Burma’s status never changed despite becoming irrelevant in light of the country’s deep transformations over the decades. One key consequence was that in the first decades of colonization up to 1880, the majority of civil servants in the British colony were sourced from the army while in India’s other provinces under “regulation” status, parliamentary law did not allow the employment of “military civilians” (Englehart, 2011, pp. 766-767). It has

99 Callahan highlights its distinction with Nation building as the “process by which a population develops a sense of community or connection that becomes the basis of individual and group political identity, which in turn influences individual and group political behavior” (ibid).

probably influenced political systems since such administrators tended to dislike the sophisticated separation of powers of the Bengal system (*ibid*).

Figure 4: Proportion of military civilians in the Burma administration (1824-1900)



Source: Englehart, 2011, p. 767¹⁰⁰.

The colonial state was not only relying on these armed forces but also on “*an inexpensive security apparatus to maintain its inexpensive, putatively laissez-faire form of governance*” (Callahan, 2003, p. 14). It also built administrative institutions and security mechanisms that would contribute to “*politicizing violence along territorial and racial lines*” (*ibid*, p. 15), notably between central Burma and the frontier areas. As exemplified with the village act during the 1886-90 pacification campaign in Upper Burma (see 4.7), martial law was used to organize Burmese society for “*production*”¹⁰¹ (Callahan, 2003, p. 43). The passing of the village act as an instrument of martial law would be a crucial step in Burma state building by marking the end of *myo-thu-gyi* and *taik thugyis*. (Callahan, 2003, pp. 23-24).

In addition, the nationalist struggles for independence were also strongly linked with fighters which would build the foundation of the military. In order to liberate the country from British

100 Citing IOR L/F/10/29; L/F/10/30; L/F/10/31; L/F/10/32; L/F/10/33; L/F/10/ 34; L/F/10/36; L/F/10/37; L/F/10/38; L/F/10/39; L/F/10/40; L/F/10/42; O/6/36; V/12/381; V/12/382; V/12/383; V/12/385; V/12/387; V/12/422; V/13/1140; V/13/1141; V/13/1144; V/13/1145, the Indian Army and Civil List, various volumes 1861-1876, the East India Register various volumes 1793-1900, Ramchunder, 1844

101 “*For Leviathan had not come to Burma to keep things as they were. He had come intending to make changes, such changes as should develop the natural resources of the country. Normally, society is organised for life; the object of Leviathan was to organise it for production. His aim was to turn cities into factories, and villages into workshops*” (Furnivall, 1939, p 134). “*When Leviathan endeavours to organise society for production he forgets that man cannot live by bread alone*” (*ibid* p. 137).

colonial control, the Burma Independence Army (BIA) formed an alliance with the Japanese forces, who had taken over the country during the Second World War. The leaders of the armed group were strongly influenced by the Japanese militarist and fascist model (Egreteau, 2010). In August 1943, the Japanese ostensibly granted Burma independence, but in reality maintained control over the country through a puppet administration. The BIA underwent a transformation and became the Burma National Army, led by generals Ne Win and Aung San¹⁰² starting from 1943.

Following military engagements, diplomatic agreements, and strategic alliances, Burma ultimately achieved genuine independence in January 1948, but a considerable part of the nation remained under the control of insurgent factions (Bryant, 1997). *“In a sense, anti-Japanese warfare attained its goal-to destroy the state-but it also doomed state-rebuilding efforts in the early postwar years.”* (Callahan, 2003, p. 17). Consequently, the country’s armed forces quickly assumed a pivotal position in the State’s political and economic matters, even though a parliamentary system of government was in place (Egreteau, 2010). After a chaotic party split within the leading AFPFL party, Ne Win took over from U Nu and led the caretaker government of Burma from 1958-1960 which facilitated military leadership and eased civil-military and field-staff tensions by imposing themselves: *“Gone were the pesky civilian politicians who cut army budgets and interfered with the military’s internal security operation.”* (Callahan, 2003, p. 190).

2. CONTROLLING THE PEASANTRY ALONG THE BURMESE ROAD TO SOCIALISM (1962-1988)

In 1962, General Ne Win took control of the government through a coup d'état, establishing the Burmese Road to Socialism (see sections 6.3 and 6.4). As the nation underwent internal upheavals and faced shifts in the worldwide geopolitical landscape, the army emerged as a crucial and essential institution for the country's stability and security (Egreteau, 2010). The proliferation of communist and ethnic separatist insurgent factions compelled military commanders to establish a robust and resilient army that possessed both political and economic power (Callahan, 2003, p. 169).

Ne Win’s totalitarian intentions were clear from the onset of the coup as U Nu, ethnic delegates and MPs were jailed, the 1947 Constitution was repealed, the Parliament disbanded, and the Supreme Court and judiciary system suspended (Egreteau, 2010). The removal of Burma’s parliamentary democracy was justified by the growing critique that *“federalism and multi-party democracy were considered open to abuse by politicians representing landlords, capitalists and others seeking power and wealth for personal rather than public ends”*. (Taylor, 2009, p. 274). The coup was met with no or limited public opposition (Taylor, 2009) and “resigned relief” (Egreteau, 2010), due to the loss of public confidence in the post-independence U Nu government, perceived as weak and unable to address the mounting challenges of ethnic insurgencies, economic

102 Aung San is the father of Aung San Su Kyi and widely regarded as the iconic father of the nation by many Burmese people, despite his assassination in July 1947 before the country’s official independence pronounced a few months later.

difficulties, and political fragmentation¹⁰³. Territorial control was also soon simplified with the abolition of institutions that were perceived as milestones towards semi-autonomous states (four Shan, Kachin, Karen and Karenni "States", a Chin "Division", and two Mon and Arakanese "Ministries") and were substituted in practice by administrative staff under central control (Egreteau, 2010)¹⁰⁴.

We have seen in section 6.3 how Ne Win's socialist regime rapidly took measures to abolish tenancy rent and landlordism on all lands by making all farmers State tenants. The revolutionary council's policy with regard to agriculture was to control the distribution relations of farm rent between the State and the farmers through the coupled control of land and farm products (and notably paddy). In other words, *"it provided the means to control the economic life of the peasantry"* (Taylor, 2009, p. 352). With the nationalization of marketing sectors, private trade in rice and key agricultural products was forbidden (Saito, 1981) and the government intervened in all activities of food grain value chains from production, to distribution, milling, storage, transportation, wholesale and retail trade (Turnell, 2009). Paddy buying storehouses were built throughout the country to collect paddy and compulsory paddy quota were set upon farmers based on average yields and farm holding size. At every harvest, farmers were forced to provide a fixed amount of paddy to the government at officially fixed prices which were far below free market prices and export prices. As noted extensively in interviews with farmers in the Ayeyarwady delta, the quotas were a huge burden to farmers' livelihoods and farmers often had to resort to moneylenders to buy the paddy needed to fulfil the requirements.

The revolutionary council struggled to control farmers' behavior towards their expected objectives. Looking into their own interests, some simply shifted from paddy to other crops (Demaine, 1978; Silverstein, 1966), concealed their unregistered paddy fields or under-reported their paddy land acreages through bribery (own field work).

In the following decades, rice production increased but only in the same proportion as national population and surpluses were dropping (Demaine, 1978, p. 96). *"The disastrous decline of the once famous rice-bowl"* and main paddy rice exporter is here described in evident terms: *"while Myanmar's population has grown by about 2.5 times since the 1930s in 1987/88, its rice exports fell more than ten times"*. (Mya Than, 1990, p. 240). Despite the government's extensive planning and restrictions over the agricultural sector, it was totally unable to *"direct farmer incentive into the right areas"* while the *"ever-widening gap"* between official over-estimated figures about rice production and the ground reality resulted in consequent paddy price hikes (Mya Than, 1990), that would soon fuel unrest.

103 At that time (and unlike the 2021 coup), the army had earned sufficient public trust and legitimacy from its crucial role in the struggles for independence and was seen as the only player who could avoid the potential disintegration of the nation and continued political chaos.

104 In theory, it adopted a federal system with seven ethnic-dominated (federated) states and seven Bamar-dominated "divisions" (Egreteau, 2010). However, despite this federal apparatus, power was highly centralized. "The effect of the Revolutionary Council's policies was to eliminate ethnicity as a constitutional issue and replace it with more tractable ones such as regional development and cultural diversity" (Taylor, 2009, p. 303).

3. THE 1988 UPRISINGS AND THE SHIFT FROM SOCIALISM TO MILITARY “LIBERALISM” (1988-2011)

The country's poor economic and social performances gradually put the socialist ideology into question. In 1988, in light of mass uprisings and violent crackdowns triggered by a severe economic and political crisis following disastrous demonetization measures in 1987 that led most Burmese people to lose their savings, army leaders seized power and Ne Win resigned. The State Law and Order Restoration Council (SLORC), chaired by Ne Win's follower, General Saw Maung took over power¹⁰⁵. It suspended the 1974 constitution until the ratification of the 2008 constitution. As a consequence, over this period, the government was thus technically “*accountable to nobody*” (Mark, 2023, p. 31).

The SLORC also initiated gradual economic liberalization, including in the agricultural sector. The procurement system clearly had negative effects on national paddy production due to the lack of incentive for farmers to produce more (Saito, 1981). But the State did not wish to suspend nor to change it since it “*not only allowed the state to gain direct access to agricultural surpluses; but also ensured that a free market in land did not re-emerge on a large scale and thus restore capitalist agriculture*” (Taylor, 2009, p. 354). However, this would not last. In 1987, the agricultural sector was partially liberalized as a response to a rare farmers' protest against the procurement policy in Ayeyarwady division (Thawngnhmung, 2004, p. 170). The compulsory procurement system over nine crops was ended and the State's take on production and the quota's burden on household economies was reduced. However, the liberation process was irresolute, notably for farmers and paddy, for which, after one year only, regulations over private trade and procurements (but by reducing the State's take¹⁰⁶ to only 12% of the production) were restored in 1989 (Thawngnhmung, 2004) and lasted up to 2003. Farmers were nevertheless allowed to sell the surplus production on the market. Furthermore, the new regime did not revoke the previous land-related laws and maintained its grip over farmers with the same restrictions over land use and land transfers, and still imposed specific crops for agricultural production as per its policies.

The liberalization process would be a much more straightforward process for investment led by military elites and their close partners. In 1989, the military junta strengthened its economic and industrial base by establishing two powerful military corporate enterprises: the Myanmar Economic Corporation (MEC) and the Myanmar Economic Holding Co. Ltd. (MEHL) (San Thein et al., 2018, Callahan, 2007, p. 16). The State would entrust multiple State-owned firms and factories to MEC/MEHL for managing extensive lucrative commercial operations. Foreign companies promptly joined joint ventures with MEC/MEHL to engage in various commercial activities such as banking, logging, mining, manufacturing, and agricultural ventures. These two companies would be extremely powerful for the decades to come.

105 In 1997, the government changed its names to a more “international development” friendly name: State Peace and Development Council (SPDC).

106 Previously, the State's take as a quota would commonly represent two thirds of farmers' production (Boutry et al., 2017, p. 68).

While scholars such as Lieberman had highlighted that Burma in the socialist era had not fallen to neopatrimonialism¹⁰⁷, which has occurred in other countries of Southeast Asia¹⁰⁸, it is clear that neopatrimonial management of lands and natural resources would become a striking feature of authorities at all levels under the SLORC regime and even more under the SPDC after 1997:

"The image of the state's line between public and private or legal and illegal, on the one hand, and its practices to regulate and enforce that line, on the other hand, are at great odds" (Callahan, 2007, p. 11).

The SLORC also paved the way for further militarization of the State apparatus. As the army was fearful of losing power and control like in 1988, the junta aimed to further develop a robust, modern, and powerful military force, as well as massively expand army units and garrisons, naval and air force bases nationwide, often established on confiscated lands with little or no compensation (Selth, 2002). The army had grown in number from 180,000 when the SLORC was established to 350,000 in 1995 (Callahan, 2009, p. 45). It also absorbed half of the State budget, supported by loans from China, India and Thailand (ibid, p. 45). With the pressure of China and Thailand, surrenders and ceasefires with dozens of armed groups took place (Callahan, 2009, p. 47), propelling a new "ceasefire capitalism" (K. Woods, 2011). With the fall of socialism, the wastelands were re-instated as a legal category at the service of the State and capital, reflecting J.C. Scott's quote about the simplification of land categories, notably in the sectors of forestry and agriculture, in "Seeing like a State":

"Today, global capitalism is perhaps the most powerful force for homogenization, whereas the state may in some instances be the defender of local difference and variety" (Scott, 1998, p. 8).

In November 1997, the junta reorganized into the State Peace and Development Council. The rapid expansion of the army had created *"the worst discipline problems across the ranks"* since 1948 (Callahan, 2003, p. 218), as well as widespread corruption (Callahan, 2009, p. 45). To avoid potential factionalism and treasons, the SPDC removed the most corrupt cabinet ministers (including the Minister of Agriculture), and downgraded regional commanders, both positions of which were replaced by junior general officers. Under SPDC, the new regional commanders became very powerful within the territories of which they were in charge (see map below), as the junta delegated the day to day administration responsibilities to them.

"This state rebuilding process brought with it a new geography of military deployment and functions" (Callahan, 2007, p. 17).

This new geography is also reflected in the concessions over lands considered "wastelands" over this period, notably with the important power of regional commanders in establishing land

107 This terms refers to the vertical distribution of resources that gave rise to patron-client networks based around a powerful individual or party.

108 Original quote: *"Even such 'neopatrimonial' appropriations of public office for private enrichment as are a prominent feature of military rule in Thailand and Indonesia have been largely absent among the officer corps in Burma"* (Lieberman, 1987, p. 188).

concessions, surpassing the authority and jurisdictions of the Ministry of Agriculture (see next sub-sections).

Map 9: Boundaries of the regional commands in 1997



Source: <https://www.globalsecurity.org/jhtml/iframe.html#https://www.globalsecurity.org/military/world/myanmar/images/burma-commands-1997.jpg> | Regional Military Command, 1997, consulted on March 19, 2024.

4. THE CLOSE CONNECTIONS BETWEEN THE ARMY AND AGRICULTURE

Historically, the army has had strong links with agriculture. In precolonial times, the military would already be required to produce its own food and *ahmudan* military servicemen would be allocated crown land for this (see section 4). In contemporary history, the government also assumed that soldiers needed to be self-reliant for their food production (Callahan, 2007, p. 32). Lower-ranking soldiers were confronted with this in the field: receiving small wages and very limited logistical support, the implicit agreement of the military hierarchy implied that they were expected to find their own land to produce their food (Jannuzi, 1998: 203 in Ferguson, 2014, p. 304). The army interfered with agricultural land by getting directly involved in agricultural production (Ferguson, 2014) including in the form of agricultural investments led by military officers. Magazines such as People's Military Magazine regularly showcased soldiers' successful agricultural activities (Nakanishi, 2013: 235 in Ferguson, 2014, p. 303). The military junta mandated each regiment to increase their personal welfare fund. Commanding officers and officers in local command units had significant autonomy to oversee operations in their areas. Under these self-reliance schemes, they were able to create regimental welfare funds. In all parts of the country, plantations and agricultural property were appropriated by military units, police, the Union Solidarity and Development Association (USDA)¹⁰⁹ and line departments under various ministries.

In addition, the SPDC also defined and implemented agricultural policies in military fashion. They exerted pressure on farmers to grow specific crops according to the national or regional priorities (San Thein et al., 2018, Callahan 2007, p. 20). One remarkable example was the policy to develop jatropha cultivation for biofuel production, launched in 2005. In his speech on December 15 of that year, junta leader General Than Shwe announced a target of seven million acres (2.83 million hectares) for the planting of jatropha, divided equally between the 14 divisions/states¹¹⁰. The policy was implemented with a degree of fanaticism that the population perceived as a "perverse superstition". Indeed, widespread rumors at the time claimed that the policy was pushed forward because the Burmese word designating this crop (*kyet su*) was an inversion of the words "*Su Kyi*" referring to the name of the iconic NLD political opponent, Aung San Su Kyi. According to the esoteric performative logics of *yedaya*¹¹¹, growing jatropha would help to counter Aung San Su Kyi's influence. At worst, rural people perceived the jatropha policy as just another deprivation of their freedom and means of subsistence by being subjected to compulsory cultivation of jatropha or to land confiscations for jatropha plantation projects (Skidmore & Wilson, 2007, p. 10). In the Minla township in Magwe region where I conducted field work in 2017, two companies (Yuzana company in 1996-97 and Thitsar Myae in 2006-07) each received very large amounts of lands considered "wastelands" totaling more than 13,000 acres to cultivate crops and notably jatropha on the mainly hilly lands which were already the object of prior land uses (cultivation, pastures

109 Ruling party created with the support of the SLORC in 1993, until it was disbanded and reformed as the Union Solidarity and Development Party (USDP) in 2010.

