

**YANGON UNIVERSITY OF ECONOMICS  
MASTER OF DEVELOPMENT STUDIESPROGRAMME**

**ANALYSIS ON THE CHANGES IN USAGE OF FARMLAND BY  
OTHER PURPOSES AFTER PROMULGATION OF FARMLAND  
LAW (2012) (CASE STUDY ON MYINGYAN TOWNSHIP)**

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## **ABSTRACT**

The agricultural sector is the backbone of Myanmar's economy. To increase the development of the agricultural sector, the use of agricultural land models is also important and changes in the use of agricultural land are essential. This thesis aims to examine the changes in agricultural land use patterns in Myingyan Township after the promulgation of the Farmland Law (2012) and to analyze farmers' perception of agricultural land use in other purposes in relation to the current Farmland Law. The descriptive method is used in the primary and secondary data. When adopting the Farmland Law (2012), people have the right to use, the right to sell, mortgage, rent, exchange, give, cooperating with foreign or the organization on all or part and to allow agricultural land for other purposes in the interests of people. Most of the response procedures of people for the use of agricultural land for other purposes in the Farmland Law(2012) are better than the Land Nationalization Act (1953) because of not only the law but also the development of industrialization and socio-economic infrastructure. This is a remarkable agrarian reform of the law and agricultural land policy throughout the historical period.

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## **LISTS OF ABBREVIATIONS**

CABF	Central Administrative Body of the Farmland
CCNLRM	Central Committee for National Land Resources Management
CSO	Central Statistical Organization
DABF	District Administrative Body of the Farmland
DALMS	Department of Agricultural land management and Statistics
FD	Forest Department
GAD	General Administration Department
GDP	Gross Domestic Product
GIS	Geographical Information System
LIS	land-information system
MoALI	Ministry of Agriculture, Livestock and Irrigation
MoAI	Ministry of Agriculture and Irrigation
MoECAF	Ministry of Environment and Conservation of Forestry
NSDI	National Spatial Data Infrastructure
NLUP	National Land Use Policy
RABF/SABF	Region or State Administrative Body of the Farmland
SLORC	State Law and Order Restoration Council
SLRD	Settlement and Land Records Department
TABF	Township Administrative Body of the Farmland
UN	United Nations
VFV	Vacant, Fallow and Virgin Land Management Law
WABF/VTABF	Ward or Village Tract Administrative Body of the Farmland



# **CHAPTER I**

## **INTRODUCTION**

### **1.1 Rationale of the Study**

Agriculture sector is the back- bone of Myanmar's economy. It is because of the nature has blessed it with vast areas of fertile land and abundant success of water, which are the principal ingredients of an Agro-based economy. One fourth of the total area of Myanmar is agricultural land. The total net sown area is 11.87 million hectares. Since Myanmar has fallow land and cultivable waste land the expansion of agricultural land can be developed. The utilization of land in Myanmar in total 67.66% cultivable waste land is 7.8% and net sown area is 17.5% in Myanmar (Bank W. , 2017).

Myanmar's economy is based on agriculture, rural development in the priority sector of the national economy. Approximately 72% of the population lives in rural areas. Agriculture sector is the back bone of its economy. The agricultural sector is estimated to contribute nearly 23% of GDP. 20% of total export earnings and employs 61.2% of the labor force. Before enacting the farmland Law 2012, according to the land Nationalization Act of 1953, farmers are given land use rights to cultivate and occupy lands on their holding which are not allowed mortgage or sell or transfer the agricultural land by other means (Myanmar, 2019).

Section 9 (b) of the current Farmland Law (2012) authorizes the right to sell, mortgage, lease, exchange and give in whole or in part the right to use agricultural land in accordance with the stipulated conditions. In accordance with the new Farmland Law, the right to use by other means has been allowed on the basis of decentralization except for lowland areas. The impact of agricultural land use by other means is an important issue regarding agricultural land use policy, agricultural production and land management, including enforcement of the Farmland Law (2012). Myanmar Agriculture sector have multiplicity of laws and regulation and insufficient infrastructure , policy and plan (Ministry of Livestock, 2012).

## **1.2 Objective of the Study**

This thesis aims to examine the changes in agricultural land use patterns in Myingyan Township after the promulgation of the Farmland Law (2012) and to analyze farmers' perception of agricultural land use in other purposes in relation to the current Farmland Law.

## **1.3 Method of Study**

Descriptive method is used in this study. Both quantitative and qualitative approaches are used in this study. The Survey was conducted to collect primary data and key informant interview in Myingyan Township for in-depth analysis. Secondary data were collected from Report of Department of Agriculture Land Management and Statistics, reports from relevant ministries, reports from UN-Agencies and related reference on the website.

## **1.4 Scope and Limitation of the Study**

The scope of the study covered changes in agricultural land use for other purposes after the promulgation of the Farmland Law (2012), but the study only covered Myingyan Township and didn't cover not all regions of Myanmar. In addition, it focuses primarily on the farmer's perception of the use of farmland for other purposes under current agricultural land legislation. Available data obtained from official sources of CSOs, Statistical Yearbook, MoALI facts about Agricultural and Myanmar Agriculture in Brief, National Land Use Policy.

## **1.5 Organization of the Study**

This thesis includes five chapters. Chapter (1) describes the introduction, rationale for the study, objectives, methods, scope and limitations of the study and organization of the study, Chapter (2) is an overview on Myanmar land administration, Chapter (3) examines changes in farmland legislation, Chapter (4) is an analysis on survey and Chapter (5) discusses for findings of the study and suggestions based on these findings.

## **CHAPTER II**

### **OVERVIEW ON MYANMAR LAND ADMINISTRATION**

The current system of land administration in Myanmar retains many features of the system established under British colonial rule. Later governments joined, creating a multitude of laws and regulations that further confused the issue. The lack of clarity in defining the powers and responsibilities attributed to various government agencies is also worrying. With little or no expense for updating the systems, many data are obsolete, incomplete or inadequate. The land registers managed by the Settlement and Land Record Department (SLRD) are, to a large extent, still used for tax purposes and not as a register of land rights. As a result, the administration is more opaque, unfair and therefore unsatisfactory for the population. Furthermore, the governments of Myanmar seem to have ignored the usual land management practices. As a result, numerous people have either lost or risk losing the land they have occupied and used for generations. These deficiencies must be fixed. The current government seems to be targeting this goal through land-reform policies, particularly the announcement of a national database that will use modern technology to update land information for easy access at central and local levels. To be truly effective and address long-held grievances, policy must translate into action through measures that would build public confidence in Myanmar's land-administration system (FAO, MOALI & LIFT, 2016).