110 The Minister of Agriculture went even further, announcing a target of 3.24 million hectares, an area almost the size of Belgium (Ethnic Community Development Forum [ECDP], 2008)

111 ယုတ်, *yedaya* refers to superstitious magical ritual performed to postpone, counter, and avoid misfortune.

and village settlements) by the local rural population. The companies brought their employees from other parts of the country and provided no employment for locals. These projects were a resounding failure; since neither company succeeded in planting more than 50 acres. Despite the projects' abandonment and the release of lands affirmed by government authorities in Nay Pyi Daw, the local "managers" representing their firms continued in 2017 to assert land control over these areas, by leasing land to local villagers (for free or for rent), or excluding others from exploiting the land. In both cases as well, former employees had also remained and occupied the most valuable lands, creating conflicts with the locals.

Examples of authoritarian execution of directives concerning agriculture production are abundant in the testimonies of farmers who were forced to grow crops such as paddy and jatropha, across the country as well as in those of government officials who had to cope with intense professional pressure to implement the fixed targets. Shortly after the ceasefire between the army and the New Democratic Army-Kachin (NDA-K) in 1989, one interviewee¹¹², a retired official from the General Administration Department recalled the extreme pressure he faced while working at Myitkyina district level, to identify land and "beneficiaries" to develop 1,000 acres of sugar plantations to supply the State sugar factory, for the allocation of tracts of 50 acres to "suitable" farmers. He affirmed that such beneficiaries would then be supervised and punished in case of failure to grow sugarcane.

In Myanmar, prior to 2016 (and after the 2021 coup), the Minister of Agriculture position was typically held by high-ranking military officials. The land administration department was also predominantly led by military officials from 1994 to 2023. This was also the case for the forest department. This would shape working protocols and an authoritarian military culture that prioritized strict adherence to hierarchy over any form of critical discussion, and a working culture of fear, violence and humiliation. Unsurprisingly, this also led to major information gaps in the Ministry of Agriculture: while top-down directives were passed swiftly to lower levels, ground-level information about the implementation of policies, their effects and challenges struggled to reach higher authorities (Thawngmung, 2003).

Furthermore, the examination of career trajectories of ministers of agriculture reveals the feature of "revolving doors" between top military positions (notably as Region commanders) and high-level executive roles in the State. This reinforced the "regulatory capture" prioritizing special interests over the general ones, and the granting of reciprocated privileges between military officials as it would be observed with the new wave of wasteland grants (see following sub-section).

We should however note that as a praetorian state, the military also has a strong presence in many lucrative sectors such as mining and forestry. However, the Agricultural Ministry had a particularly notorious reputation of strong and conservative military leadership. This might have been linked with the legacies of specific ministers such as Lieutenant General Myint Aung, widely known for the brutal acts committed against Karen insurgents (Thawngmung, 2003, p. 314),

112 Interview n1, YGN-November 2023.

including in Bogale township¹¹³, during his time as the regional commander overseeing the area. This lieutenant was then promoted as Minister of Agriculture¹¹⁴ from 1993 to 1997. He incorporated military protocols into the operations of his ministry (ibid, p. 314) and implemented agricultural programs with impractical demands and unfeasible timelines (Thawngghmung, 2003). Even in my professional experience and interactions with authorities in Myanmar from 2013 to 2019, I could observe the fundamental differences in leadership, working culture and opportunities for dialogue with civil society between the Forest department and the land administration, for example.

5. THE REVIVAL OF THE COLONIAL WASTELANDS WITH THE LIBERAL TURN TO LARGE-SCALE LAND CONCESSIONS UNDER THE SLORC (1988-1997)

We will examine the significant connections between the military and land concessions, as well as the tactics of "agricultural development" that serve the military and political goals of territorial domination in a nation that has been plagued by armed conflict since gaining independence and where the myth of untapped natural resources still prevails.

We have seen how in 1988, the new regime turned away from socialism and took steady steps towards liberalism and private investment, including of foreign source (see section 7.2). The wasteland category, which had been merged into an overarching State-land domain since independence, was reactivated for the allocation of large-scale land concessions. In 1991, the government created the Central Committee for the Management of Culturable Land, Fallow Land and Waste Land and enacted the "Wastelands Instructions" to promote large-scale agricultural investments. This was done through the endorsement of two main legal documents. The SLORC's notification 44/91 *"Duties and rights of the central committee for the management of culturable land, fallow land and waste land"* (1991) dated November 13, 1991 was a three-page document containing four key articles, signed by Major-General U Khin Nyunt. It assigned the Central Committee for the Management of Culturable Land, Fallow Land and Waste Land with the *"the duty to scrutinize applications, allocate grants and to support right to grant up to 5,000 acres of culturable land, fallow land or waste land to those persons who are desirous of investing in commercial enterprises concerning agriculture, livestock breeding, aquaculture or other affiliated economic enterprises in accordance with the existing land laws"* as well as *"to assist those persons who are granted the right to cultivate land/right to utilize land, to acquire technology, quality seeds and other assistance that may be necessary depending upon the type of enterprise"*; *"to vet request and support investors request for loans"*. Wasteland grants were set to a maximum period of 30 years¹¹⁵ and exempt from payment of land revenue for a period of 2 to 8 years (and well as

113 When I was working in that township from 2013 to 2015, I precisely remember the horrific accounts of a Karen colleague who described the cruel acts of torture inflicted on his relatives in their village in 1991.

114 The Ministry of Agriculture was renamed in August 1996 as the Ministry of Agriculture and Irrigation (MOAI) (1996-2016).

115 However it contains a strange exception for seasonal crops which is also found in the 2012 VFV law: for, perennial plants and orchards, the grant duration is a maximum of 30 years (like other activities such as livestock, poultry farming and aquaculture) but for seasonal crops, the duration for the right to use land shall continue as long as there is no breach of condition.

income tax) (Duties and rights of the central committee for the management of culturable land, fallow land and waste land, 1991).

One month later, came the Central Committee's notification 1991/1 (Procedures conferring the right to cultivate land/right to utilise land, 1991) which provided more details on the grant process through 11 chapters, on the application process, enquiry, resolution and registration, maximum area allocated and land revenue exemption duration according to the nature of the investment. Surprisingly, none of the documents provide details on the formation and composition of the Central Committee.

As observed in Table 17 below, the 1991 Wastelands Instructions contained similar points as previous legal texts in terms of lack of definition. They all also provided tax or rent exemptions for grantees. However, the 1991 Wasteland Instructions brought in notable differences. They describe considerable support measures for grantees in terms of access to technology, quality seeds, capital loans and various materials and services.

In addition, while the colonial or the royal wasteland grants were hereditary and could be sold, this was not the case officially with the 1991 Wastelands Instructions that imposed the "permission of the central wasteland committee". This could be explained with the heritage of land nationalization and the quasi thirty years of socialism that followed, during which land sales were officially banned.

Contrary to King Thibaw's royal rules for wasteland grants of 1885 that determined three levels of approval according to the size of grants, the 1991 Wastelands Instructions demonstrated a highly centralized process around the central wasteland committee with no real check and balance processes with local authorities. In addition, while royal and the colonial legal texts on wasteland grants explicitly mentioned the resumption of land (and even fines) if grantees fail to fulfil the grant's terms, the 1991 legal texts on wasteland grants provided very little or vague requirements for grantees in terms of land development. In terms of disciplinary measures, it only vaguely stipulated, "*If any breach of condition is found by respective departments, a report for necessary action shall be submitted to the Committee.*" (article 21 of the procedures conferring the right to cultivate land 1991).

The 1991 texts thus reflect a notable change in governance, with the will to concentrate power with the central wasteland committee and to limit performance requirements expected from grantees. The trend was further pursued since as of 1997, military regional commanders gained more authority than line ministers (San Thein et al., 2018) and allocation of wastelands did not even need to proceed for approval through the central wasteland committee. In 1998, the Central Committee passed a notification 1998/1 which increased the size of possible land concessions to "5000 acres at a time" for perennial crops up to a total of 50,000 acres.

Table 17: Comparative analysis of legislation for the granting of wastelands (1865 rules for British Burma, 1885 Rules under King Thibaw, and the 1991 Wastelands Instructions)

	Revised rules for the granting of wastelands in British Burma 1965	Rules related to grants and leases under the Lower Burma land and revenue act (1876)	Wasteland grants under royal order of February 1, 1885 (and attached Rules)	1991 Wastelands Instructions and procedures
Stated objectives	No stated objectives	No stated objectives	Refers to the King's consideration for the welfare and development of the people, "to work well, eat well and prosper"	No stated objectives except the commercial use of culturable land, fallow land and waste land
Legal definition	No definition except "the property of the State"	No explicit mention of wasteland	Wasteland (<i>mye hlut mye lat</i>) in the areas belonging to "Ayadaw", excluding all cultivated lands	No definition, just "Culturable land, Fallow land and Waste land" (<i>mye hlut mye lat mye yain</i>)
Maximum threshold size	10,000 acres max in areas which lie beyond 4 miles of town jurisdictions or court houses of the deputy commissioners of all other districts, (100 acres max., in areas within this 4 mile-distance)	No maximum amount mentioned	No mention	500 to 5,000 acres depending on livestock type, 2,000 acres for aquaculture, 3,000 acres for "orchards", 1,000 acres for seasonal crops. For plantation crops, 5,000 acres. After amendment 1/98, "5,000 acres at a time" for perennial crops up to a total of 50,000 acres
Cultivation requirements	No requirements in terms of implementation/ cultivation rates of grants	For rubber, coffee or tea: specific rates of implementation in time and 3/4th of land must be cultivated within 8 years.	Land not be left idle for more than 10 years. On grant land (in town areas) neglected for 5 years, anyone shall have the right to cultivate it	Unclear formulation about cultivating and use of the grant "within the prescribed time"
Duration of grants	8 to 64 years depending on initial "jungle land" class	30 years	No mention	30 years except for seasonal crops, the duration for right to use land shall continue so long as there is no breach of condition".
Rights included	Grantee entitled to all products both above the surface and below	Cultivation and logging rights, but " <i>rights to all mines and mineral products, coal, petroleum and quarries under or within any land grants or leased is reserved to the government</i> "	No mention of mining. Focused on cultivation	Commercial use of culturable land, fallow land and wasteland for agriculture, livestock breeding, aquaculture enterprises or other affiliated economic development enterprises

	Revised rules for the granting of wastelands in British Burma 1965	Rules related to grants and leases under the Lower Burma land and revenue act (1876)	Wasteland grants under royal order of February 1, 1885 (and attached Rules)	1991 Wastelands Instructions and procedures
Possibility to transfer lands	Land becomes the hereditary property of the grantees on the fulfillment of the conditions. Transfers and sales are authorized but need to be registered	Only possible until after 5 years of the term of exemption or date of execution of the grant or lease.	The land granted by the King could be passed on as inheritance and sold, but must be registered in town office	No transfer allowed without permission of the central wasteland committee
Rent/tax exemption	Rent-free tenure for 4 to 32 years according to initial land cover	1 to 15 years exemption on granted "waste or uncleared land" from tax assessment according to types of crops or according to initial "jungle" class, 8 years tax assessment exemption for grants made for rubber, coffee and tea	Rent-free for 3 to 7 years for seasonal crops according to initial forest cover, 8 years for fruit trees and 12 years for palm trees (toddy, coconut, betel nut, etc.)	Land tax exemption for 2 to 8 years according to production type + income tax exemption for at least 3 years and extendable
Other support measures of grantees	No mention	No mention	No mention	To assist grantees in acquiring technology, quality seeds and other necessary assistance upon the type of enterprise; to vet their requests and necessary recommendations with relevant Ministries for investment capital loans or the assistance of materials and services
Sanctions for non-compliance to conditions	If grantee fails to fulfil the terms as per rules, the grant is to be resumed. The grantee becomes ineligible to apply for another grant, without proving failure was beyond his control. No fine	Grant is to be resumed if grantees fail to fulfill the terms. Liable to confiscation of all trees, crops, buildings and salt works	If uncultivated, a fine to be paid of one tenth of the yield during all the tax-free years as a fine. Land can be taken back by government and considered abandoned if not cultivated for over 10 years (excluding fallow for soil fertility)	No explicit details to land resumption. But if cultivation/use is not carried out within the prescribed period, the security fees deposited (10% of the investment paid during granting process) shall be forfeited to the State. Section on disciplinary measures vaguely mentions: "If any breach of condition is found by respective departments, a report for necessary action shall be submitted to the Committee"

	Revised rules for the granting of wastelands in British Burma 1965	Rules related to grants and leases under the Lower Burma land and revenue act (1876)	Wasteland grants under royal order of February 1, 1885 (and attached Rules)	1991 Wastelands Instructions and procedures
Authorities involved	Local revenue officers authorized to give grants, upon confirmation and orders of the Governor-General in council Grants of under 200 acres may be under authority of the <i>thu-gyi</i> or other manager of the circle	Under authority of township revenue officers (0-15 acres), division revenue officers (15-25 acres), deputy commissioner (DC) w/ sanction of commissioner (C) (25 acres-100). Over 100 acres, required sanction of financial commissioner (FC) for cultivation For rubber, coffee or tea : under authority of DC w/ sanction of C (0-1200 acres). Under authority of DC and C, with sanction of FC if over 1200 acres	Under 4 pe (7 acres), the governor or village head has the authority. For 4 to 100 pe (7 to 175 acres), the town office has authority For more than 100 pe (175 acres), either deputy commissioner (district level officer), or a representative appointed by the Hluttaw (Supreme Council/parliament) has authority	Only mentions the Central committee for the management of Culturable Land, Fallow Land and Waste Land for approval process
Potential beneficiaries	Only mentions " <i>all persons</i> "	No mention except exclusion of persons under 18. Sanction required by FC for grants of over 50 acres for non-"native of Burma"	"Anyone who wishes to clear and cultivate the land"/subjects of the King	<i>Myanmar nationals. Organisations composed of foreigners must get approval from the foreign investment commission. State-owned Economic Organizations and Cooperative Societies, Joint-Ventures, other organizations and private individuals for commercial use</i>

Source: Compiled by author based on the cited legal texts.

In sum, the centrality of the Burmese military in shaping the nation's political, economic, and social institutions is deeply rooted in historical precedents of precolonial and colonial authorities and the independence struggles. Under successive regimes, from colonial rule to Ne Win's socialist government and subsequent military juntas, the military has consistently leveraged its position to consolidate power.

The management of State lands through authoritarian and military structures created conditions conducive to large-scale land appropriations under the framework of the post-1988 liberal praetorian regime. The liberalization process after 1988 unfolded unevenly and at varying paces. While economic reforms were introduced, most land-related laws (e.g., 1953 Land Nationalization Act, 1963 Tenancy Law, etc.) remained intact, allowing the State to retain

significant regulatory authority over the peasantry and farmlands: farmers faced mandatory crop production requirements and restrictions on land transfers.

Simultaneously, the reconfiguration of military deployment and functions (Callahan, 2007, p. 17) enhanced the military's political and economic power. This restructuring combined with the reactivation of the wasteland category, facilitated the deregulation of land allocation processes, enabling vast land concessions to investors closely tied to the military regime under a system of crony capitalism (see section 9.1). These practices often led to widespread expropriation and conflicts, underscoring the complex interplay between uneven liberalization policies, State control, and military dominance in land governance.

These legacies and structural factors have shaped Myanmar's land governance and the key challenges of the post-2011 “democratic opening” context.

VIII. THE LAND TURN OF THE ECONOMIC AND DEMOCRATIC WINDOW (2011-2021) AND THE REBRANDING OF THE WASTELANDS

Seven years after the development of a seven-step road map to “disciplined flourishing democracy” proposed by the military government (2003) and two years after the enactment of a new constitution (2008) which sealed the army's stranglehold on political affairs¹¹⁶, and after highly-contested and boycotted general elections (2010), a political transition began in 2010-2011 with a succession of political, economic and social reforms that distanced the country from China in favor of new Western allies (Jaquet, 2018).

The big shift in Myanmar's political economy was signified in March 2011, with the establishment of the quasi-civilian government which rapidly took important measures to lift censorship, release political prisoners and democratize the country. One of the most notable measures was the organization of by-elections for seats in Burma's parliament held in April 2012 in relatively free and fair conditions. The National League for Democracy which had been repressed throughout the 1990s and 2000s was allowed to register and won 43 of the 45 available seats at both the national and regional levels¹¹⁷, including for Aung San Su Kyi, the daughter of Bo Gyoke Aung San.

The opening of the country was essentially motivated by the fears concerning China's dominance of Myanmar's economy, although there were other factors supporting the transition, notably the overall loss of confidence by the people and leaders in the country's economic model and direction (Turnell, 2015). Through 2012 and 2013, a number of Western nations lifted their sanctions against Myanmar with a substantial increase in foreign direct investment (FDI) (from 0.9 billion in 2010 to 4.8 billion in 2017¹¹⁸) and notably the proportion of non-Chinese FDI. Yet, the democratic transition was incomplete, even deceptive (Brenner & Schulman, 2019), as it was strongly associated with an economic opening to Western investors, and the legitimization of a liberal development agenda. The land sector and the new land-related legislation shall be a good example of this trend.

116 A quarter of the seats in parliamentary assemblies at central, state and regional level are reserved for the armed forces while more than 75% of votes are needed to amend the constitution. Moreover, the army remains autonomous and outside the authority of the Chief Executive. It controls the most powerful ministries while holding the majority of seats at the national defense and Security Council.

117 The Pyidaungsu Hluttaw is the national-level legislature of Myanmar, established by the 2008 National Constitution. It is composed of two houses of equal power: the 224-seat Amyotha Hluttaw, or "House of Nationalities", and the 440-seat Pyithu Hluttaw, or House of People's Representatives.

In addition, each of the fourteen major administrative regions and states has its own local Hluttaw. It is composed of one house only with 2 elected members per township, representatives for “national races” and appointed military. For example, Ayeyarwady region has 72 members in its Hluttaw while the Chin one has 24 members.

According to the 2008 constitution, 25% of seats of National-level and state/region level Hluttaw are reserved for appointed military representatives.

118 FDI net inflows in current USD. Source: International Monetary Fund, Balance of Payments database, supplemented by data from the United Nations Conference on Trade and Development and official national sources - <https://data.worldbank.org/indicator/BX.KLT.DINV.CD.WD?locations=MM>

1. THE “LAND TURN” WITH A NEW “COMBO” OF LAWS ON FARMLANDS AND “VACANT, FALLOW AND VIRGIN” LANDS

In the midst of the dynamic public debates on restoring “rule of law” discourse, a number of legislative reforms actively took place, including on land issues, as of 2011 onwards.

Drafted primarily behind closed doors, the Vacant, Fallow and Virgin Land Management Law and the Farmland Law were presented to the parliament by the Ministry of Agriculture and Irrigation in the middle of 2011, and after multiple rounds of revisions, they were approved in March 2012 together in the same session, revoking the old laws from the early independence period (notably the 1953 Land Nationalization Act) and from Ne Win’s socialist legacy (1963 Disposal of Tenancies Law and Agriculturist’s Rights Protection Law) but *not* the 1991 Wastelands Instructions.

1.1 The 2012 Farmland Law

The Farmland Law introduced land rights that finally became transferable, thus substantially breaking from the past restrictions on land transfers (such as leases, sales and mortgages) in place since the land nationalization of 1948 and 1953. Despite this major change, the law also reflected substantial continuities, notably in the fact that all land is still ultimately owned by the State, with regulations that still subject farmers and their land rights to conditions of crop prescriptions. For example, farmlands classed as paddy lands must still be cultivated with paddy. The law also pushed forward a land titling campaign with the systematic issuance of land use certificates for all registered farmlands, which clearly aimed at boosting land markets and providing positive signals for international investors.

Another important point (that shall make even more sense once we look at the concession data, and notably the anticipatory rush in land concessions in 2010-2011 for the legalization of prior informal and irregular land deals, discussed in section 9, is that this farmland law included clauses that made explicit and substantially eased the process of conversion of “Vacant, Fallow and Virgin” (VFV) land concessions into transferable farmland land use rights. As such, provided that cultivation is completed or considered as stable cultivated farmland (with “stable crop production”), land registered and registration fee paid, the township Farmland Administrative Body (FAB) can issue a land use certificate for it (articles 8 and 34 of 2012 Farmland Law). Let’s note as well that decisions taken by the FAB (whether as Union, state/region, district, township or village tract level) cannot be appealed in the judiciary, as article 40 states that: *“No suit, prosecution or other proceedings shall lie in court against any member of Farm Management Body at various levels for action carried out in conformity with this law or rules and regulations of this law”*. Such immunity rests on the assumption that the FABs act in good faith and without bias, a rather surprising view in the light of the high levels of corruption with local officials in prior times.

1.2 Vacant, Fallow and Virgin Land Management Law, March 30, 2012 (Pyidaungsu Hluttaw Law No.10 of 2012) and the rules of August 31, 2012

The Vacant, Fallow and Virgin Land Management Law did not bring major changes, compared to the previous legislation on wastelands from 1991 and 1998. The law was merely a rebranding of the ill-famed 1991 Wastelands Instructions which rendered legal many of the land disposessions of the SLORC and SPDC eras. The duration of leases (30 years), the grant threshold sizes (according

to the type of enterprise), the key role of the central management committee, the restrictions on leases, sales and mortgages on lands under VFV grants, the generous tax exemption and investment support measures (to access investment capital loans, materials, services and technology) provided for grantees, and its orientation towards commercial uses by investors are still very similar.

A few minor changes were brought nevertheless to the legal text with:

- ▷ the inclusion of the development narrative with the explicit mention to the “economic development of the State” in the law;
- ▷ more detailed definitions of Vacant, Fallow and Virgin lands;
- ▷ the possibility for “rural farmers” to apply for grants (but only up to 50 acres);
- ▷ requirements for project completion within four years (and two years for rural farmers) and the possibility to take back the land;
- ▷ explicit mention of mining as allowable commercial use of VFV land;
- ▷ the mention of “task force and special force for respective Region or State”, to scrutinize and coordinate VFV permit applications;
- ▷ details concerning the composition of the Central Committee for the Management of VFV Land, notably of Union Minister for Agriculture and Irrigation (MOAI) appointed as a Chairman, Director General of the Settlement and Land Records Department (SLRD) as Secretary and suitable persons of the concerned government department and organizations, and other suitable persons as members;
- ▷ the explicit mention of sanctions for unauthorized occupants.

This last point is not a detail since this is the first legislation that explicitly criminalizes informal occupants, as squatters and trespassers. This marks a notable change with previous times, whether precolonial (its customary *dama-u-kyā* principle), colonial (its “occupative” rights for cultivators), socialist (its tillers’ and tenants’ rights) and even the infamous 1988-2011 period. This reflects a considerable shift in narratives and the emergence of negative perceptions of informal land occupancy, seen as speculative and opportunistic “professional squatters” replacing cultivators’ and dwellers’ legitimate survival motives.

Table 18: Comparative analysis of the 1991 Wastelands Instructions with the 2012 Vacant, Fallow and Virgin Land Management Law

	1991, Wastelands Instructions	2012, Vacant, Fallow and Virgin Land Management Law
Stated objectives	No stated objectives except the commercial use of culturable land, fallow land and wasteland	Mentions the "Economic Development of the State" in relation to "commercial agriculture, livestock breeding, mining, and government allowable other purposes" (art 3)
Legal definition	No definition, just "Culturable land, Fallow land and Waste land" (<i>mye hlut mye lat mye yain</i>)	"Vacant land and Fallow land" (<i>mye hlut mye lat mye yain</i>) which was worked by the tenant before, and then abandoned by the tenant, "Virgin land" which may be new land or other woodland in which cultivation was never done before (art 2)
Maximum threshold size	500 to 5,000 acres depending on livestock type, 2,000 acres for aquaculture, 3,000 acres for "orchards", 1,000 acres for seasonal crops. For plantation crops, 5,000 acres. After amendment 1/98, "5,000 acres at a time" for perennial crops up to a total of 50,000 acres	Up to 50 (for farmers), 300 acres for poultry raising, 500 acres for sheep and goat raising, 1,000 acres for aquaculture, 3,000 acres for "orchards". For perennial plants and industrial crops, it is said " <i>not more than 5,000 acres at a time up to a total of 50,000 acres. More than 5,000 at a time can be permitted for the state interest with the agreement of the Cabinet of the Union government</i> " (art 10)
Implementation requirements	Unclear formulation about cultivating and use of the grant "within the prescribed time"	Implementation on 100% of lands within 4 years (art 16); period is reduced to 2 years for rural farmers (rule n°45)
Duration of grants	30 years except for seasonal crops, the duration for right to use land shall continue so long as there is no breach of condition	30 years (except for seasonal crops with unlimited duration), the right to use land shall continue so long as there is no breach of condition (art 11)
Rights included	Commercial use of culturable land, fallow land and wasteland for agriculture, livestock breeding, aquaculture enterprises or other affiliated economic development enterprises	"Commercial agriculture, livestock breeding, mining, and government allowable other purposes". "Exploring other natural resources below and above ground is prohibited. If natural resources are found in the authorized land (...) it shall be surrendered to the State" (art 16)
Possibility to transfer lands	No transfer allowed without permission of the central wasteland committee	Land granted shall not be mortgaged, given, sold, leased or otherwise transferred or divided without the permission of the Cabinet of the Union Government (art 16)
Support	To assist grantees in acquiring technology, quality seeds and other necessary assistance upon the type of enterprise; to vet their requests and necessary recommendations with relevant Ministries for investment capital loans or the assistance of materials and services	Assist grantees to get investment capital loans, assistance of materials and services, special loans to the State in case of damages and losses by natural disaster, and to take necessary action to help grantees for technical support, good quality seeds and other assistance for agricultural and breeding purposes (art 23)

	1991, Wastelands Instructions	2012, Vacant, Fallow and Virgin Land Management Law
Rents and tax exemption	Land tax exemption for 2 to 8 years according to production type + income tax exemption for at least 3 years and extendable	Tax exemption period upon the type of enterprise and crop (art 15)
Sanctions for non-compliance to conditions	No explicit details to land resumption. But if cultivation/use is not carried out within the prescribed period, the security fees deposited shall be forfeited to the State	In case of breach of conditions, the security fee deposited shall be forfeited to the State and the right to use the land shall be revoked (art 21 and 22)
Sanctions for unauthorized occupants	No mention	Offences and penalties (fines and one year imprisonment) for those who destroy the benefit, encroach or obstruct activities on the authorized land without permission of the legitimate owner or "representative", or those who do not comply with an eviction order (art 26 to 29)
Authorities involved	Only mentions the Central Committee for the Management of Culturable Land, Fallow Land and Waste Land	Central Committee, who shall also constitute and assign duties for the "Task Force" and "Special Group" in respective Regions or States, to scrutinize and coordinate VFV permit application cases (art 17)
Potential beneficiaries	Myanmar nationals, State-owned Economic Organizations and Cooperative Societies, Joint-Ventures, other organizations and private individuals for commercial use. Organizations composed of foreigners must get approval from the foreign investment commission.	Myanmar citizen investors; Departments, Government Organizations, and Non-Governmental Organizations; Joint-Venture of Investors in accordance with Foreign investment law (art 5)

The 2012 version of the rules are more systematic and detailed about the application and objection process, and coordination with forest authorities for conservation. The new rules take stock of the previous problems with statements to establish fees and taxes for the *"prevention of situations in the country where large areas are taken as a privilege without actual implementation or utilization of the vacant, fallow and virgin lands,"* (chapter IV, 36), and ensure the *"correct implementation of projects on vacant, fallow and virgin lands for which rights have been granted to work on or utilize", "contributing as much as possible to state revenues"*. Indeed, according to 2017 land administration data (DALMS, 2017) computed by the authors of *"Large scale land acquisition for agricultural development in Myanmar"* (San thein et al, 2018, p 43), only 14.5% of lands were actually cultivated over the total amount of wasteland/VFV land concessions of over 50 acres allocated from 1992 to 2016, summing up to 3,875,964 acres, or 1,568,547 hectares. But in reality, the law still proposes considerable tax exemptions for grantees.

Furthermore, the rules use the concepts of "repossessing" in case of "evident failure in utilizing the land within the permitted period according to prescribed rules, or due to evident violation of the rules" and "returning" land. For example, article 47 of the rules states: *"(d) return the vacant,*

fallow and virgin lands to the Central Committee upon failure to continue or complete projects after being granted rights to utilize the land". The rules also detail procedures to monitor concession (article 50) and repossession processes (article 51). In the decade to come, we would see that the proposed measures for stronger monitoring of the performance of concessions and consideration of local users would just be what I would call "legislative lip service," ironically since no specific mechanism was designed to ensure such tasks. As such, the changes in discourses, including in legislative texts, connects to the argument of "Unraveling Myanmar's transition" and the author's understanding of transition "*not as a concept that regulates and circumscribes our analysis of this particular political moment in Myanmar, but as a discursive context in which Myanmar has been placed, one which has real effects on the ground*" (Chachavalpongpan et al., 2020, p. 5).

As a result of this "discursive context", the law and rules of 2012 are a strange combination and its contradictions demonstrate the complexity of the period's legislative processes, and competing visions and values among civil servants of the Ministry of Agriculture, members of parliament and other stakeholders involved. In a way, the stronger contradictions in the 2012 VFV Land Management Law are a pure product of this transition period and its emerging power struggles between the "old guard"¹¹⁹ and its firm institutions, and various other progressive, reformist or more activist groups and their confined attempts for change. In a case study about land restitution processes in the same township (Maubin) as one of my PhD dissertation case studies, Mark and Belton define three main groups of stakeholders: the "old guard", the "progressive officials" and the "CSOs and farmers" to analyze the different positions (Mark & Belton, 2020). Despite interesting insights highlighting the challenges in "breaking from the past", the analysis through these three groups renders invisible the complexity and ambiguities of power plays within and between those groups at different scales and administrative levels, the hybrid arrangements between the "old guard" and the "progressive stakeholders" and the diversity within farmers and CSOs, as we shall see in our chapter about the question of land restitution.

For example, while we have seen above that the 2012 VFV Law seems to take a backwards step, compared to the 1991 Wasteland Instructions, by explicitly criminalizing unauthorized occupants (see

119 The term refers to members of conservative state institutions and influential capital holders who benefited from the previous status quo and were resistant to reform (Mark, Belton, 2020).

Table 18), the 2012 rules exhibit more awareness on land conflicts and reaching just and fair decisions, and recommend to *“find out and disclose the true nature of events and take effective legal action”* and if the granted VFV land *“had long been the cultivated lands of the local peasants currently doing agricultural work, negotiate with the said peasants and take action to ensure that they are not unfairly or unjustly dealt with”* (article 52). Further contradictions in discourses shall also appear in the 2018 VFV Management Law amendment reflecting the same dynamics of the transitional power struggles.

The political and economic transition in Myanmar between 2011 and 2021 marked a period of significant reform and complexity. Beginning with the establishment of a quasi-civilian government, the country enacted measures such as lifting censorship, releasing political prisoners, and hosting relatively free elections, signaling an initial move toward democratization. These changes aimed to reduce dependence on China and attract Western investment, leading to a surge in foreign direct investment. However, the reforms, particularly in the land sector, revealed contradictions. The 2012 Farmland Law and Vacant, Fallow, and Virgin (VFV) Land Management Law symbolized a shift towards liberalization while maintaining State ownership and introduced mechanisms favoring commercial interests. These laws criminalized informal occupants and prioritized economic development narratives, exposing tensions between progressive ideas and entrenched interests. As a result, Myanmar's transition exhibited both advancements and enduring challenges, shaped by competing visions within its political, economic, and social frameworks.

The following section shall help unearth the underlying motives behind the formulation of the 2012 Farmland and VFV Land Laws "combo," which played a pivotal role in legitimizing numerous "land grabs" and facilitating the conversion of 30-year VFV land concessions into private farmlands registered under "Form 7", thereby significantly enhancing their market value.

IX. WASTELANDS AND VFV LANDS AS TOOLS OF POWER: DECRYPTING AN ILL-DEFINED LAND CATEGORY AND MAPPING TRENDS IN LAND CONCESSIONS (1992-2016)

1. RETRACING THE WASTELAND CLASSIFICATION IN LAND ADMINISTRATION DATA: A BLURRY AND UNRELIABLE CATEGORY

This section examines the historical and contemporary dynamics of Wasteland and Vacant, Fallow, and Virgin (VFV) land classifications in Myanmar, focusing on their use as instruments of State control and dispossession.