#### **2.1 Land Administration through Various Political Periods**

The genesis of the Myanmar land problem is a political-economic structure established over the decades, particularly by governments seeking to strengthen their power base since 1991. The land administration of the country can be broadly classified into six Pre-colonial era, the colonial era, Post– independence, Socialist era, Military government and a the democratic government from 2010 to today (Naing, 2010)

### **(i) Pre-Colonial Era**

Burma was a nation inhabited by a wide range of ethnic groups with its own political and social history. These groups have been governed on the basis of strong local traditions, and municipal management and land and property use practices have been part of the legal and political history of Myanmar (formerly Burma). Between the eleventh and the nineteenth century, Burma was an absolute monarchy. During this period, land and property rights were incorporated into the social structure and governed by customary traditions. When the British took power in 1825, Burma was administered as a province of India. The British implemented a comprehensive legal and administrative reform by replacing the Burmese law with Anglo-Indian law. Agriculture has been the stable foundation of society. Through wars and changes of government, the farmer has remained the backbone of Burma. Farm families worked on small parcels. Many communities shared traditional lands where local people could graze their livestock. Many people lived at a subsistence level, using the little they had grown to feed their families. The king's ability to tax farmers was essential for the ongoing administration and control of communities and resources. These taxes were periodically set by the king and collected annually by the local authorities. Apart from taxes, the king or local rulers had little authority or control over land and resources (Naing, 2010).

Local farmers in most of Burma could buy, sell, transfer or mortgage their land in an informal private property system. Local agreements, customary law and tradition regulated land use. The central government tried to control agriculture, but in practice farmers and local leaders made their own decisions. The struggle between peasants, local chiefs and royal officers has continued. From time to time, the king tried to apply his laws from the center. In turn, the local population has rejected and tried to retain the grain surplus and continue to harass its traditional practices. The peasants had many methods of resistance, ranging from corruption and deception to absolute violence. When all else failed, the peasants had the opportunity to move further into the wooded mountains where the soldiers could not follow him. This practice continued until the British colonial wars in the early nineteenth century. It has also established the model of local self-government in agriculture and administration that continues today in many ways (Naing, 2010).

**(ii) Colonial Era**

The British changed the agricultural structure administration and land management in the whole country. Farmers obtained owner right to be landed after using for 12 years and paying the related property taxes. Lower Burma and Upper Burma were annexed, separate laws were promulgated. The land and tax law of 1879 was the first land law promulgated. It regulated the acquisition of property rights for individuals and the assessment and collection procedures for property taxes (Naing, 2010).

**(iii) Post-independence**

After gaining independence in 1948, the government continued the previous "rice bowl" approach to land administration and emphasized the development of the agricultural sector. The 1948 Constitution established "the state as the ultimate holder and owner" of all land in Burma (now Myanmar). Land concentration and ownership system were abolished and specific laws promulgated (Naing, 2010).

**(iv) Socialist Era**

Under the socialist government (1963-1988), farmers were considered tenants of the state and forced to cultivate specific crops in accordance with state policy. If farmers could not achieve their production goals, their land was reclaimed by the state. As paddy production was not profitable in 1956-1957, farmers reduced their land investments. As subsequent events have shown, efforts to nationalize land and redistribute agricultural land have failed because of political constraints. The Socialist Government issued the 1963 Tenancy Act and the 1965 Amendment to the Tenancy Act. Starting in the 1980s, the government distributed a booklet entitled Farmer Agricultural Production Record to each farmer. It was a basic document for the government's plan to "produce paddy fields" while keeping track of the use and rice paddy produced. The Farmland Law (2012) and the publication of the LUC have somehow replaced this booklet (Naing, 2010).

**(V) Military Government**

In 1991, the military government introduced an important land administration measure through a notification that prescribed the duties and rights of

the Central Committee for the Management of Cultural Lands, Fallows and Vacant Lands (Wasteland Instructions) to allow expropriation and reallocation of lands classified as "fallow", a category that covers untitled lands. The implementation of the 1991 Wasteland Instructions marked a change in policy for large-scale agricultural investments rather than small-scale farmers and rural poor. In theory, small owners may require access to free lots. However, the government did not assign land to small farmers because they did not have the capital to develop them effectively. The government has granted land lease contracts to private and public companies, mainly those affiliated to the military, including state-owned companies, joint ventures and private companies. In many cases, the land was acquired by force to be made available to investors as part of the brownfield development policy. These leases have generated considerable political warmth and social conflicts that still persist today. According to available anecdotal evidence, the redistribution of land according to Wasteland's instructions has mainly benefited some large landowners (Naing, 2010).

**(v) Elected government after 2010 to date:**

Elected government faced daunting challenges not only in rebuilding the economy, but also in increasing demands for land restitution confiscated during previous regimes. The creation of the Land Allocation Utilization Scrutiny Committee (established in July 2012), an inter-ministerial cabinet-level committee, led by the Ministry of Environmental Conservation and Forestry, reported a coming. The committee had to focus on preparing a national policy on land use, land use planning and land allocation for investments, including agricultural projects. In October 2014, it was converted into the Inter-ministerial Central Committee for National Land Resources Management (CCNLRM) to implement the land use policy when it was adopted and to draft a national framework law. The government also created the parliamentary land confiscation commission in August 2012; finalized its report in February 2014. The commission was tasked with fighting against the misuse of allocations and recovering land from unauthorized holders. The Ministry of Home Affairs (through General Administration Department, GAD) has been appointed to act if necessary, in accordance with the Commission's recommendations. The commission could only investigate and had no power to resolve land disputes. It has developed numerous reports on disputes over the acquisition of historic land that had to be resolved through adequate compensation. The reports were detailed, but the

committee also prepared a series of summary reports for follow-up. Analysts said the commission's work began to collapse in summary reports because the essence of the problems was diluted or overwhelmed. In many complicated cases with negative historical data, the commission had to determine what happened when, who had what rights and how to calculate the compensation. These cases have not been examined in detail, which has led to a growing discontent between civil society and communities in general. Myanmar does not have a consolidated land policy or land law. Land registers were mainly used for revenue mobilization and not for registration of land rights. The provisions on the recognition and protection of land rights are scattered in different parts of the Constitution, sectoral laws and implementing regulations. Since 2010, the government has taken steps to remedy this situation. In 2012 two land laws were enacted: the law on agricultural land and the VFV law and in 2014 the NLUP was released to the public (Bank W. , 2017).