The wasteland and Vacant, Fallow and Virgin lands category are by nature a blurry category. These notions may lack any proper definition in the first place. In addition, there are many inconsistencies in land classification across legislative texts, and translations across eras, despite the colonial foundations' enduring influence. Legal mechanisms have prioritized State control, defining wastelands as culturable but unoccupied lands. Contemporary administrative officials lack the capacity for the systematic analysis and consistent identification of such lands and this has resulted in confusion and complexity, with VFV land often being classified broadly as

cultivable land or designated as Vacant and Virgin land¹²⁰. In my archival work to follow up with legislation, land categories and related administrative data, I can also witness my own difficulties in attempting to retrace the wasteland category, since some categories have been fluid (see data in Annex 3 revealing issues about unsurveyed land, considerable swapping across categories, and data quality).

Currently, the “Wasteland” and “Vacant, Fallow and Virgin land” category is a default category resulting from the combination of three of the land categories present in the agricultural statistics reports. It is the sum of:

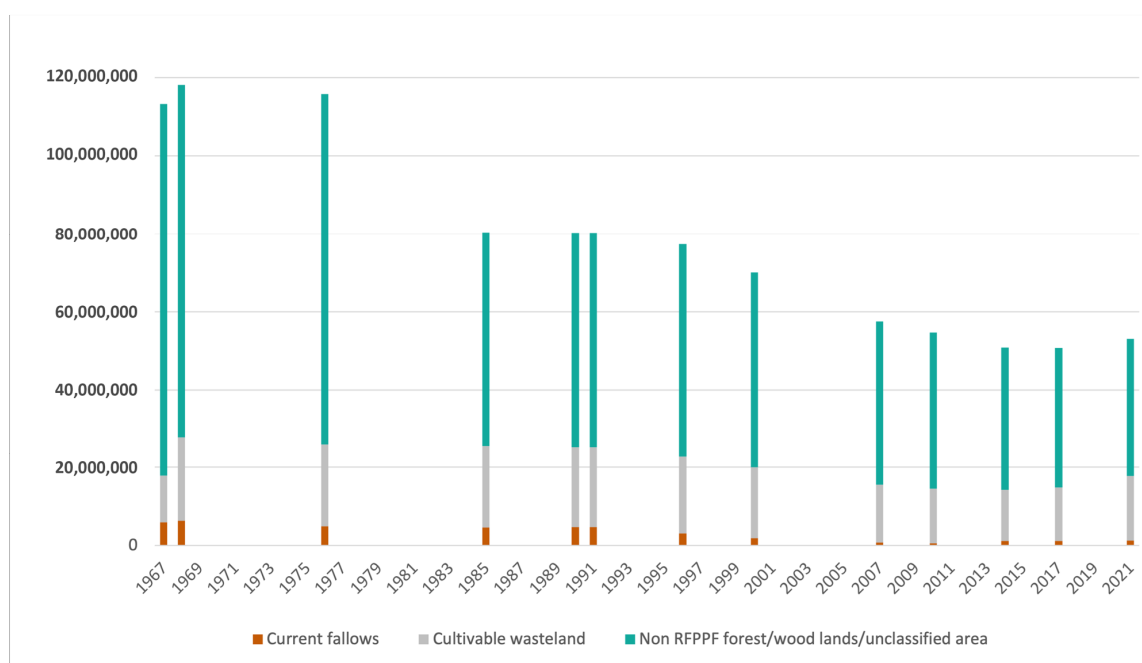
- ▷ “Current fallows”: these are actual uncultivated but registered farmlands. However, it seems these data have probably no longer been collected since the 2012 Farmland Law.
- ▷ “Cultivable wasteland”: It is not fully clear how this category has been identified in the first place and how the data are being updated.
- ▷ “non-RFPPF forest” as forested areas (identified with trees) that have not yet been formally gazetted into reserved forests (RF), protected public forests (PPF) or protected areas (PA). This land category is a source of substantial inter-ministerial and inter-departmental friction since it may fall under the jurisdiction of the land administration under the Ministry of Agriculture, Livestock and Irrigation (MOALI) (when these spaces are allocated as VFV concessions or converted to farmland), or under the forest department under the Ministry of Natural Resource and Environmental Conservation (MONREC)¹²¹ (when these spaces are converted into official RFs, PPFs or PAs).

See Annex 3 for more details on issues related to these categories.

120 <https://www.thefarmermedia.com/news/6132>, Vacant/Virgin Land? Ko Zaw (Natmauk), *The Farmer Journal*, Volume (14), No (204).

121 Previously known as Ministry of Environmental Conservation and Forestry (MOECF), before it was merged in 2016 with the Ministry of Mines under NLD government).

Figure 5: Breakdown of various land categories that fall under wasteland and VFV categories (in acres)¹²²



The amount of “wastelands” and VFV lands (as per agricultural statistics) have steadily decreased (see Figure 5 showing the total amount of wasteland in acres and their breakdown as per the three mentioned sub-categories above) since the 1960s from 113.25 million acres to 53.01 million acres, or as a percentage shrinking from 68% to 32% of the country’s total area. This occurred notably through the considerable shrinking of non-RFPPF forest areas. This latter category (once called “unclassified lands”, and later “other woodlands”) represented 57% of the country’s total area in 1967 and reduced down to 21% in 2021. This is notably due to a very strong increase in official gazetted forest areas (as reserved forest, public protected forests and protected areas) since 1995¹²³ (see Figure 6). This is aligned with trends in other Southeast Asian countries where the State’s new territorialization tool has shifted from cultivators to forest conservation and protected areas due to the climate change agenda and aid flowing in conservation initiatives (Déry, 2007, 2008).

122 Source: a) Myanmar agricultural statistics (1989-90 to 1999-2000), b) Agricultural statistics 1974-75, 1975-76, 1976-82), c) Burma Agricultural Statistics, 1922/23; 1926/27-1935/36 IOR/V/14/193 (Burma land records, 1936; Government of the Union of Myanmar, 2001; Socialist republic of the Union of Myanmar, 1978)

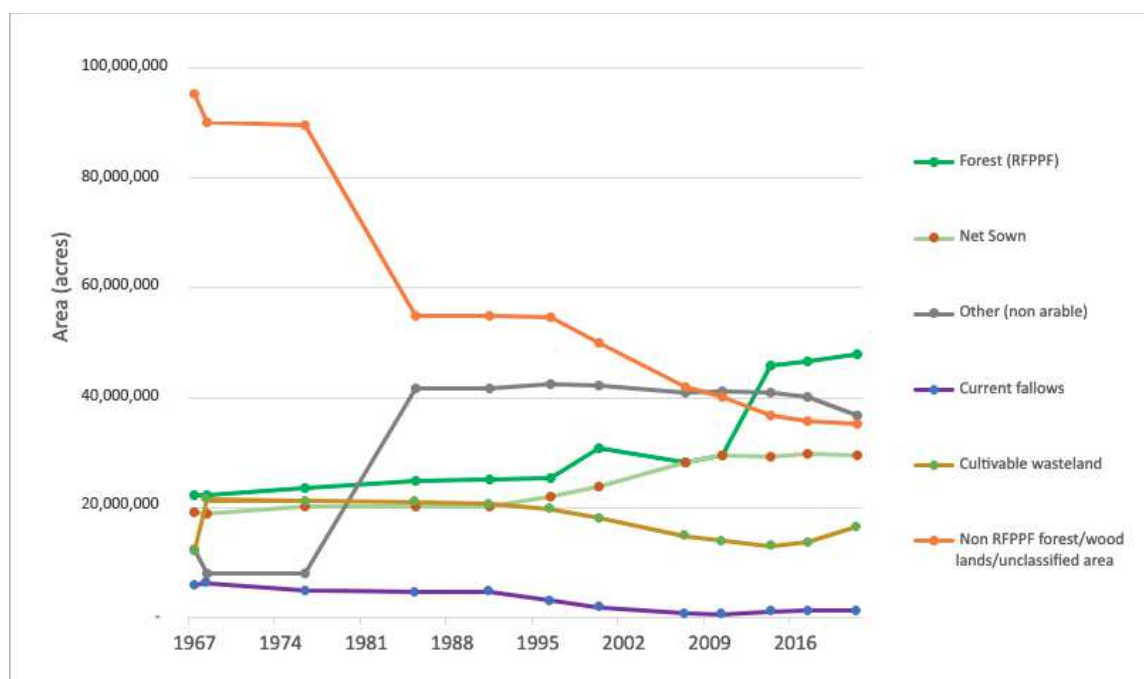
123 Corresponding with the consequences of the 1992 Forest law.

The decrease of “wastelands” and VFV lands may also be attributed to agricultural expansion. Net sown areas¹²⁴ have also more steadily increased (see Figure 6), suggesting a rather “slow agriculture expansion” and even stagnation since 2013. However, this is to be taken with great caution since these statistics do not reflect the actual ground land use as many lands cultivated by smallholders remain unregistered.

The strong variations observed in Figure 6 may suggest various processes: i) administrative redefinition of land categories (and subsequent swapping of acreages under the redefined categories) or ii) actual important formalized/registered land use conversion trends. In all cases, the quality of data is most probably problematic as many informal processes may not be recorded. These gaps are further compounded by the outdated nature of land records originating from the colonial period. Many maps have remained unmodified for over 60 years and have not been reprinted in three decades, leading to significant discrepancies between land records, maps, and current land use categories. Decades of land use changes and transactions have gone unrecorded (LAMP project, 2014). Additionally, data integrity has been undermined by line department officers (e.g., agriculture, forestry, general or land administration,) concealing actual figures when targets set by their superiors were not met (see Annex 3).

124 Let’s note also that since the most recent agricultural statistic reports as of 2012, the “net sown area” includes an asterisk mention “*exclusive of squatters”, openly suggesting that unregistered sown land exists and are therefore included in other categories. It also throws all potential cultivators on unregistered farmlands into the “squatter” category, which makes them illegal and liable to prison sentences and fines under the 2012 VFV Land Management Law (see section 8.1.2). A high-level Land Administration Department official (YGN July 2024) informed me that information on “squatter cultivation” (kyu saik) was also collected according to the type of land, with the corresponding department of authority (e.g., grazing lands with the general administration department, forest land with the forest department etc...). However, I have not seen such data in public statistics.

Figure 6: Variations for the main six land categories as per agricultural statistics reports (1967-2021)



Source: a) Myanmar agricultural statistics (1989-90 to 1999-2000),
b) Agricultural statistics 1974-75, 1975-76, 1976-82), and the data of prior periods under those reports.

It is astounding to note that in 2021, 32% of the country's territory was still classed as "Vacant, Fallow and Virgin land" category and thus at the disposal of the State, including for investment projects as per the VFV Land Management Law.

The category of Wasteland, along with Vacant, Fallow, and Virgin (VFV) lands, functions less as a definitive classification and more as a nebulous instrument of State control—its boundaries perpetually shifting, its meanings layered with historical and bureaucratic inconsistencies. Rooted in colonial logics yet mutated across eras, its very ambiguity enables power: a mechanism to obscure existing claims while justifying dispossession. This ambiguity is not merely a historical artifact but a feature of contemporary governance, as administrators struggle—or fail—to apply coherent frameworks. Even in archival research, the category resists clarity, reflecting the structural opacity that underpins its enduring utility.

2. TRENDS AND GOVERNANCE IN WASTELAND ALLOCATIONS IN BURMA/MYANMAR (1992-2016)

This section aims at drawing on the analysis of the database from DALMS of 2017 listing the details of 8,680 allotments—totaling 3,968,315 acres or 1,605,920 ha—of VFV lands conducted between 1992 and 2016.

Out of these, 275 allotments are only partially detailed: they contain information of grantees, the granting authority and location, but have missing data on the date of allotment, declared

reason/type of investment, acreage allocated and implemented, totaling an unknown number of acres, which could be quite high. In addition to this, 287 allotments have no information on the date of allotment but include data on reason of investment, acreage allocated and implemented, summing up to 298,122 acres allotted. Total acreage allocated in this database is 3,968,315 acres. The top Region/States were (see map below) Kachin state in first position by far (1,334,029 acres), followed by Sagaing (525,013 acres), Tanintharyi (483,352 acres), Shan (432,174 acres) and Ayeyarwady (358,425 acres), in which our three main case studies are located. Wasteland allocations are most probably underestimated since the database quasi-exclusively (97.11%) includes concessions made under a declared agricultural purpose (whether crop/livestock production or aquaculture), thus excluding concessions given for non-agricultural purposes such as mining and forestry. I also have noticed that a number of famous land deals that I have studied in field work or that have been documented in various other sources do not appear in this database¹²⁵. In all cases, the database still provides powerful insights into general trends.

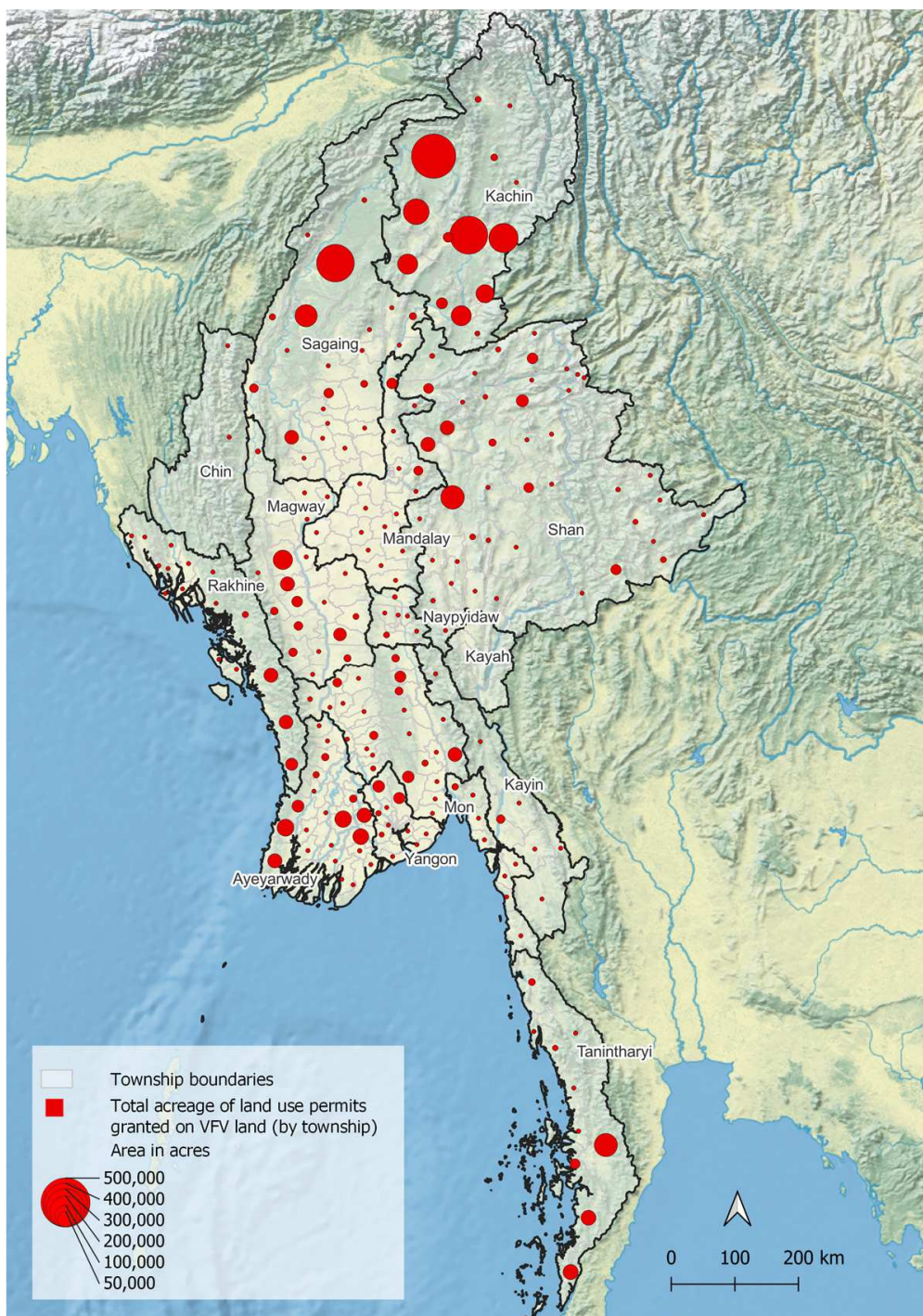
Table 19: Declared purposes for wasteland/VFV grants between 1991 and 2016

Declared purpose in Wasteland Use Permits	Acres	% total
Agriculture/agroforestry/livestock/aquaculture	3,853,610	97.11%
Perennial and seasonal crops	3,750,333	94.51%
Livestock	91,161	2.30%
Aquaculture/fisheries	10,903	0.27%
Trees (teak, eucalyptus, yew, etc.), bamboo	1,213	0.03%
Mining (gold, stone mining)	955	0.02%
Other (Factories/buildings/gas stations, etc.)	23,808	0.60%
No mention about purpose	89,942	2.27%
Total	3,968,315	100%

Source: Computed from DALMS 2017 list of transactions database.