## **2.2 Land Administration Hierarchy**

The GAD and the SLRD continue to play an important role at all levels of non-forest land administration. The Ministry of Environment and Conservation of Forestry (MoECAF) has the primary responsibility for areas designated as forests. Others, such as the Ministry of Mining, have land sectoral responsibilities, but the responsibility for maps and land data rests with the SLRD. The GAD, of the Ministry of office of the Union Government has branches at the level of township and districts and acts as representative of the central government at these levels. The SLRD pursuant to the MoAI is responsible for cadastral and land registry plans and has branches at state, district and township level. Each township is divided into several circles, each led by a land surveyor who is responsible, among other things, for validating and verifying land records (GAD, 2010).

The administration of land and its uses are mainly of three ministries: Ministry of office of the Union Government / GAD, MoAI / SLRD and MoECAF / Forest Department (FD). These administrators also have the responsibility to protect the lands under their jurisdiction from invasions and occupations and to ensure respect for the prescribed land use. Any transfer of tenancy rights (all farmers are tenants) and any request to change land use must be initiated at the level of the village sector or municipality and must pass through successive levels in the structure to be

definitively approved/approved at state level, after passing a factual verification by the SLRD branch at township and district level. The GAD branch at township level is responsible for processing these requests. For example, land transfer or land use change is a time-consuming and time-consuming process and frequent visits to various offices (GAD, 2010).

In urban areas and in the three major cities - Yangon, Mandalay and Nay Pyi Taw - activities related to land use and property are managed by development committees. They enjoy a wide range of powers in terms of reclassification of use, acquisition of land and buildings and transfer of "ownership" securities. In urban areas, the SLRD also participates in the validation of the transfer of securities and other documents (GAD, 2010).

### **2.3 Forestland Administration**

In Myanmar, forests support the development of different socio-economic sectors and local livelihoods. The relationship between individuals and communities with their lands and resources is usually defined by customary regulations and practices in different states and regions, such as the chin, or by dividing various geographical areas into zones and by specifying their function and management as a mountain community. The rights to own and use various land areas and areas are clearly identified by these traditional agreements. As previously mentioned, the land registers have been prepared for the mobilization of revenues. For different types of land ownership, the mobilization of revenues and institutional agreements were divided between MoAI / SLRD and MoECAAF / Forest Department and the local government led by GAD. This complex legal and regulatory environment has allowed governments to treat agricultural and forest land as state property, sell it freely or assign it to logging or planting or for extended purposes to increase revenue (Bank W. , 2017).

It has often been claimed that the authorities have violated the rights of forest dependent communities in the allocation of land use and in defining the boundaries of forest concessions. Instead of addressing the weaknesses of forest administration, a government-funded land-granting program was launched (from the mid-1970s to the late 1980s) for revenue mobilization. This led to the allocation of forest land to investors, albeit on a modest scale compared to other forest-rich countries in the region such as Indonesia. When the economy began to deteriorate, the



government enacted the law on restrictions on the transfer of real estate in 1987. This law limited the possibility of selling or transferring real estate to foreigners or foreign companies. In the event of the death of a landowner, this also allows the government to confiscate the land or let his family inherit it. However, the impact of forest concessions has been the subject of intense debate over a decade. These concessions are often designed to undermine alternative approaches to rural development that respect the customary or legal claims of local communities on their historical lands. In this context, despite the emphasis on generating income from forest lands, discussions on the administration of forest lands are dominated by the need for recognition and protection of habitual possession, support for community access to forests and forest resources and for programs like community forestry (Bank W. , 2017).

#### **2.4 Administration of Urban Land Areas**

The ministry for the office of the Union Government is present up to the canton level and acts as a liaison ministry between the local governments and the central government. In the past, the Ministry of Home Affairs, through its GAD and its regional, district and township branches, has exercised considerable influence on local development, including land management. As a representative of the central government, GAD at the local level was also the reporting and decision-making center for all other branches of the central government. In effect, the role of the GAD office is also important in the administration of the land. Therefore, while an SLRD branch at a certain local level may have its own work program, on all daily matters; it reported and provided the relevant technical services to the GAD office at the corresponding level. With the planned appearance of municipalities as local self-government throughout the country, municipal governance (decision-making and implementation) will be a determining factor in urban land management (Kyi Pyar Chit Saw& Matthew Arnold, 2014).

In terms of land administration, the areas classified as "urban land" constitute the core of the urban land in Myanmar. The "land of the city" is an area declared by the Ministry of Home Affairs by notification as a city for the purposes of the city law. This type of land is an urban land that does not fall into the categories of free or granted land and is often referred to as "La Na 39" land. Access to this form of land allows the rights holder to use the land for agricultural, housing or other purposes. The land in the city is transferable and can be converted into land under

concession. Currently, GAD and the Ministry of Construction are responsible for the administration of urban residential land. In examining land tenure issues, it is also important to note that Myanmar's urban demographic profile is changing rapidly. The population of Myanmar's urban areas has increased from 4.7 million in 2000 to around eight million in 2014 and is expected to reach 25% by 2025. Moreover, the current demographic profile of Myanmar straining the poor's access to land and housing. According to the 2010 national population census, growth in urban and peri-urban villages is more than twice the national average (Kyi Pyar Chit Saw & Matthew Arnold, 2014).

Furthermore, the prices of urban and peri-urban land are increasing and pushing urban (peri-urban) poor (low-income) families to access adequate and affordable housing and land. The price of land in Yangon has doubled on average between 2007 and 2012. Big investors and the political-economic elite are driving urbanization and urban development in Myanmar. In this sense, this political-economic dynamic has practically deprived land use planners and urban planners. With large-scale land investors driving the urbanization process, development controls are inefficient and unable to discourage urban expansion (gradual use of urban land, specific change policies to designate the new land as urban area, restrictions on the expansion of urban areas, urban service areas). It is necessary to reverse this process by strengthening the planners and developing the institutional capacity. While the poor city dwellers do not have access to the formal land market, they have an informal landed property that must now be regularized. Informal land ownership is common among the urban poor in Myanmar. In general, the formal land registration system is weak and the public sector lacks administrative capacity. This has further burdened poor urban groups. Many factors prevent poor city dwellers, squatter and slum dwellers and other vulnerable groups from obtaining formal land tenure status: complicated laws, high registration costs (money and time), increasing number of land transfer transactions speculative and terrestrial by agricultural families. In these circumstances, there is an informal system in place of a formal system, defined by transactions involving the exchange of money, the documentation and approval of local officials, as well as the payment of property taxes, etc (Kyi Pyar Chit Saw & Matthew Arnold, 2014).

As for the land for poor and low-income urban communities, available reports confirm that there is considerable concern in urban communities about any government-led initiative to improve infrastructure due to the way previous governments (in particular between 1988 and 2010) they managed land and sectoral development programs in the country, they feared that the improvement projects would lead to evictions and civil society and civil society groups; human rights since the 1970s had actually monitored and documented such cases. Critics have pointed out that, on the contrary, continuing to embrace improvements in the field would also lead to greater insecurity, while various approaches and projects in the past have been criticized and overly simplistic and potentially harmful to the rights of poor people. It seems appropriate to evaluate whether a more flexible and innovative approach to guarantee permanence or if another path can have the best chance of achieving the desired result (Kyi Pyar Chit Saw & Matthew Arnold, 2014).