125 Some missing cases include the famous deal of 200,000 acres given to Yuzana company, next to the one allocated to Jade Land in Hugawng valley, Kachin (Woods, 2011, p. 762) and a number of land deals appearing in San Thein *et al.*, 2018 pp. 63-66.

Map 10: Total amount of wasteland/VFV granted in township of Myanmar between 1991 and 2016



Source: Computed with the kind support of JC Diépart, based on 2017 DALMS dataset. The circles are located in the middle of respective townships.

In the years following the Wastelands Instructions passed in 1991, land allocations were made in relatively small amounts. Concessions suddenly boomed in 1999. This remarkable peak took place shortly after the political shift from SLORC to the State Peace and Development Council in 1997. As seen in section 7, under the SPDC's new geography of power, the junta's generals concentrated and controlled all economic and political decision-making processes, with no checks and balances. The most fundamental governance feature of that period was the exceptional power given to the regional military commanders. Although the regional commanders were responsible for enforcing law and order and implementing the orders sent from the capital, they were given a certain level of autonomy over the territories under their jurisdiction (Thawngmung, 2004, pp. 88-89). They chaired the division/State level Peace and Development Council (PDC)¹²⁶ while concentrating authority on all military, administrative, economic and political aspects over their assigned territory, and supervising activities of all State organizations, departments and ministries. Their power surpassed that of ministers, including the head of the Ministry of Agriculture in charge of land management.

Lieutenant General Myint Aung, who served as Minister of Agriculture from 1991 to 1997, was removed due to many corruption charges. One former civil servant in the land administration department recalled an important high-level meeting where ministers and high-level officers received the instruction to facilitate the granting of wasteland to business as per the orders of the regional commanders¹²⁷. According to the same source, the staff from the Ministry of Agriculture were also ordered to support the regional commanders' development projects by providing inputs, machinery, irrigation infrastructure etc.

During the period, regional commanders ruled on their territories and allotted wastelands in vast amounts, with limited attention given to proper supervision of investment projects and compliance to legal norms. Former land administration officials who were working in the land administration stipulate that at that time, only 10% of wasteland grants were properly processed and recorded¹²⁸ due to the fact a large number of transactions were made directly through regional commanders with little concern for official procedures. According to these sources, the land administration (SLRD) had different registers, one at central level for the wasteland allocations formally approved through the Central Committee and another one for which they struggled to keep up with the "irregular" transactions made at region command level¹²⁹ without necessarily following the official procedures.

The Rules for the Granting of Wastelands were amended in 1998 to increase the allocation of lands of 5,000 acres maximum at a time, up to 50,000 acres maximum. Despite the limit, the database shows that huge concessions beyond the maximum threshold of 50,000 acres were

126 Note that there were "Peace and Development Council" subsidiaries at all administration levels from central, division/State, district, township, village tract and even village level.

127 Interview MDL Nov. 2023.

128 Since then, the missing data were collected after 2012, so the 2017 DALMS database now includes the transactions that had not been recorded from that period.

129 Follow up email 2024 from interview MDL Nov. 2023.

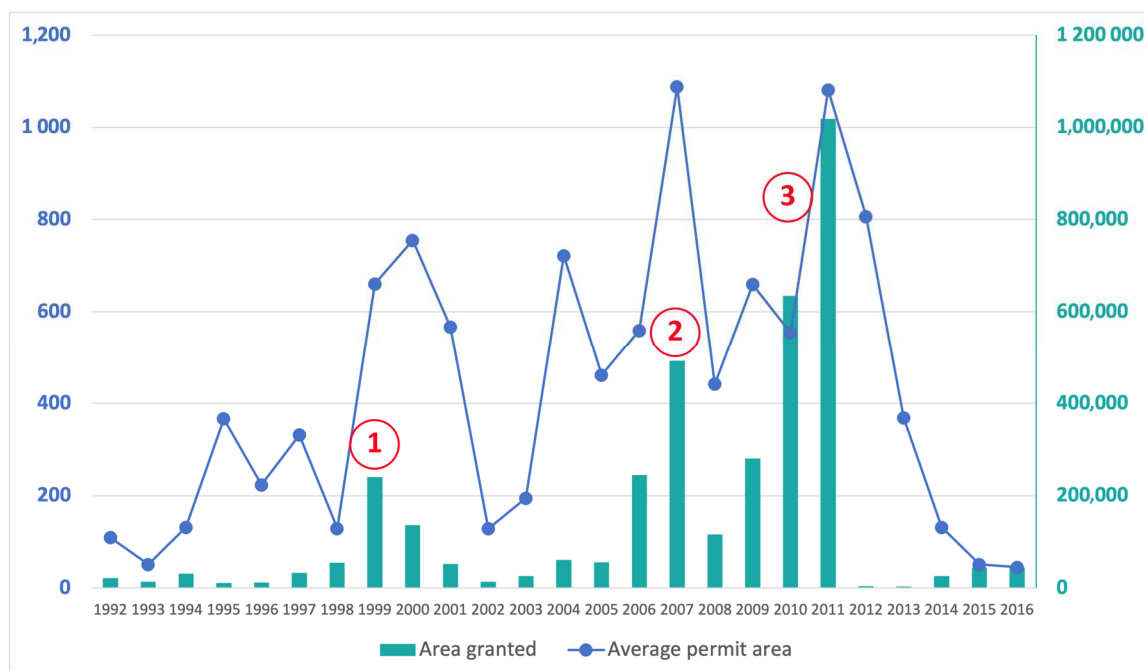
given by the regional commanders, as in Kachin in 2000 and 2007, respectively for areas of 57,716 acres (in the jade mining hub township of Hpakant) for the North Military command and 157,353 acres (in Tanai township) for Jade Land company¹³⁰, with a declared purpose for agricultural use. In addition, although the rules stipulated that lands were to be allocated progressively in maximum tracts of 5,000 acres, step-by-step as per performance of land development, the database shows that over 906,167 acres concern land deals of over 5,000 acres, out of which 86% were approved by the regional commanders. The issue is probably even greater since a number of grantees benefited from several land grants. The prime targets of such large concessions (over 5,000 acres) were Kachin state (48% of total VFV area granted), Magway division (18%) and Tanintharyi division (15%).

As shown in the figure below, at national level, there are mainly three peaks in land concessions: the first in 1999, the second in 2006-2007 and the third in 2009-2011. These peaks expand in scale with time and reach the highest amount of land granted in one year, and the largest average concession size in 2007 and 2011 (with 1,100 acres as average grant size).

The 1999 peak is the first concession boom (240,400 acres), with Magway (83,700 acres), Ayeyarwady (50,436 acres) and Yangon (33,177 acres), targeting essentially central areas of the country, closer to big towns and easier access (and thus bigger potential for land speculation). The second 2006-2007 boom was consequently larger (over 736,000 acres) and targeted mainly Kachin (330,700 acres) and Tanintharyi (141,500 acres) and to a lesser extent Shan (90,800 acres) and Ayeyarwady (63,700 acres). The third peak in 2010-2011 was twice as great as the previous one (over 1,653,000 acres) and targeted mainly Kachin (658,400 acres), peripheral Northern areas of Sagaing (402,300 acres), Shan (194,893 acres) and Rakhine (124,400 acres), all with six-figure digits.

These wasteland allocation trends may be explained by a combination of factors with particular crop booms occurring in each region. For example, in Ayeyarwady, concessions were motivated by summer paddy production schemes and aquaculture promoted in deep water areas, which were not very far from Yangon while in Tanintharyi, they were driven by rubber and oil palm booms. But wasteland concession trends were also linked to specific personalities: high levels of allocations were correlated to the trajectories of particular persons who were placed in power and operated with their usual practices and military-private business partners. Furthermore, wasteland allocations were also planned according to the area's and the moment's military territorial control strategies. In all cases, such actions would mobilize developmental narratives and catchphrases to legitimize operations with regard to land acquisition and the legal notion of "in the State's interest".

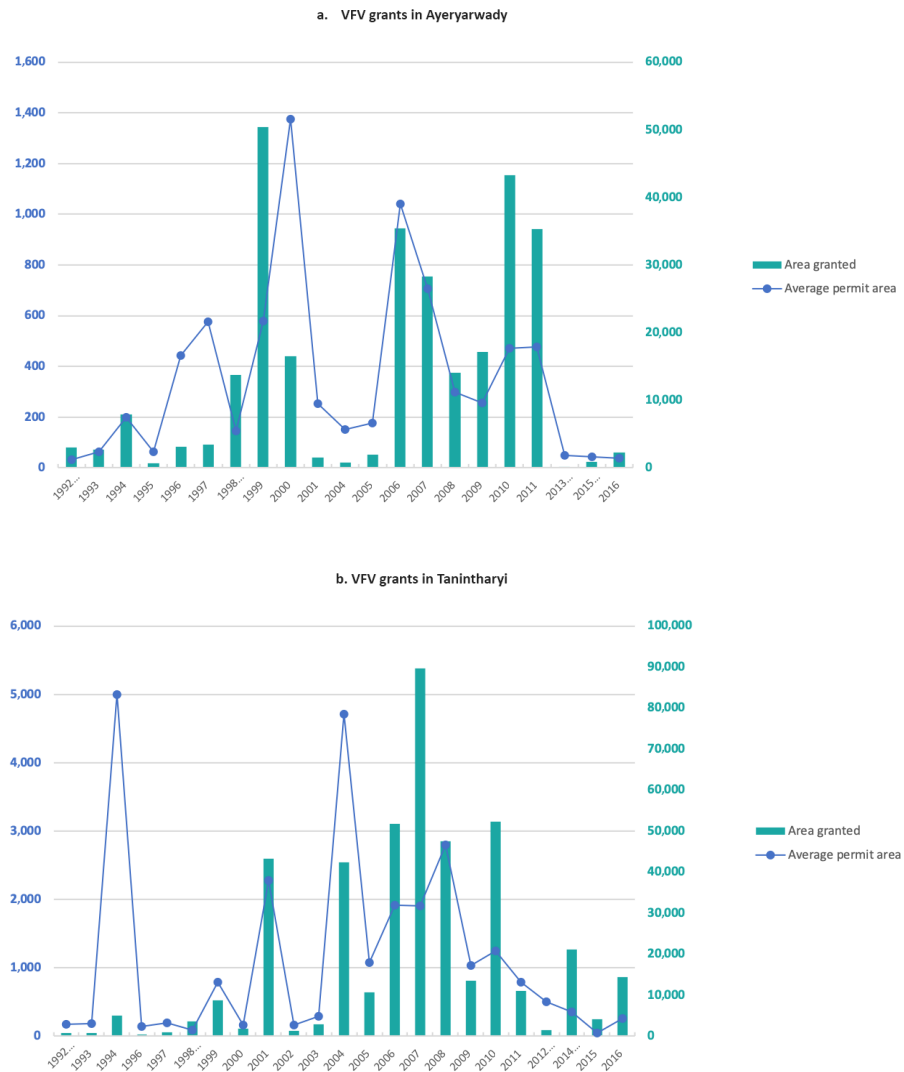
130 His owner, Yup Zau Kawng was a famous Kachin businessman in the 2000s. He had initially received 200,000 acres as Yuzuna company, but around 50,000 were taken back and given to the National Progressive Company, whose shares are owned by high-level military officials (Woods, 2011, p. 762).

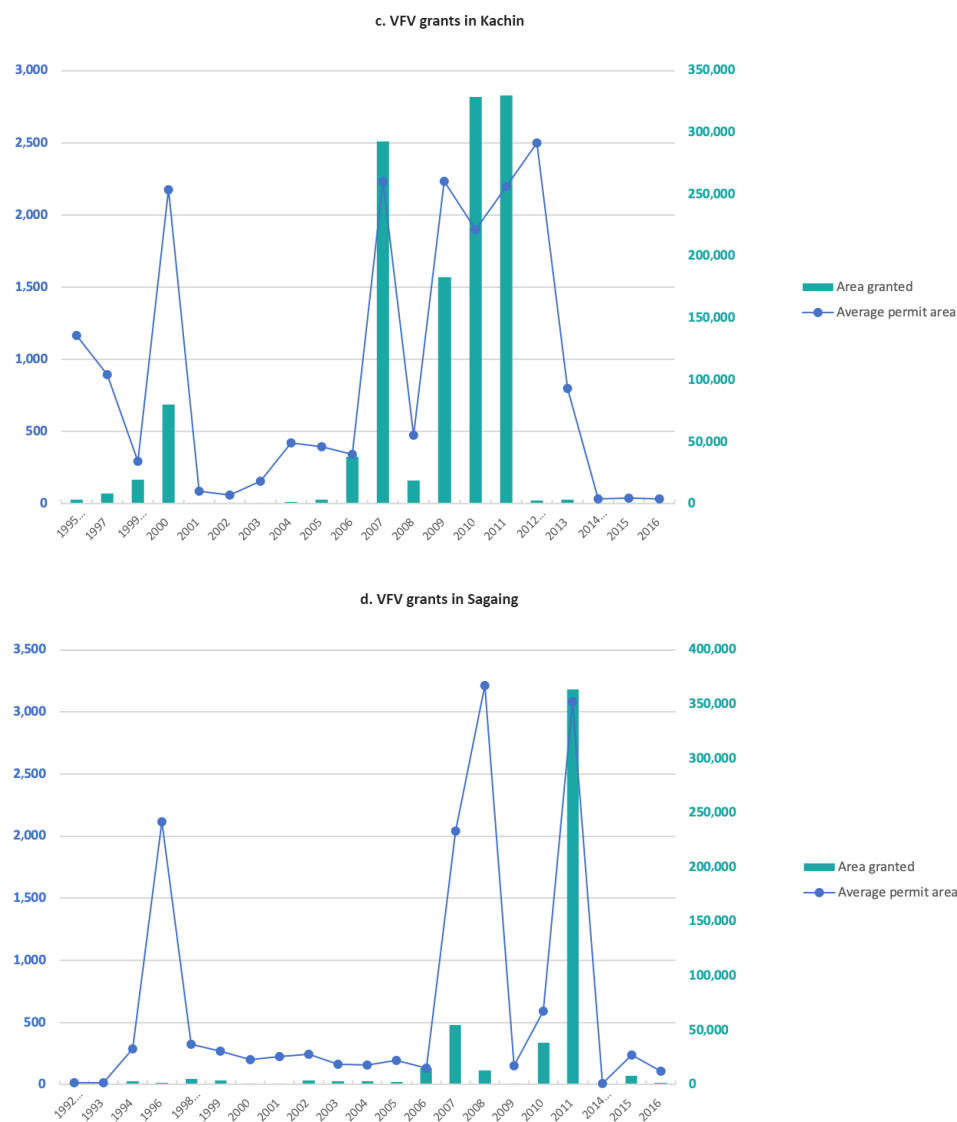
Figure 7: Annual “wasteland/VFV” allocations from 1992 to 2016¹³¹

Source: Computed from DALMS, 2017.

Trends are different between regions (see figure below comparing trends across four regions/States). The earliest and main peak in wasteland allocations in Ayeyarwady occurred in 1998-1999 with over 48,000 acres in 1999 (see a. below). In Tanintharyi (see b.), the main boom occurred between 2006 and 2008 (with almost 90,000 acres in 2007), with small earlier peaks in 2001 and 2004. In Kachin, after the first small peak of over 60,000 acres in 2000, wasteland allocations were at record highs in 2007, 2010 and 2011 (between 300,000 and 330,000 acres per year) (see c. in figure). In contrast, except for 2007 and roughly 50,000 acres granted that year, Sagaing region remained relatively untouched by wasteland/ VFV concessions until 2011 (see d. in Figure 8) when over 360,000 acres were suddenly recorded in a single year, supposedly for agricultural investment, mainly in the goldmining hotspot of Homalin (56%) and Paungbyin (20%) townships.

131 It shall be noted that this table excludes all acreage from non-dated transactions recorded in the DALMS 2017 database. This “absence” represents about 298,122 acres and 7.5% of total acreage. 44% of undated allocations (in terms of acreage) were in Magwe, 25% from Ayeyarwady and 18% from Tanintharyi and 6% from Kachin.