## **2.5 Customary Tenure and Community Forestry**

Myanmar has several types of ordinary possession of the communal land. In most cases, agricultural land with rotational set-aside is considered common property in mountain communities. The Myanmar Constitution of 1948 recognizes the existence of culturally diverse communities, but not their institutions, organizations, laws and land rights. This weakens the security of ownership of these groups. The nationalization of land and resources and the placement of each village leader in the hierarchical system of government deprived the communities of their autonomy and territorial resources. Only a handful of village leaders continued to defend the customary regime and helped habitual practices survive and recover in ongoing discussions. The social structures of ethnic groups and mountain communities are crucial for the establishment of sustainable land and resource management systems within these groups and the territories they occupy. The community cannot protect access to resources. However, many reports indicate that even today the usual institutions and practices are important to defend the land rights and natural resources of local communities. Legal and political frameworks should focus on these institutions to strengthen and revitalize them during the implementation of community programs. It is in this context that we must understand the importance of customary practices (and shifting cultivation) in the land (FAO, MOALI & LIFT, 2016).

Shifting cultivation practices (taungya) and lack of safe possession: based on the information available, the number of itinerant farmers is estimated at between 2 and 20 million farmers at different intensities covering about 23-25% of the earth's surface. This represents about half of the Myanmar plateau population. Traditional roaming cultivation systems appeared to be field surveys in Southeast Asia that showed that secondary vegetation after rotational growing with longer fallow often has a diversity of species comparable to more mature forests. Disappearance can be harmful to the collection of food, medicine, firewood and other forest products on which the poor depend. The customary systems of agriculture with rotational fallow agriculture among nationalities have many advantages, including the sustainable management of the territory. In the territory of the village, the forests for the protection of watersheds and the collection of firewood and non-wood forest products are considered to be community property. The most common form of traditional occupation which is still valid and which is also recognized by law is the damciucha, literally "the one who first manages the machete is the owner", even if the field is uncultivated. This also applies to taungya and rice fields. Although the 2008 Constitution recognized the taungya as a land use practice, the lack of formal input and support leads to increased marginalization and widespread deforestation. The individual Thai farms are neither registered nor officially surveyed. To adapt to the rotational displacement cultivation system, large areas of land must be kept uncultivated. These are registered as "wastelands" in village records and under the provisions of the Wasteland Act of 1991, they become available for assignment to contractors or commercial enterprises. Rule 116 of the Farmland Rules of the Farmland Law 2012 aims to abolish cultivation change and does not consider essential deer for the agricultural system. On the other hand, the land use policy recognizes the traditional taungya rotation systems and guarantees that they are protected (Articles 68 and 70). Through access to land tenure guarantees and secure investment inputs, smallholders, including mountain taungya farmers, can be encouraged to make a significant contribution to national poverty eradication goals (FAO, MOALI & LIFT, 2016).

## **2.6 Current Status of Land Mapping and Land-Information Management**

Mapping of the land: in Myanmar, the "cadaster" is the central element of the land administration systems and facilitates the implementation of land use

policies. Although the main purpose of most land registration systems is to support the functioning of land markets, they increasingly play a key role in a broader land administration infrastructure that supports economic development, forest management and land management, environmental and social stability in developed and developing countries. The cadastral survey in Myanmar began in 1876. Subsequently, all the lands were classified according to their ownership and use. The SLRD, which is now under the MoAI, was created during this period. It has divided the smallest administrative unit in the country, the village area into rural areas and the district into urban areas, into "Kwin", which is a survey unit of no more than 600 acres. Kwins are carefully inspected to record every piece of land on a map with a predefined precision. Each Kwin map is associated with three types of registers:

- i. Area statement
- ii. Owner of holdings
- iii. Land parcels

During the British rule, the Boundary Act of 1880 was promulgated and the land was inspected for cadastral maps by the Department of Indian polls. The SLRD was formally established as a department at the Ministry of Agriculture in 1907. The British register of land connected with the tax collection register and the SLRD were appointed for this task. In practice, the SLRD has prepared and issued "tax receipts" for parcels of land. This information usually included information such as the farmer's name, location; cultivated crops and land area. Tax receipts have been linked to Kwin cards for revenue collection. These were not legal proofs of ownership but of factual rights to be cultivated as long as payments were made to the government (FAO, MOALI & LIFT, 2016).

The SLRD has also assumed responsibility for creating Kwin maps with associated records as legal documents. A settlement instruction manual dictated how legal work should be done. All agricultural land and other parcels that paid property taxes were duly marked with clear boundaries and geodetic details. Kwin's maps and legal documents have been transferred to the SLRD Land Registration Unit for further annual returns. The land registry unit had a land register manual for reference. After independence; the SLRD continued its functions without interruptions or changes. In fact, it was one of the few government institutions to continue its technical work after independence without many variations or interruptions. This led to better management

of agricultural land registers and crop statistics in the country for the coming years. However, land registers have not been regularly updated and data collection for crop statistics has not been improved in line with modern technologies or methods. This review revealed that data collection remains manual, boring, laborious and error-prone. Manual data collection and current file management at the SLRD are slow and time-consuming, which can result in staff fatigue and quality problems that may require significant post-processing (Hlaing, Shivakumar & Saw, 2015).

### **2.6.1 Land Information Management**

In Myanmar, reliable and up-to-date information on the earth is limited. Information on non-privileged mountain agricultural land, including land used for long-term subsistence farming, is non-existent. Territorial information on the land is managed by separate ministries; they are not standardized and vary in terms of quality, compatibility, accessibility and ease of use, in particular for non-technical users and citizens. Information held by different spatial mapping and information agencies must be standardized to be compatible and easy to analyze between agencies. (FAO, MOALI & LIFT, 2016).

The SLRD should consider the migration of record and data management to digital systems. Digitization is easy to learn and therefore does not require expensive specialized work; Attributes can be added during the scanning process and high accuracy can be achieved through manual scanning (usually there is no loss of accuracy compared to the original map). The best data conversion strategy would depend on many factors, including data availability and time and resource constraints. The SLRD has two main functions: land registry and cadastral management and crop statistics. The functions of filing and recording the territory of the director of settlement and planning include: registration of the deeds, registration of the territory, and verification of the history of the urban territory in terms of the process assignment of urban land by the local authorities and data on the tax on the property. The functions of the director of territorial administration include: monitoring the assignment of rural land by agricultural land management bodies and monitoring the rules and procedures of existing land laws. The function of the Statistics Division includes the collection of historical data on plots of land such as agricultural production, the area of cultivated land, types of crops and land use (FAO, MOALI & LIFT, 2016).

The accuracy of cadastral maps and standardization of data sets and land registry would be essential if Myanmar decides to set up a computerized LIS and develop a framework for the national spatial data infrastructure (NSDI). The relaunch of the country for this purpose would require considerable resources, extensive equipment, qualified agricultural experts, time and political commitment. However, Myanmar needs to start thinking about it because having a functional LIS will help the government ensure effective land administration. The GIS (Geographic Information System) functionality within SLRD is used only for mapping. SLRD underlined the strong need for training on remote sensing and access to satellite images, which is currently not available due to budget constraints. He noted the potential benefits of a "universal country-wide mapping system". Any future investment (or technical assistance from donors) to MoECAAF should include capacity building to allow SLRD to access and use products derived from remote sensing images and GIS analysis (FAO, MOALI & LIFT, 2016).

#### 2.6.2 Myanmar Land Utilization Pattern

Year	Reserved Forests (Thousand acres)	Current Fallows (Thousand acres)	Net Area Sown (Thousand acres)	Cultivable Waste (Thousand acres)	Other Wood Land (Thousand acres)	Others (Thousand acres)	Total Area (Thousand acres)
2012	45232	1086	29258	13246	37577	40787	167186
2013	45950	1129	29328	13058	36675	41046	167186
2014	45896	1094	29617	13014	36409	41156	167186
2015	45848	1111	29671	12964	36422	41170	167186
2016	45100	1165	29676	12946	36107	41192	167186
2017	45100	1149	29792	13695	34709	41741	167186

Source: MoALI (2012-2017)

In Myanmar, there are six types of land items distinguished based on land utilization. These are reserved forests, current fallows, net area sown, cultivable waste, other wood land and others area. According to the official source (MoALI), total land area is limited but the land utilization pattern is slightly changed. It is obvious that even though the reserved forest area had the lion's share (27 %) in terms of the total land area, it slightly decreased from 45,232 in 2012 to 45,100 thousand acres in 2017.

On the other hand, the land utilization for other purpose is gradually increased from 40,787 in 2012 to 41,741 thousand acres in 2017 due to the decentralization of agricultural land policy and Farmland law 2012.



## **CHAPTER III**

### **CHANGES IN FARMALND GOVENANCE**

Myanmar is largely an agriculture-based economy. According to available statistics, the total area cultivated in Myanmar has increased by 0.67% per annum, from 21.48 million acres in 1960-61 (net sown plus current fallow) to 30.47 million acres (2013-14). At the same time, population growth averaged 2% per year. According to government estimates, about half of the rural population lives on subsistence (Planning, 2015).

Myanmar has 167 million acres (about 67.66 million hectares) of land, of which 26.7 million acres (10.79 million hectares) of arable land, this increased at a relatively moderate rate of 0.86% between 2006 and 2011. The 3.6 million acres (1.46 million hectares) dedicated to permanent crops rapidly increased to 8.97% between 2006 and 2011. The forest coverage of 77.7 million acres (31.46 million hectares) decreased to 0.96 percent between 2006 and 2011. Land availability is 0.6 acres (0.23 hectares) of arable land per capita, corresponding to 0.4 hectares per 1.40 inhabitants per active population in agriculture. Most agricultural land is used for rice production, which uses low-level seed production technologies. Currently, agricultural value added per farm worker is estimated at \$ 194, half that of Vietnam (\$ 367) and Cambodia (\$ 434) and 3.5 times lower than that of Thailand (706). Overall, Myanmar is a rich resource but has low productivity (Planning, 2015)

#### **3.1 Land Policy and Legal Environment**

The involvement of Myanmar's legal and institutional environment is included in the absolute number of existing laws and regulations. At the end of 2014, the land sector was governed by about 70 laws and regulations, creating ambiguities and overlaps. The past scars of land confiscations and forced acquisitions since the 1990s have not yet healed; the entry into force of new laws in 2012 has only added a new level of administrative mechanisms. The influence of these new laws is not yet

clear. The insecurity of the land affects farmers' opinions on these new laws. The unclear provisions of the VFV law increase the government's power to declare the land "fallow" without due process and thus confiscate land from agricultural communities for "public purposes" (FAO, MOALI & LIFT, 2016).

The work of land administration agencies is fragmented, with significant overlaps. The lack of clear judicial authorities and sectorial approaches to the management and administration of the territory results in an unreliable and discretionary application of the policy. A sectorial and classified approach that distinguishes between land administration, land use management and public lands leads to political conflicts that have not been resigned. Rights to customary land are "invisible", largely ignored in practice. It is also not clear how the contributions of public participation, mainly in the acquisition of the territory and in the management of space, will be merged into real decisions, especially after the adoption of the political proposed land use policy (Hlaing, Shivakumar& Saw, 2015).

### **3.2 Land Dispute and Conflict Determination**

In 2012, the government recognized two organs for the resolution of disputes and the confiscation of land: the committee for the evaluation and evaluation of the territory and the committee of inquiry into agricultural lands of the Parliament. The National Commission for Human Rights of Myanmar, recognized by the President in 2011, was also charged with dealing with land grabbing and disputes. Under the law on agricultural land and in the context of the implementation of the LUC, the government instructed the FAB (hierarchically) to resolve the arguments on agricultural land(Hlaing, Shivakumar& Saw, 2015).

Currently, several associations in Myanmar have similar and overlapping mandates and capacities to manage land conflicts. However, as several revisions indicate, these organizations only deal extensively with the indicators rather than the causes of the conflicts and to resolve them. This is partly due to the lack of positioning, capacity and coordination between the various agencies and inconsistent policies and guidelines. Because the formal dispute resolution system normally favors government agencies, they are less effective in resolving disputes between communities and the state. Access to justice is disadvantaged by local political instability, geographical conditions, costs or lack of familiarity with actions. Many of

these agencies, although familiar with local customs rely on larger government facilities, often unsuitable for the framework, to resolve disputes. Applications are expensive and time-consuming. People tend to look for alternative dispute resolution mechanisms. Informal and community-based methods for resolving disputes have produced useful results, especially in mountain areas where habitual traditions are appreciated. The government should observe the informal and quasi-formal mechanisms available for resolving community disputes and guide them to resolve land disputes. An adequate dispute resolution mechanism would strengthen good governance if it was well managed and well-resourced (FAO, MOALI & LIFT, 2016).