Figure 8: Comparison of VFV allocation trends in time (1991-2016) across four regions/states



2.1 First concession boom (1999) and wasteland concession peaks in early 2000s

The 1999 peak is the first concession boom (240,400 acres), which, as said above, targeted essentially central areas of the country, closer to big towns and easier access. Tanintharyi shortly followed with increases in wasteland allocation in 2001 and 2004.

Prior to mid-2005¹³², General Ohn Myint was commander of the coastal region command (including Tanintharyi). In the 2000s, Tanintharyi region, in Southeast Burma, was a hotspot of Karen armed struggle (notably the Karen National Union). Wastelands concessions, mainly for oil palm and rubber plantations, were allotted as a counterinsurgency tool to suppress the rebels and strengthen the power of the Burmese army. These concessions (combined with the forced settlement of villagers along the main roads) led to the clearing of large forested areas that served as refuge for guerrillas, and tightened control over the territory and its residents. Under the developmental motto “*Tanintharyi shall become an edible oil bowl*”, vast concessions¹³³ were allocated to companies in joint ventures with international investors, particularly with Malaysian finance, for oil palm plantations. The regional commander granted many lands to powerful cronies, including U Htay Myint, the chairman of Yuzana Company, a leading conglomerate in Myanmar which operates in the construction, hotel, transportation, palm oil and rubber production sectors. In this setting of neoliberal opening, corruption and cronyism intensified, and these strategies enabled the accumulation of significant rents among the elite (Chang, 2013; Ferguson, 2014; Woods, 2011).

2.2 Second concession boom (2007)

General Ohn Myint was then transferred in mid-2005 to Kachin as regional commander of the Northern Command where “he also brought U Htay Myint along”¹³⁴ and helped him access 200,000 acres in Hugawng valley to grow cassava and sugarcane for the Chinese biofuel market (Woods, 2011, p 762). This corresponds to the big 2007 peak, with around 150,000 acres allotted at once. Contrarily to Tanintharyi’s “counterinsurgency” concessions, wasteland allocations in Kachin were prompted by the 1994 ceasefire between the Burmese army and the Kachin Independence Army as a process of “military-State-building” (Woods, 2011). The targeted lands were often far from being marginal lands: they were part of village territories, potentially endowed with abundant forest resources and productive lands. According to Woods (2011), ‘ceasefire capitalism’ is defined as a post-conflict strategy that relies on the power dynamics between military force, abundant land resources, and transnational financial capital. Its aim is to rebuild a political-economic and biophysical landscape that facilitates territorial control by the Burmese army and State. It is not simply about “*transforming battlefields into market places*” [...] but rather “*appropriation the market to do battle*” as a means of competition (Woods, 2011, p. 753). After the ceasefire, throughout the late 1990s, wastelands were allocated in the form of forest concessions, to enable legible landscapes, and then as agricultural investment projects for

132 EU sanctions as per Official journal of the European Union indicate that he was commander of the coastal region in 2003, 2004 and 2005. (e.g., 24.12.2003 L 340/81 /). In 2009, he was Chief of Bureau of special operation and previous Northern Command, before Soe Win. <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX%3A32009E0615>

133 As per the 2017 DALMS database, over 483,000 acres were allotted in Tanintharyi as agricultural concessions, 23% of this acreage was located in Tanintharyi township, 16% in Kawthaung township and 13% in Kara Thuri and Pyi Gyi Man Daing. However, another source reveals that initially, over “1,648,731 acres for palm oil plantation” (San Thein et al., 2018, p. 13, 65,66) were allotted to 40 companies to transform the region into a major producer of edible oil.

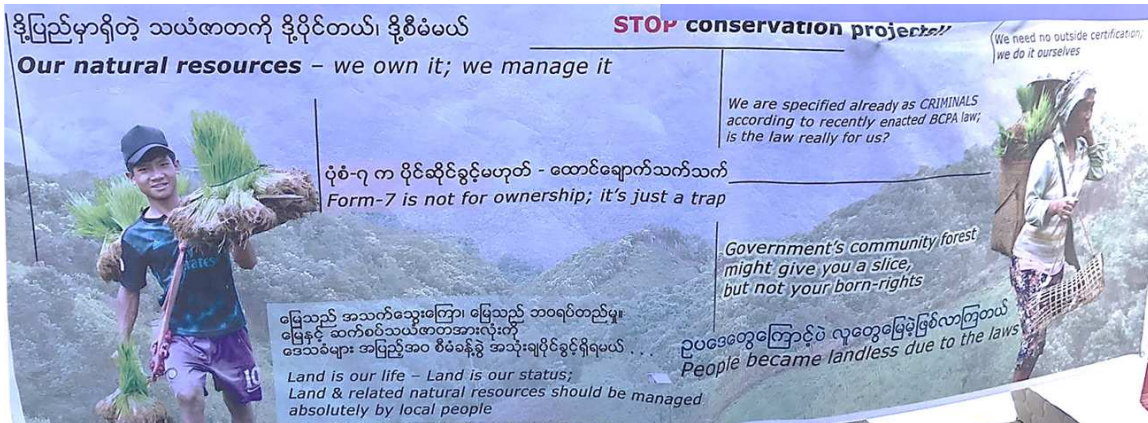
134 Email follow up 2024 of MDL interview Nov. 2023.

national companies associated with the Burmese military and foreign investors (particularly Chinese), notably for vast rubber plantations. In addition to agro-industrial plantations, the establishment of the "Hugawng Valley Tiger Reserve" by the Wildlife Conservation Society (WCS) provided another opportunity for territorial control and appropriation of national treasures (Peluso, 1993; Woods, 2011) in what Woods coins "green territoriality" (Woods, 2019). Finally, in the second half of the 2000s, China's policies promoting the substitution of opium crops allowed for the subsidization of Chinese agricultural companies in Laos and Myanmar. From 2005 to 2008, the opium substitution initiative of the Yunnan government allocated a budget of 175 million USD to finance agricultural investments on around 67,000 hectares of Chinese concessions in Myanmar (Woods, 2011, p. 765).

Ferguson affirms that the lands were classified as "wasteland" because they did not generate sufficient revenue for the State and were occupied by people considered enemies of the State (Ferguson, 2014, p. 307). However, I argue that the mechanism of wasteland classification was otherwise; it did not target such areas and people with these criteria. As argued in section 5.7, the all-encompassing principle that "an unregistered land is vacant by default" is uniformly applied to all the country, despite the uneven and contested deployment of State administration services in the territory it claims, not to mention the specificities of customary land management practices in ethnic areas. Since colonial times, administrative services of the government of Myanmar have been far less accessible and present in ethnic states than in central areas (point 4.5), leading to significantly higher rates of unregistered lands compared to central areas of the country, and consequently, higher risks of legal forms of dispossession.

In addition, such State services may also be rejected due to historical mistrust vis-à-vis the government of Myanmar and the presence of other competing authorities. The following photograph taken at a workshop in Tanintharyi in 2018 led by civil society organizations focused on ethnic land issues captures this contestation. A number of land activists are openly calling for autonomy (*"Our natural resource, we own it; we manage it"*), criticizing farmland registration (*"form 7 is not ownership, it's just a trap"*, *"we need no outside certification, we do it ourselves"*) and opposing State-driven community forestry (*"Government's community forest might you a slice but not your born rights"*) and conservation initiatives, such as the Biodiversity Conservation and Protected Areas (BCPA) law (*"We are specified already as CRIMINALS according the recently enacted BCPA law"*). A number of ethnic organizations have repeatedly protested during the democratic window period against the legislation of VFV with the slogan: *"there is no vacant lands!"*

Figure 9: A poster exhibited at a public workshop in Tanintharyi in 2018 as a form of civil society rejection of land registration and land categories as proposed by the government of Myanmar



Source: Anonymous.

However, Ferguson's analysis is relevant for examining where the allocation of concessions were made, particularly during the second wave of wasteland concessions in 2006-2007 which did effectively target primarily ethnic peripheries for greater territorial control and insurgent areas where inhabitants were considered “enemies of the state”. Most concessions were made in conjunction with production schemes where the lands were likely to generate significant profits. However, the economic performance of these concessions¹³⁵ suggest that agricultural income was not the main objective of these projects.

2.3 Third concession boom (2010-2011)

The third and biggest concession wave (2010-2011) was pushed by a totally different phenomenon. Key officials of the land administration humorously interpreted to me this boom as “*sun gyi laung pwe*” which literary refers to an important donation to Buddhist monks and nuns, followed by the English words “*the last drop of honey*” (MDL interview, November 2023). In other words, my interviewees were referring to the last opportunity to “feast”, by making new deals or formalizing and legalizing previous land deals, in anticipation of the planned political transition and subsequent future weakening of regional commanders’ powers.

As seen in section 8, the year 2010-2011 marked the initiation of a transition characterized by a series of reforms in the political, economic and social spheres, which facilitated the country's engagement with Western nations. The junta opted to transfer power to a predominantly civilian government, implementing significant measures to abolish censorship and promote democratization inside the nation. Indeed, under the new government, most regional commanders were replaced in a “major generational change”, while their authority was restricted

135 Only 14.5% of lands were actually cultivated out of the total amount of wasteland/VFV land concessions of over 50 acres allocated from 1992 to 2016 (San thein et al., 2018, p. 43), based on 2017 DALMS data.

back to military affairs only and their rank fell under that of Union level ministers (Selth, 2013; Tin Maung Maung Than, 2012).

The anticipation was a double rush on the formalization of past transactions that had been done under opaque and irregular conditions and on new lands. First, it was a push from regional commanders for grantees to legalize and formalize their existing wasteland grant deeds before the expiration of their power and avoid unsettled transactions to fall under the scrutiny of State/region level authorities. Second, it was also the last chance to access concessions before the governance shift and potentially stronger accountability requirements, in the wider context of the global land rush that was taking place since the 2008 food crisis.

As we put this third concession boom (2009-2011) in perspective with the legislative processes of 2011-2012, we can unearth some of the motives behind the formulation of the 2012 farmland and VFV land laws “combo”, highly instrumental in legalizing a number of “land grabs” and converting 30-year-VFV land concessions into private farmlands registered under “form 7”, substantially increasing their land’s market value.

In sum, the categories of Wasteland and Vacant, Fallow, and Virgin (VFV) lands in Myanmar are inherently ambiguous, shaped by inconsistent definitions and historical influences from the colonial era. These classifications have prioritized State control, often at the expense of accuracy and transparency, with administrative inconsistencies and outdated records exacerbating confusion. Currently, VFV land includes “current fallows,” “cultivable wasteland,” and “non-gazetted forests”, creating jurisdictional friction between ministries. Although VFV lands have decreased from 68% of Myanmar’s territory in the 1960s to 32% in 2021, this decline stems from forest conservation efforts and agricultural expansion. However, unregistered smallholder land use and unreliable data obscure the true extent of land use changes. The vague and fluid nature of these classifications serves as a tool for State power, enabling dispossession and control, while failing to reflect actual land dynamics.

The second part of this section delves into the allocation of wastelands and Vacant, Fallow, and Virgin (VFV) lands in Myanmar between 1992 and 2016, exposing the deep entanglement of governance, power, and dispossession. The data reveal a staggering 3.97 million acres allocated, predominantly for agricultural development, with Kachin state standing out as the largest recipient. Three distinct peaks in allocation—1999, 2006-2007, and 2010-2011—coincided with key political transitions (as a consequence or in anticipation of governance reforms) and shifts in the geography of State power. Before 2011, these allocations, facilitated by regional military commanders operating with significant autonomy, routinely bypassed established legal frameworks, revealing systemic corruption and the consolidation of power among the military elite and their corporate allies.

Underpinning this process was a strategy that mobilized an investment rhetoric while concealing the true nature of these grants: tools for counterinsurgency, territorial control, and elite accumulation. Ethnic border regions like Kachin and Tanintharyi became battlegrounds for resource extraction projects and monoculture plantations, often resulting in the displacement of local populations. The classification of land as “vacant” or “wasteland” served as a weapon of dispossession, disproportionately targeting areas with a weak State presence or alternative governance systems, particularly in ethnic territories. Meanwhile, civil society and grassroots

actors increasingly contested these practices, calling for the recognition of customary rights and the rejection of State-driven narratives that legitimized appropriation under the guise of development.

The allocation of wastelands and VFV lands in Myanmar offers a lens into the State's mechanisms of power and dispossession. Behind the narrative of agricultural development lies a pattern of systemic abuse—an infrastructure of accumulation that privileges military-business alliances while marginalizing ethnic communities. These land grants were less about cultivation than about cultivation of control: political, territorial, and economic. They also highlight the State's reliance on legal frameworks to legitimize dispossession and deepen inequalities.

X. CONCLUSION

This report on the genealogy of wastelands in Burma (Myanmar) retraces the evolution of land categorization and management from precolonial times to the present, emphasizing the historical roots and persistence of the concept of "wasteland". Throughout the centuries, land management practices in Burma have undergone significant transformations driven by political, economic, and social changes. However, certain continuities in policies, particularly regarding wastelands, have persisted despite regime changes and major ruptures in land management.

We have seen the important regional disparities within precolonial Burma between Lower Burma, the highlands and Upper Burma, the core area of the Burmese kingdom where a complex hierarchy of land tenure featured. The geographic disparities were further marked by colonization and the three successive annexations and phases of British colonial expansion: Tenasserim and Arakan first, Lower Burma second and lastly, Upper Burma, each of which progressively redefined land relations.

Precolonial land management was characterized by a relational approach to land management based on social and service hierarchies. Land domains included crown land, official land, religious land, and private land, with access and rights being defined by one's social status and duties. Although the Burmese notion of law has to be understood in more dynamic and flexible terms than the Western one (Lammerts, 2018¹³⁶), the Burmese kingdom was highly legalist through a diversity of codes and orders. It produced procedures for land administration, and defined land categories, and many principles for processes of land appropriation and demarcation. However, this did not prevent land ownership being fluid in nature, through the intersection of formal legal codes and customary practices. Many of these institutions would not survive British colonization, notably with the breakdown of the monarchy and later, the *myo-thu-gyi/taik thugyi* local governance system. However, the customary principle of the first clearer's land claim (*dama-u-kya*) remained and is still very much present in many farmers' conceptions of land property, both in the Burman heartlands and the ethnic peripheries. Land allocation occurred without the use of any notion of "wasteland", because it occurred mainly through relational logics, along social structures.

The advent of British rule marked a major turning point in the history of land management, with the introduction of "wastelands" as a formal land category in 1839 and the first Rules for the Granting of Wasteland in the same year. The British introduced the categorization of "wastelands" as part of their efforts to increase revenue and promote agricultural expansion, a practice that fundamentally altered the traditional land systems. This would set the stage for future State interventions in terms of land policy, and conceptions of State land. In the case of legislation on wastelands, the structure and principles of the initial colonial wasteland law were grafted into King Thibaw's wasteland rules and further legislation up to the 1991 Wastelands Instructions and the 2012 VFV Management Law. The gaps between the coverage of land

136 This finding could warrant caution as a Western-centered and colonialist preconceived idea. However, it is based on Lammert's extensive analysis of Burmese law in "*Buddhist Law in Burma: A History of Dhammasattha Texts and Jurisprudence, 1250-1850*".

administration in Ministerial Burma and the indirectly administered frontier areas would also have durable consequences up to now in what is considered “wasteland” or “VFV”. The British have had powerful and enduring effects on the legal and administrative framework of Myanmar’s land up to now since an important part of the land-related legislation and administrative manuals produced during colonial times are still valid today.

After gaining independence in 1948, Burma sought to rupture with the colonial State and legitimize its power by embarking on an ambitious land reforms addressing Lower Burma’s protracted agrarian crisis related to landlordism and tenancy, and redistributing land to the tillers. The period marks an important rupture in State building with a State that sought the welfare of its own people. Wasteland were erased as directly integrated into an all-encompassing category of “State land” under a praetorian State.

With the socialist regime after the military coup in 1962, the new system placed cultivators under State tenancy. In some ways, it perpetuated colonial-era dynamics of State control over land. The reforms would have lasting effects on the local governance of land, notably on the crucial role of village committees and leaders in defining vacant land and the allocation of land use rights to villagers. It had deep changes on the conception of land use rights and property rights by the State and created an ambivalent sense of “entitlement” for land perceived by local people, influenced both by customary property relations and the socialist State’s tenancy relations. While in precolonial Burma and British Burma, one was free to clear jungle to cultivate any crop and obtain a transferable permanent right to land, property rights under the socialist period resembled more of a temporary permission that could not be sold, leased nor mortgaged, and would be liable to the annual approval by the village land committee to cultivate land, as per State-imposed crop choices.