### **3.3 Expanding community awareness on land**

Previous knowledge suggested that increasing community awareness and participation in land governance was essential. Identifying the need to work in collaboration with the government, the CSOs have begun to inform the public about the proposed political reforms. It is also important to note that in various sectors of ethnic nationality, particularly those with conflict-related measures, CSOs related to non-state actors and working on the surface have been the source of environmental and land problems. This is particularly evident in the regions of Kachin, Mon and Karen. The government, in turn, appreciates the benefits of disseminating policies and programs, creating space for a more positive relationship between government and CSO. Real and global awareness and communication of the community are important for the proper functioning of the policies and programs of administration and land management. Unless people and communities are well informed before programs start, they will not participate in a systematic and functional way. The public must also understand the devices to respond to their objections and disputes. Government mechanisms are often not well known or understood and lack timely resolution and transparency. Therefore, any land-related investment project should incorporate mechanisms to increase community awareness, participation and monitoring and should include practical mechanisms for resolving complaints (Hlaing, Shivakumar & Saw, 2015).

### **3.4 The Land Nationalization Act (1953)**

In Land Nationalization act 20 chapters consisting 49 articles. They are Name, Affected area of the law, Definitions, Prohibition to transfer, Confiscation, Exemptions, Distribution, Regulations, Rights related to exempted lands, Rights related to distributed lands, Regulations relating to exempted lands, Regulations relating to distributed lands, Agriculturalist association, Central land committee, District land committee, Village or ward land committee, Councils, Authority of Union Land and Rural Development Council, Authority of Divisional Land and Rural Development Council, Authority of District Land and Rural Development Council, Area of councils, Appointment and formation, Transfer of some power from civil law court, Honoring exemption, Public servant, Expulsion of members, Suspension/ Cancellation of Committees, Councils, and Executive bodies, Transitional program, State reclaiming the land by failure to follow regulations of Section 11, State reclaiming the land by failure to follow some regulations of Section 11 repeatedly, State reclaiming the land by failure to follow regulations of Section 12, State reclaiming the land by failure to follow some regulations of Section 12 repeatedly, Demanding for unpaid revenue, Conferring power, Revision, Prohibition of jurisdiction power of civil law courts, Prevention of sale of agricultural land, Use of agricultural land, Using agricultural land by specific mean, Using some specific type of land and preservation, Administration of agricultural lands, Giving out compensation, Granting relief by other means, Ten-members commission, Compensation officers, Punishments for transfer, Punishments for obstruction, Punishments for those who fail to follow orders, Punishments to those who fail to follow eviction orders from District Land Committee, Punishments for offence committed by five or more persons, Bye-laws, Special provision, Resumed land in violation of provisions, Cancellation and unfinished cases, Termination of activities in Syrium (Than Hlyin) Township, Schedule and Schedule II. (Government, 1953)

### **3.4.1 Important Definitions of Land Nationalization Act**

According to the Article 3(b) in Land Nationalization Act (1953), “Agriculturist” means a person will be who works, or who habitually worked prior to that year, any agricultural land, as his principle means of subsistence and With his own hands as a land-holder or as a tenant or as an agricultural laborer. Tenant means a person or organization that occupies land and is liable to pay rent for the said land. Constitutional improvement means any work by which the value of the agricultural land has been permanently increased by the cost of or by the labor of the person in possession of the said agricultural land or his predecessor in interest, and includes any building erected on the agricultural land for the dwelling of a cultivator or for any other person subservient to agriculture; drainage works, irrigation channels, tanks, wells, embankments, roads or other permanent improvements; but does not include the clearance of land for purposes of cultivation, the construction of kazins or improvements not of a permanent nature. (Government, 1953)  
Regarding to the Land revenue, it can be defined as followed:

#### **(i) In the region affected by “The Upper Burma Land and Revenue Regulation**

- (a) Land revenue collected according to soil class rate by the Upper Burma Land and Revenue Regulation and the Canal Act, including [water revenue] [added by Amendment Act No. 22 of 1954 (March 30, 1954)], except cess calculated by full soil class rate by 1947-48 assessment season
- (b) Land revenue collected according to flat rate by the Upper Burma Land and Revenue Regulation and the Canal Act, including [water revenue] [added by Amendment Act No. 22 of 1954 (March 30, 1954)] , except cess calculated by flat rate by 1947-48 assessment season;
- (c) Although paragraphs of (a) and (b) describe soil class rate and flat rate of the land, if the State President considers the land could not be taken revenue accordingly, land revenue, including [water revenue] [added by Amendment Act No. 22 of 1954 (March 30, 1954)], except cess collected usually prior to 1947-48 assessment season;
- (d) Land revenue collected according to fixed demand by the Upper Burma Land and Revenue Regulation and the Canal Act, including [water revenue] [added by Amendment Act No. 22 of 1954 (March 30, 1954)], except cess calculated by fixed demand prior to 1947-48 assessment season;

(e) If the land is different from descriptions in paragraphs (a), (b), (c), and (d), land revenue collected normally from the land, including [water revenue] [added by Amendment Act No. 22 of 1954 (March 30, 1954)], except cess prior to 1947-48 assessment season (Government, 1953).

**(ii) In the region affected by “The Land and Revenue Act”:**

(a) Land revenue collected according to soil class rate by the Land and Revenue Act and the Canal Act, including [water revenue] [added by Amendment Act No. 22 of 1954 (March 30, 1954)], except cess calculated by full soil class rate by 1947-48 assessment season.

(b) Land revenue collected according to flat rate by the Land and Revenue Act and the Canal Act, including [water revenue] [added by Amendment Act No. 22 of 1954 (March 30, 1954)], except cess calculated by flat rate by 1947-48 assessment season.

(c) Although paragraphs of (a) and (b) describe soil class rate and flat rate of the land, if the State President considers the land could not be taken revenue accordingly, land revenue, including [water revenue] [added by Amendment Act No. 22 of 1954 (March 30, 1954)], except cess collected usually prior to 1947-48 assessment season.

(d) If the land is different from descriptions in paragraphs (a), (b), and (c), land revenue collected normally from the land, including [water revenue] [added by Amendment Act No. 22 of 1954 (March 30, 1954)], except cess prior to 1947-48 assessment season (Government, 1953).

**3.4.2 Prohibition of (Land) Transfer and Confiscation**

It is prohibited, as from the commencement of this Act, to mortgage, or to sell or to transfer by some other means or to divide the lands, if the act is against this Act or against bye-laws of this Act. However, the description of this section is:

- (a) no involvement with confiscation of the land according to this Act, or redeeming of the land prior to exemption; and
- (b) no involvement with transfer of the land to the State.

The President shall, as from the commencement of this Act resume possession of all agricultural lands with the exception of the agricultural lands, mentioning in table 1 of Section 6 of this Act. In section 5 (b) The President shall resume the lands, mentioned in Section 5 (1), by issuing order, declaring the above

mentioned lands will be reclaimed by the State in specified regions by specified dates. In Section 5 (c) The State shall, as from the commencement of this Act resume possession of all agricultural lands with exception of the agricultural lands specified in the sub-section 5(1) and to the extent specified in the said schedule and sub-section 5 (2), notwithstanding anything contained in any other law for the time being in force or in any agreement, contract, deed, grant, lease of license, all rights whatsoever existing therein before the commencement of this Act other than the rights of the State shall thereupon cease absolutely; and no rights whatsoever other than the rights of the State shall, save as expressly provided in section 10, hereafter accrue on such land (Government, 1953).

### **3.4.3 Exemption**

The following agriculturalist families or individuals, who are in possession of any agricultural lands and extent, agricultural lands specified shall be granted exemption from land confiscation by section: The family suitable with the following criteria:

- (a) The family must be agriculturalist family.
- (b) One of the family members must possess the land continuously since January 4, 1948.
- (c) One of the family chief or chiefs of the family must have been living as agriculturalist since January 4, 1948.
- (d) Most of the family members must be citizens of Union of Burma (Government, 1953).

### **3.4.4 Distribution of Agricultural Lands**

In Section 7(1) state that Apart from the land required by the State and if anything repugnant to Section 8 of this Act, the State shall redistribute the agricultural land resumed by Section 5 of this Act, according to its bye-laws and prescribed priorities to agricultural families until to the extent mentioned below.

- (a) An agricultural family which cannot enjoy exemption under Section 6 shall be allotted until area of agricultural land as can be served by one yoke of cattle, or a plot of land which can be tilled by a pair of oxen drawing a harrow (Ta-ton-Hton). If the agricultural family consisting of more than four adults who are

capable of working that area, for each extra individual adult, the family can enjoy allotment, one-fourth (1/4) more area of previously allotted Ta-Ton-Hton field.

(b)(If an agricultural family cannot enjoy exemption under Section 6), the agricultural area of the family, granted for exemption of confiscation under Section 6 is less than an area of Ta-Ton-Hton field, the family shall enjoy land distribution until the area of Ta-Ton-Hton field.

In Section 7(2) state that Although whatever mentioned in Sub-section (1), if the President or other officials appointed by the President may deem necessary, can redistribute lands (land resumed possession by the State under sub-section (1), and other farrow lands under control ofthe State) to families according to bye-laws of this Act and managed by agriculturalist associated founded by section 13 of this Act.In Section 7(3) state that although whatever mentioned in Sub-section (1) and (2), if the President considers it is not possible for redistribution of the land, he or she can manage the land in whatever means, for the land the Presidents resumed possession of the State by reliable reason (Government, 1953).

### **3.4.5 Rights on Exempted Lands and Distributed Lands**

The individual or religious institution who owns the land shall enjoy the following rights, if they are not contradicting against State rights and prescriptions

- (a) The rights to possess the land, cultivating on it and to enjoy all the benefits arising therefrom;
- (b) The rights to sell, transfer possession, and or donation to religious institution and religious personal, to any agricultural association, any agriculturalist, or any non-agriculturalist who commit in written agreement that the land will be used in accordance with the means prescribed in Section 3, paragraph of this Act; and
- (c) The rights to divide, or to exchange the land with other agricultural land.

But in exemption , the specified rights mentioned in paragraph (b) and (c) are enjoyable, if they are along with bye-laws of this Act, and by permission of President or authority appointed by President for this particular matter. If someone inherited the agricultural land, which is non-agriculturalist and who fails to commit in written agreement to work on the land by prescribed means and within specified period, according to the procedure mentioned in Section 3, sub-section (c), the President shall resume the land (Government, 1953).



### **3.4.6 Regulations Relating to Exempted Lands and Distributed Lands**

If the family chief of an agriculturalist family to which agricultural land has been exempted or allotted under section 6 of this Act, the person shall abide the following regulations in regards of the agricultural land.

- (a) The person shall not mortgage, or sell, or transfer the agricultural land by other means to someone, if it is conflicting against provision in section 9 and bye-laws of this Act;
- (b) The person shall not divide, or exchange the agricultural land, if it is conflicting against provision in section 9 and bye-laws of this Act;
- (c) The person is oblique to work on the land, with the prescribed means by section 3(b) of this Act;
- (d) The person shall pay all impositions of the State;
- (e) The person shall not cease to be an agriculturalist family;
- (f) The person shall not be left such land fallow without sufficient cause; and
- (g) The person shall not mortgage, sold or otherwise transfer to any other person to such land (Government, 1953).

### **3.4.7 State Reclaiming the Exempted or Distributed Agricultural Land by Failure to Follow Regulations**

If anyone, who is oblique to follow provision under Section (11), fails to observe any of the conditions specified in Section (11), except provisions in Sub-section (1) and (5) (a), (d) and (e), the authority appointed by President for this matter, shall investigate the matter under bye-laws of this Act, and all the rights under this Act relating to such agricultural lands of those who breach the regulations shall be forfeited to the State without compensation. If anyone, who is oblique to follow provision under Section (12), fails to observe any of the conditions specified in Section (12), the authority appointed by President for this matter, shall investigate the matter under bye-laws of this Act, and all the rights under this Act relating to such agricultural lands of those who breach the regulations shall be forfeited to the State without compensation. The President or the authority appointed by President for this matter, observes if someone owns more area of agricultural land illegally, rather than

exempted area previously granted to him or her under this Act, the extra field shall be forfeited to the State without compensation (Government, 1953).

#### **3.4.8 Prohibition of Jurisdiction Power of Civil Law Courts and Other Authority**

Whatever mentioned in the existing laws, the civil law court shall not contravene in jurisdictions of other matters under this Act, except on the dispute cases of who deserves to receive compensation and dispute on appointing guardian. Any agricultural land shall not be posted a legal warrant on properties concerned or sold to someone either by orders or degrees of civil law courts or other orders made by any existing laws (Government, 1953)

#### **3.4.9 Use of Agricultural Land**

If the President may deem benefit able 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. However, other provisions of this Act mentioned, the President or authority appointed by the President for this particular matter, may deem necessary, any agricultural land can be summoned to use specific mean or method (Government, 1953).