After 1988, the shift from socialism to liberalism under an authoritarian military regime as before marked the revival of the wasteland category which had been erased since independence. The concentration of power in the hands of regional commanders under a “new geography of military deployment” coincided with unprecedented waves of large-scale land acquisitions particularly in contested “ethnic” areas. This enabled the military to better control these territories and build up even greater economic and political power. Here, the wasteland designation facilitated both the militarization of space and the commodification of land, reinforcing central authority while marginalizing customary and collective rights. The militarization of the Burmese State and increasing involvement of high-ranking military in the allocation of wasteland would also have long lasting effects.

The post-2010 democratic opening and the advent of a quasi-civilian government mark an important turning point. Myanmar’s government introduced new laws aimed at reforming land management and promoting the formalization and commodification of agricultural land in the name of economic development, notably through the 2012 Farmland Law and the 2012 Vacant, Fallow, and Virgin (VFV) Land Management Law. Despite the democratic aspirations of this period and a shift in public discourses, the legal framework continued to reflect colonial legacies, with the VFV Law paving the way for increased land concessions and dispossession risks. At the same time, political statements were made to address past grievances by returning confiscated land,

while also distributing land to the landless. Despite some ad hoc localized efforts, the promises remained essentially declarative, for electoral and political interests.

The analysis of data from 1992 to 2016 on land concessions reveals trends and their main peaks in the allocation of wastelands for agricultural development, particularly during economic booms. While the first two peaks were motivated by the capture of land and natural resources for further economic and political power, the third and last concession boom of 2010-11 was actually a land rush by anticipation of the major reconfigurations of power expected in the planned transition, notably with the loss of power of regional commanders. The analysis shows that while land administration evolved over time, there remained a consistent tendency to use legal and administrative mechanisms to justify land acquisitions and facilitate the State's control over territory.

The report demonstrates that despite the profound shifts in political regimes, certain aspects of land management have remained remarkably consistent. The definition of wasteland or Vacant, Fallow and Virgin law has always been ontologically vague, in order to conveniently legitimize various interventions and generate and reorient the dynamics of space development according to the interests of the moment. The categorization of lands as "wasteland" or "VfV" has historically served as a tool for the State to assert control and reallocate land for economic and political purposes. The persistence of the wasteland category illustrates the enduring influence of colonial frameworks in contemporary land laws. Legal and administrative mechanisms have continued to play a central role in shaping land relations, often at the expense of local practices and rights and the marginalization and dispossession of communities with customary land rights. The State's reliance on legal frameworks to establish authority over land, even in times of political transition, underscores a broader pattern of governance focused on territorial control rather than equitable or just land allocation.

Another constant tendency across time is the sharp contrast between what it is prescribed by law and people's actual practices, and between what is authorized by central authorities and at local level. This leads to the blurring of boundaries between land domains, between used land that is claimed and unused land that is abandoned, and results in discrepancies in the recognition of people's tenure, notably with regard to central authorities. Even in precolonial times, tracts of *ahmudan asu* ("official") land, royal lands and religious land, would tend to become private property through the effects of time in the development of one's sense of ownership, as well as inheritance and sale transfers that were not authorized by the King on these land domains. This resonates with various more recent periods of Myanmar's history. In the socialist period, land sales and leases were officially forbidden although they would commonly occur. After 1988, the core issue would lie in appropriation processes by occupation of State lands. The discrepancy is aggravated by the fact the State has little incentive and interest for the formal degazetting of State land to the private domain. While in the colonial period, it represented the major source of revenue income, land revenue has become purely symbolic: the land tax rate has not increased since colonial times and sums to a ridiculous 6 kyats per acre, corresponding to less than half a cent of USD¹³⁷. In addition, officials have no incentive to reform the land tax since they extract

137 As a reference, with the exchange rate of the time of the new Farmland Law in 2012 of around 1,300 MMK, 6 kyat.

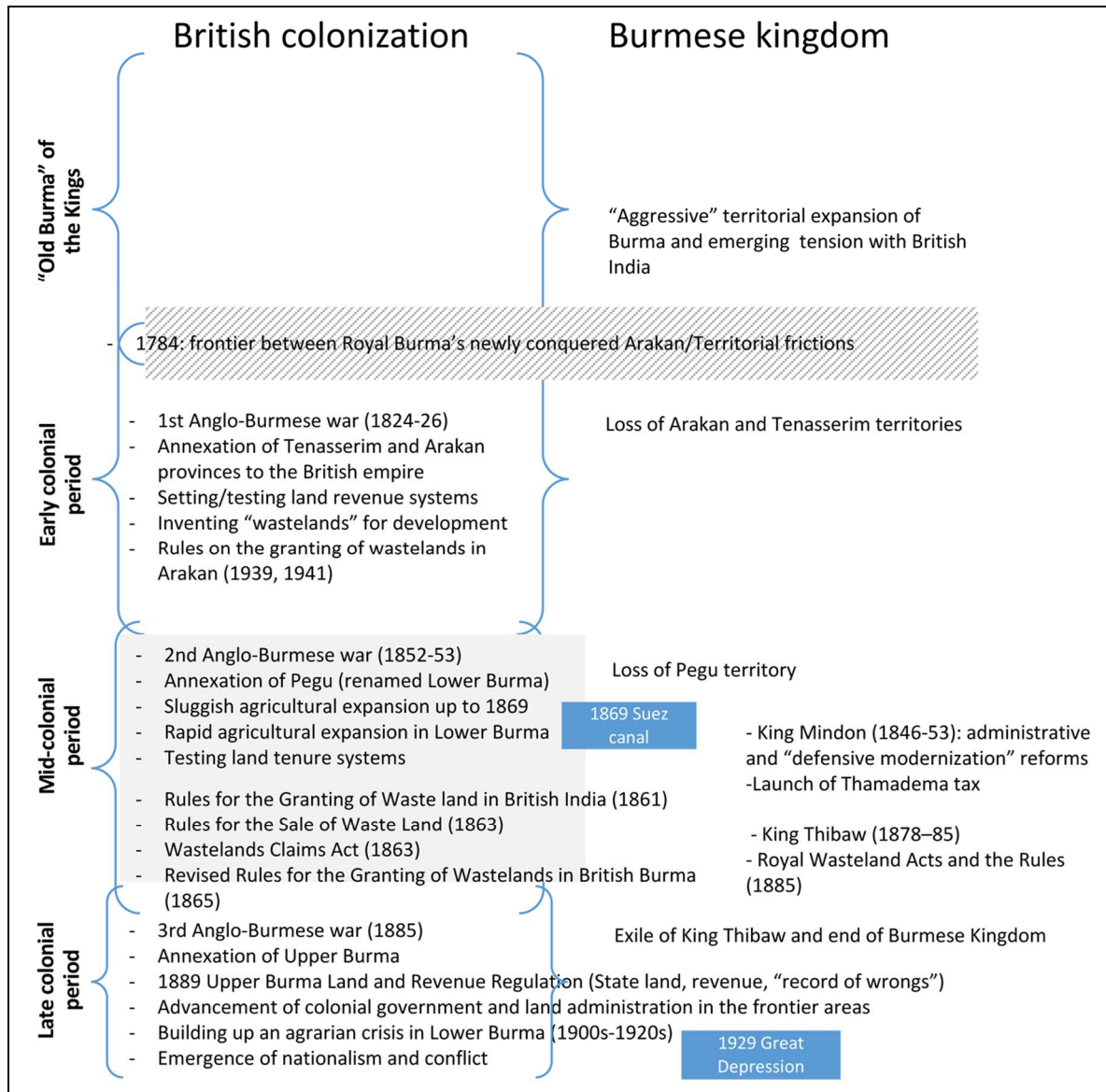
rents from informal transactions over State lands. The correspondence between the King's non-hereditary appanages and the contemporary wasteland allocations both for which inheritance and sales were not allowed¹³⁸ is striking. At both periods, it leads to the blurring of boundaries between Crown or State land domain and private domain. As such, the blurring of boundaries between State and private domains, between legal norms and informal practices, is not merely a historical artifact but an active mechanism of governance. These ambiguities reflect a deeper continuity in which land serves as both a material resource and a symbolic battleground for competing visions of power and belonging.

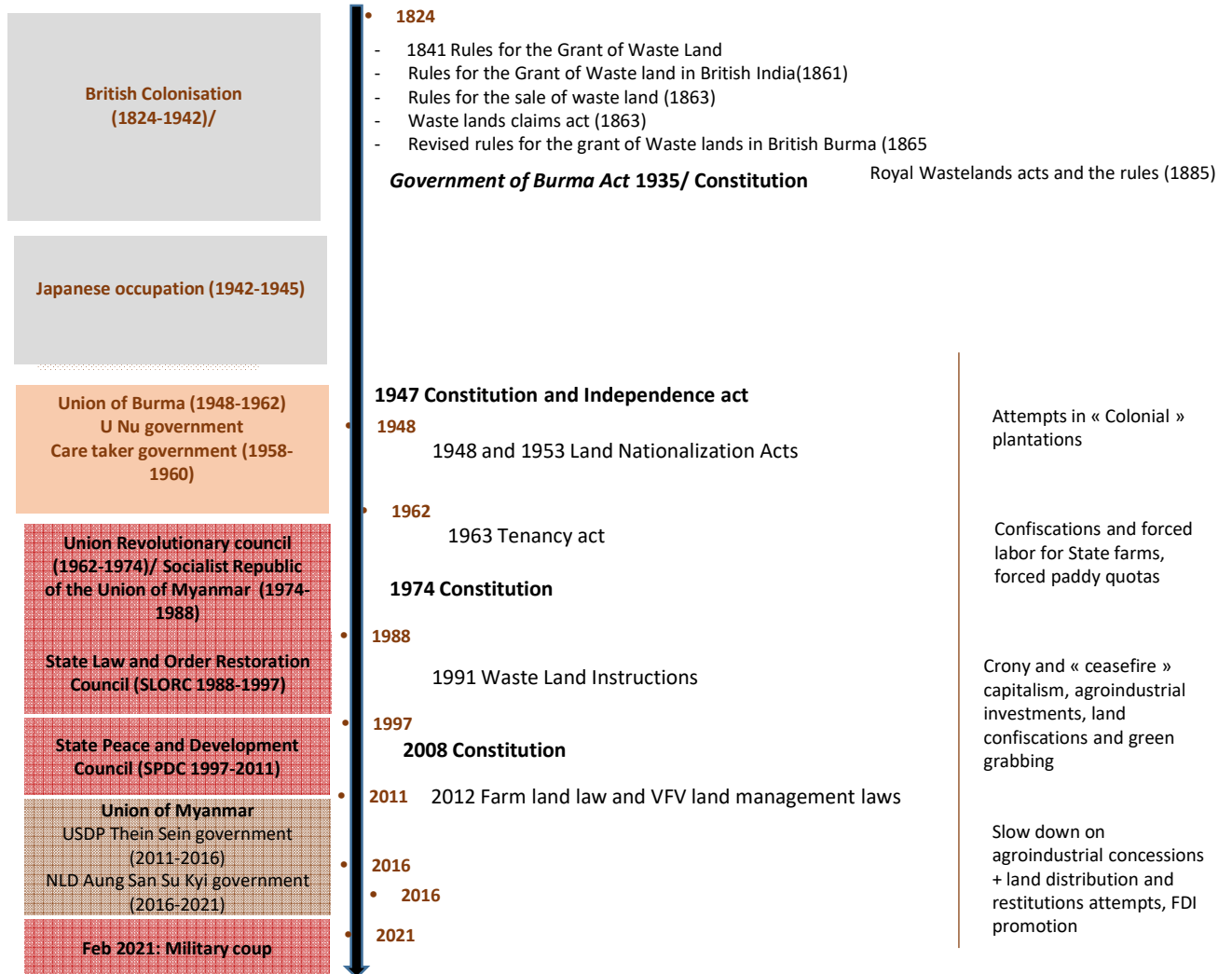
The history of land management in Myanmar reveals a pattern of continuity and change, where land policies have adapted to new political contexts while retaining elements of previous frameworks. The genealogical approach adopted in this report helps uncover the ways in which historical legacies have shaped contemporary land issues. As Myanmar looks to a future beyond the post-coup darkness, the challenges of land governance remain deeply intertwined with questions of justice, recognition, and accountability. It is evident that addressing the challenges in Myanmar's land governance requires not only legal reforms but also a recognition of the socio-political dimensions of land. Bridging the gap between formal legislation and local practices, as well as acknowledging historical grievances, will be crucial steps in the post-war period.

138 Under the Wastelands Instructions of 1991, land transfers were not allowed without the authorization of the central wasteland management committee. In reality, transfers occurred without informing the committee.

Annexes

Annex 1. Historical timelines





Annex 2: Agricultural statistics details from 1935-36

District (1)	Forests (2)	Not available for cultivation (3)	Culturable waste other than fallow (4)	Current fallows			Net area sown during the year			Occupied area (5c and 6c)	Total area of district (8)
				Actual (5a)	Estimate (5b)	Total (5c)	Actual (6a)	Estimate (6b)	Total (6c)		
Provincial Total, 1935-36						-			-	-	-
Total, Arakan division	460,795	5,673,206	3,155,764	161,996	18,462	180,458	893,495	163,642	1,057,137	1,237,595	10,527,360
Akyab	11,330	961,621	1,439,580	125,416	14,364	139,780	637,908	96,821	734,729	874,509	3,287,040
Hill district of Arakan	125,492	258,321	1,613,889		466	466		12,712	12,712	13,178	2,010,880
Kyaukpyu	71,545	2,409,424	96,839	31,143		31,143	184,259	14,470	198,729	229,872	2,807,680
Sandoway	252,428	2,043,840	5,456	5,437	3,632	9,069	71,328	39,639	110,967	120,036	2,421,760
Total, Pegu division	2,624,029	1,320,560	976,324	283,895	5,877	289,772	3,463,800	97,340	3,561,140	3,850,912	8,771,825
Rangoon		44,505	1,439	311		311	5,777		5,777	6,088	52,032
Pegu	981,453	333,151	145,135	115,471	204	115,675	990,877	50,811	1,041,688	1,157,363	2,617,102
Tharrawaddy	682,861	63,017	385,423	41,175	4,157	45,332	630,736	19,967	650,703	696,035	1,827,336
Hanthawaddy	11,686	188,166	65,590	67,921		67,921	861,376		861,376	929,297	1,194,739
Insein	295,414	85,447	218,329	39,412	778	40,190	570,482	5,086	575,568	615,758	1,214,948
Prome	652,615	606,274	160,408	19,605	738	20,343	404,552	21,476	426,028	446,371	1,865,668
Total, Ayeyarwady division	1,712,946	1,715,646	1,266,157	190,468	472	190,940	3,889,990	26,567	3,916,557	4,107,497	8,802,246
Bassein	456,498	776,757	443,422	28,192	205	28,397	913,525	22,042	935,567	963,964	2,640,641
Henzada	564,796	385,900	137,557	28,501	237	28,738	722,542	4,000	726,542	755,280	1,843,533
Myaung-mya	334,080	174,227	410,593	26,080		26,080	947,972	168	948,140	974,220	1,893,120
Maubin		145,106	242,939	88,178		88,178	573,697		573,697	661,875	1,049,920
Pyapon	357,572	233,656	31,646	19,517	30	19,547	732,254	357	732,611	752,158	1,375,032
Total, Tenasserim division	4,641,964	10,262,518	5,492,395	252,730	26,346	279,076	1,954,749	269,657	2,224,406	2,503,482	22,900,359
Salween	151,431	1,451,501	12,375		381	381		29,812	29,812	30,193	1,645,500
Thatun	227,200	444,170	1,648,200	49,599	2,458	52,057	696,037	54,158	750,195	802,252	3,121,822
Amherst	1,030,330	1,648,389	1,152,164	118,157	10,817	128,974	531,038	55,004	586,042	715,016	4,545,899
Tavoy	269,444	1,463,732	877,000	14,938	1,643	16,581	125,085	36,149	161,234	177,815	2,787,991
Mergui	1,332,910	3,101,050	1,637,261	19,279	9,462	28,741	112,432	52,157	164,589	193,330	6,264,551
Toungoo	1,630,649	2,153,676	165,395	50,757	1,585	52,342	490,157	42,377	532,534	584,876	4,534,596
Magwe division	2,752,903	7,018,787	7,328,076	834,613	186,443	1,021,056	1,559,565	257,637	1,817,202	2,838,258	19,938,024
Thayetmo	472,292	1,953,726	290,057	81,357	13,801	95,158	159,112	69,687	228,799	323,957	3,040,032
Minbu	918,328	586,864	124,239	147,377	33,453	180,830	281,438	15,873	297,311	478,141	2,107,572
Magwe	368,857	671,969	210,682	363,263	132,081	495,344	576,020	49,429	625,449	1,120,793	2,372,301
Pakokku	764,117	1,901,338	449,179	242,616	7,108	249,724	542,995	68,648	611,643	861,367	3,976,001
Chin hills	229,309	1,904,890	6,253,919			-		54,000	54,000	54,000	8,442,118
Total, Mandalay divison	2,021,770	1,528,250	1,399,834	804,920	131,184	936,104	2,040,362	95,479	2,135,841	3,071,945	8,021,799
Mandalay	496,299	464,121	123,098	82,717	3,745	86,462	189,531	4,348	193,879	280,341	1,363,859
Kyaukse	241,503	243,307	62,018	64,257	169	64,426	208,844	225	209,069	273,495	820,323
Meiktila	257,319	225,775	229,818	176,787	58,848	235,635	420,872	44,112	464,984	700,619	1,413,531
Myingyan	79,713	370,020	113,574	352,702	55,989	408,691	749,187	28,656	777,843	1,186,534	1,749,841
Yamethin	946,936	225,027	871,326	128,457	12,433	140,890	471,928	18,138	490,066	630,956	2,674,245
Total, Sagaing division	5,892,703	12,606,374	16,105,592	840,698	136,207	976,905	2,271,649	241,243	2,512,892	3,489,797	38,094,466
Bhamo	409,006	1,354,954	2,608,606		9,428	9,428		36,246	36,246	45,674	4,418,240
Myitkyina	783,577	2,027,073	4,652,446	17,543	12,587	30,130	86,161	24,249	110,410	140,540	7,603,636
(Myitkyina)		2,123,667	4,247,333			-		29,000	29,000	29,000	6,400,000
Shwebo	651,476	1,481,328	355,403	348,457	26,925	375,382	705,401	17,842	723,243	1,098,625	3,586,832
Sagaing		176,991	146,708	195,889	3,824	199,713	638,461	6,051	644,512	844,225	1,167,924
Katha	1,642,190	2,186,241	828,866	33,456	3,517	36,973	162,115	41,836	203,951	240,924	4,898,221
Upper Chindwin	1,892,377	2,730,570	2,918,072	25,389	30,310	55,699	77,284	48,283	125,567	181,266	7,722,285
Lower Chindwin	514,077	525,550	348,158	219,964	49,616	269,580	602,227	37,736	639,963	909,543	2,297,328
Federated Shan states division	2,021,249	11,934,895	23,901,200	-	-	-	-	936,000	936,000	936,000	38,793,344
Northern Shan States	1,004,756	3,786,348	7,831,560			-		291,000	291,000	291,000	12,913,664
Southern Shan States	1,016,493	7,245,480	14,278,507			-		600,000	600,000	600,000	23,140,480
Karenni		903,067	1,791,133			-		45,000	45,000	45,000	2,739,200
Provincial total, 1935-36	22,128,359	52,060,236	59,625,342	3,369,320	504,991	3,874,311	16,073,610	2,087,565	18,161,175	22,035,486	155,849,423

Source: Burma Agricultural Statistics, 1922/23; 1926/27-1935/36./
India Office Records and Private Papers / IOR/V/14/193.

Annex 3: Land stock as per agricultural statistics reports¹³⁹

Year		Net Sown "*exclusive of squatter"	Current fallow	Forest (RFPPF)	Cultivable wasteland	Forest (non- RFPPF)	Other (non- arable)	Total
Post 2011	2020-21	29,615,000	1,254,000	47,894,000	16,470,000	35,290,000	36,663,000	167,186,000
Post 2011	2016-17	29,791,685	1,149,452	46,648,814	13,695,403	35,852,704	40,047,766	167,185,824
Post 2011	2013-14	29,328,000	1,129,000	45,950,000	13,058,000	36,675,000	41,046,000	167,186,000
		18%	1%	28%	8%	21%	24%	100%
		Net Sown	Current fallow	Reserved forest	Culturable waste other than fallows	Other woodland	Others	Total
SPDC era	2010	29,591,000	597,000	41,752,000	13,861,000	40,166,000	41,219,000	167,186,000
SPDC era	2007	28,118,000	736,000	40,678,000	14,758,000	41,969,000	40,927,000	167,186,000
SPDC era	2000	23,902,000	1,900,000	30,906,000	18,065,000	50,084,000	42,329,000	167,186,000
SLORC	1995-96	22,017,000	3,042,000	25,503,000	19,697,000	54,557,000	42,370,000	167,186,000
SLORC	1990-91	20,127,000	4,724,000	25,062,000	20,625,000	54,970,000	41,678,000	167,186,000
Late socialist era	1984-85	20,286,000	4,590,000	24,747,000	21,055,000	54,831,000	41,677,000	167,186,000
		Net sown	Current fallow	Reserved forest	Culturable waste other than fallows	Unclassified area	Not available for cultivation	Total
Mid-socialist era	1975-76	20,088,000	4,881,000	23,477,000	21,119,000	89,731,000	7,890,000	167,186,000
Early socialist era	1667-68	18,933,000	6,285,000	22,219,000	21,565,000	90,247,000	7,937,000	167,186,000
Early socialist era	1966-67	19,206,000	5,931,000	22,219,000	11,955,000	95,368,000	12,507,000	167,186,000
		Net Sown	Current fallow	Forest land	Culturable waste other than fallows		Not available for cultivation	Total
Pre- independence	1936- 37/40-41	17,469,000	3,838,000	19,964,000	19,126,000		44,518,000	104,915,000
Pre- independence	1935-36	18,161,175	3,874,311	22,128,359	59,625,342		52,060,236	155,849,423

Source: a) Myanmar agricultural statistics (1989-90 to 1999-2000), b) Agricultural statistics 1974-75, 1975-76, 1976-82), c) Burma Agricultural Statistics, 1922/23; 1926/27-1935/36 IOR/V/14/193 (Burma land records, 1936; Government of the Union of Myanmar, 2001; Socialist republic of the Union of Myanmar, 1978).

139 RFPPF refers to Reserved Forests and Public Protected Forests, referring to the Public Forest Estate.

After observing and comparing various agricultural statistic reports (see table above and Annex 2 for the district level details of 1935-36 land use statistics), we note one first remarkable point. Under the colonial period, there were five main categories, while after independence, a sixth one was introduced with the “unclassified” area category that would later be reformed as “other woodlands” and later again as “non-RFPPF forests”¹⁴⁰. There were six to cover the whole national territory¹⁴¹.

Some land categories (such as net sown, current fallows and reserved forests) were clearly accounted for, with a more or less stable method¹⁴² and denomination, in conjunction with revenue collection and usual monitoring procedures under agriculture and forest authorities. They also show coherence in annual variations, suggesting no major redefinition of what is accounted for under that category name. The “culturable wasteland other than fallow” has also been a stable category in its existence and denomination and relatively coherent in variation of figures over the decades but it is not clear how these data are being updated and land identified as such. The other two categories (“non-RFPPF forests” and “other non-arable”) presented in agricultural statistics reports (see the orange-filled columns of the : **Land stock as per agricultural statistics reports**) show important variations in both names and figures across eras, suggesting a combination of substantial changes in ways of accounting for land, and the legal conversion of unregistered forests/woodlands into farmlands and the gazetting of such areas into reserved forests as mentioned before. The collection of updated and reliable information is also of utmost importance.

ABOUT UNSURVEYED LAND...

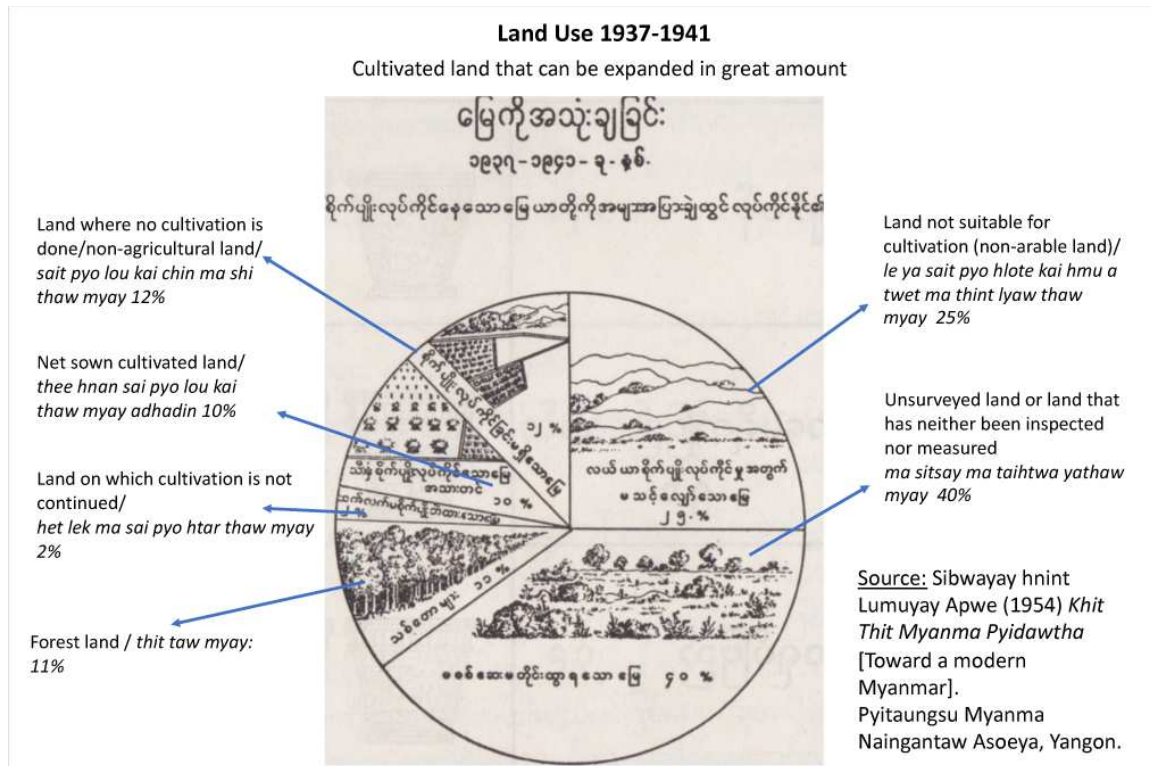
Under the early independence parliamentary area (but citing figures from colonial reports), the “unsurveyed land” category appears clearly in some government reports, representing up to 40% of the total area (as in the figure below).

¹⁴⁰ Refers to forests not gazetted as Reserved Forests and Public Protected Forests, under the Public Forest Estate.

¹⁴¹ Annex 4 provides further details on the official land categories.

¹⁴² Except for fallow lands as it seems that data are probably no longer collected.

Figure 10: Pie chart on land use (using data from 1937), appearing in a 1954 post-independence government report to promote development and agriculture expansion



Nowadays, agricultural and land statistic reports no longer account for non-surveyed lands, at least publicly. In my interaction with the land administration under the democratic window period, I have also never seen a map showing surveyed, unsurveyed and unidentified lands, as they were produced under the British colonial period as shown in Map 7: Map of Burma showing tracts under supplementary survey in 1906-07 and Map 8: Map of Burma showing tracts under supplementary survey in 1920-21. In other words, it seems that shortly after independence and notably in the socialist period, what is unsurveyed becomes invisible to the public although it becomes State property. It becomes an “absence” of the sociology of absences (Santos, 2001), where social and political conditions, actions and conceptions have been suppressed—or not allowed to exist—by hegemonic forms of power, notably for the implementation of State policies, whether related to forestry (reserve forests and protected public forests), conservation (protected areas), agricultural and mining investments (wasteland/VFV land concession), and land acquisition for government authorities and line departments etc.

One high-level former DALMS official estimated in 2022 that the current area that has never been surveyed was around 16.6 million acres, including 13 million acres of virgin land (*mye yaing*) and

3.6 million acres of woodland (*taw yaing*)¹⁴³. Around 29 million acres of farmlands have been surveyed with over 80,000 Kwin maps, while nearly 47 million acres of reserved forests have been surveyed with one-inch scale maps (*ibid*). These gaps are aggravated by the fact much of the land records information produced under the colonial period has not been updated. Such maps have often not been updated for 60 years, nor even reprinted for 30 years, resulting in major discrepancies in land records, maps and land use categories since land use conversion and many transactions have practically not been recorded for decades (LAMP project, 2014). Furthermore, for decades, the data have been considerably biased due to the dissimulation of the real data by department officers (such as department of agriculture, department of forestry) when they do not reach the target fixed by their heads. Another high-level land administration official stated “there were conflicting statistics between the land administration department and the department of agriculture. Figures were inflated to reach the targets fixed by the planning division”¹⁴⁴.

143 Land type interview 2022.

144 Interview July 2024 YGN n1.

Annex 4: Matching the 22 official current land use categories in Myanmar with the land categories used in agricultural statistics reports and by corresponding authorities

	Official land type	Authority	Corresponding category as per agricultural statistics
1	Paddy land (<i>le</i>)	MOALI	"Net sown" or "current fallow"
2	Upland (<i>ya</i>)	MOALI	"Net sown" or "current fallow"
3	Alluvial land (<i>kaing kyun</i>)	MOALI	"Net sown" or "current fallow"
4	Garden land (<i>u-yin</i>)	MOALI	"Net sown" or "current fallow"
5	Nipa palm land (<i>dani</i>)	MOALI	"Net sown" or "current fallow"
6	Hilly land (<i>taung ya</i>)	MOALI	"Net sown" or "current fallow"
7	Reserved forest (thit taw kyo wain)	MONREC	"RFPPF forest"
8	Virgin land (<i>mye yain</i>)	MONREC/MOALI	"non-RFPPF forest"
9	Waste land (<i>taw yain</i>)	MONREC/MOALI	"Cultivable waste land"
10	Mining land	GAD/MONREC	"Other (non-arable)"
11	Cattle grazing land	GAD	"Other (non-arable)"
12	Irrigation, lake, embankment land	GAD	"Other (non-arable)"
13	River watershed land	GAD	"Other (non-arable)"
14	Natural pond or lake	GAD	"Other (non-arable)"
15	Factory land	GAD	"Other non-arable)"
16	City land	GAD	"Other (non-arable)"
17	Village land	GAD	"Other (non-arable)"
18	Airport land	GAD	"Other (non-arable)"
19	Religion, cemetery and other building land	GAD	"Other (non arable)"
20	Railway land	GAD	"Other (non-arable)"
21	Road land	GAD	"Other (non-arable)"
22	Unclassifiable land/("remaining other land") since 2012	GAD	"Other (non arable)"

Source: Based on San Thein et al., 2018, and interviews with land administration officials 2022-24

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Due to a major cyber incident in 2023, many services are still currently inaccessible, including for the digitalization of archives.

Most annual reports on the Administration of British Burma from the years 1855 to 1936 are downloadable in a digitized version at the following website: <https://myanmar-law-library.org/law-library/legal-journal/reports-on-the-administration-of-british-burma/>

Most reports on land settlement and settlement operations can be found at the Center for Research Libraries; see catalog with link to digitized documents:

<https://www.crl.edu/sites/default/files/d6/attachments/pages/Land%20Settlement%20Reports%20Burma.pdf>

Archives in Myanmar could not be accessed due to the context after the 2021 military coup.

Myanmar agricultural statistics reports (from 2008 to 2023) can be found here: <https://www.csostat.gov.mm/PublicationAndRelease/MyanAgriculture>

Statistics from previous periods have been found in old hardcopies of agricultural statistics reports bought in bookshops on Pansodan Street or consulted in the National Library of Myanmar, both in Yangon.

2. LEGAL DOCUMENTS

Most laws and rules can be found here:

<https://myanmar-law-library.org/law-library/>

It includes legislative documents from the President Office, Laws and Regulations, Case Law, International Law, Legal Journals news and websites, and even some documents of ancient Burmese law, such as the *Yazathats* and the *dhammathats*.

The book Leckie, S., & Simperingham, E. (2009). *Housing, land, and property rights in Burma : The current legal framework*. Displacement solutions : HLP Institute is also a valuable resource with its compilation of laws that were active during the “democratic” window.

The former government-supported Myanmar Law Information System also used to be a good resource (<https://www.mlis.gov.mm>) but since the political coup of 2021, it is not operational.

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