### **3.5 Farmland Law (2012)**

There are 13 chapters consisting 43 articles in FL 2012. They are title, enforcement and definition; permission to use the farmland; rights of person who has the right to use the farmland; terms and conditions to be compiled by the person who has the right to use the farmland; formation of the various levels of Administrative Body of the Farmland (ABF); duties and powers of the Central Administrative Body of the Farmland (CABF); taking action for the failure to comply terms and conditions; settlement of dispute on the right to use the farmland and appeal; indemnities and compensations; utilization of farmland; administration of the farmland; offences and penalties and miscellaneous (Min, 2019)

### 3.5.1 Important Definitions

According to the Article 3(a), farmland means land defined as low land (paddy land), upland (Ya), silty land (KaingKyun), hill-side cultivation land (Taungyar), perennial crops land, nipa palm land (Dhani), garden land or horticultural land or alluvial land. In this expression, housings, religious buildings and precincts within town boundary and village boundary and communal land which are not used for agriculture are not included. Article 3(b) stated that Low Land (Paddy Land) means land on which paddy is mainly cultivated and carried out so as to retain water after obtaining the water for cultivation by natural or artificial means. Alluvial Land means unstable land submerged under water and altered soil texture and structure by yearly water current according to Article 3(c). Right to use the farmland means the State, being the original of all Land, right to use the farmland means to cultivate and use the land by keeping in possession in accord with this law, laws, regulations and by-laws issued under this Law in order to improve agricultural production of the farmland. However the right for extraction of natural resources such as gems, minerals, petroleum and gas above and below the ground are excluded. It stated in Article 3(d) (Min, 2019).

Article 3(e) express the meaning of farmer that a person who corresponds with any of the followings:

- (i) a person who personally works or who has been personally and continuously working the agriculture or livestock breeding or both by using the land as his main livelihood;
- (ii) a person who personally supervises the agriculture or livestock breeding or both by using the land in respective year as his main livelihood;
- (iii) a person who personally works or who supervises throughout the course of business by capitalizing the investment in order to produce seasonal crops, horticultural crops, perennial crops or commercial livestock breeding by using the land;
- (iv) a person who participates in businesses relating to agriculture and livestock breeding by using the land;
- (v) a person who produces and sells seedlings, seeds, breeds and offspring by himself by using the land for agriculture, livestock breeding and the production connecting to them.

The implementing organization is stated in Article 3(k,l) as Department of Agricultural Land Management and Statistics (DALMS), Ministry of Agriculture, Livestock and Irrigation (MoALI) (Min, 2019).

### **3.5.2 Permission to Use the Farmland**

All persons who have the right to use the farmland and organizations which got the right to use the farmland shall apply for the right to use the farmland to the Township Land Records Department, SLRD via the relevant Ward or Village Tract Administrative Body of the Farmland (WABF/VTABF) in accord with the stipulations. Relating to the farmlands existed on the date on which this Law come into force, Township Administrative Body of the Farmland (TABF) shall, with the approval of the relevant District Administrative Body of the Farmland (DABF), issue the certificate to use the farmland to the persons or organizations after registration by paying registration fees to the Township Department in accord with the stipulations. This certificate to use the farmland is the legal document for permission to use the farmland (Min, 2019).

The qualifications of persons who could apply for the right to use the farmland according to the Article 7(a) are as followed:

- (i) the household which has the right to use the farmland shall be the household of the farmer or the member of the household;
- (ii) the head of the household or the member of that household or the guardian of that household who has the right to use the farmland shall be the one who legally carrying out the Land, at present, in accordance with laws in force before this law comes into force;
- (iii) he shall be the legal beneficiary in accord with this Law or in accord with the provisions of the rule carried out under this Law after enacting this Law;
- (iv) he shall attain the age of 18 years;
- (v) he shall be a citizen, an associate citizen or a naturalized citizen (Min, 2019).

If it is an organization, the Article 7(b) stated that the government department, governmental organization, non-governmental organization, company or association which is actually desirous to carry out agriculture in the farmland. The certificates to use the farmland on which right to use is confiscated and the farmland reclaimed by the State from time to time after enforcement of this law are issued by TABF with the

approval of the DABF, to farmers who reside in the relevant ward or village tract if there is no special reason and attain the age of 18 years. TABF have the authority to issue the certificate of right to use the farmland to the person who purchases, transfers or accepts the gift of the right to use the farmland or the person who has the right to use the farmland by inheritance or the person who applies the right to use the farmland in accord with this Law after reclaiming as cultivated land by having the right to carry out and use vacant, fallow and virgin land after registration by paying the registration fees to the Township Land Records Department, SLRD in accord with the stipulations of this law (Min, 2019).

### **3.5.3 Rights of Person who has the Right to Use the Farmland**

The Article 9 stated that the person who has the right to use the farmland shall have the following rights:

- (a) Right to have the farmland in possession, right to use the farmland, right to enjoy the benefit arises from this right;
- (b) Right to sell, mortgage, lease, exchange and gift on the whole or part of the right to use the farmland in accord with the stipulated terms and conditions;
- (c) Right to accept the decision of the relevant court in accord with the existing law if the dispute arises relating the inheritance of the right to use the farmland;
- (d) Right to use the farmland so long as there is no breach of the stipulated terms and conditions;
- (e) Right to use common interest with the investment of village co-operative or with the private investors for the development of agriculture in the farmland;
- (f) Right to use common interest the farmland in accord with the Foreign Investment Law of the Republic of the Union of Myanmar by cooperating with the foreigner or the organization in which the foreigner is included.

To enjoy this opportunity, registration of farmland and issuing of the certificate of the right to use the farmland which are the main function of the Farmland Law are being implemented all over the country. In the whole country, 6.04 million farmers whose holdings are 11 million would be issued the certificate of the right to use the farmland (Min, 2019).

### **3.5.4 Terms and Conditions to be Complied and Taking Action**

Those who have the right to use the farmland must comply the following terms and conditions in accordance with the Article 12:

- (a) shall carry out the farmland as prescribed in this Law;
- (b) shall pay land revenue and other taxes levied by the Ministry relating to the farmland;
- (c) shall register in the relevant Township Department by paying the stamp duty and registration fees for the contract stipulated by the Department in carrying out sale, mortgage, lease, exchange and gift of the right to use the farmland; shall register in the relevant Township Department in accord with the stipulations when the right to use the farmland is obtained by inheritance in accord with the existing law;
- (d) shall have the right to mortgage the right to use the farmland only for the purpose of investment for cultivation and shall mortgage it in the Government Bank or the Bank recognized by the Government;
- (f) shall not trespass and carry out without being granted by the relevant ABF;
- (g) shall not use the farmland by other means without permission.
- (h) shall not change the originally cultivated crop with other kind of crop, without permission;
- (i) shall not be fallow the farmland without sufficient reason;
- (j) shall not sell, mortgage, lease, exchange or gift the farmland during the period before having the right to use the farmland or during the period the dispute arises relating to the right to use the farmland (Min, 2019).

In addition to above terms and conditions, the person who has the right to use the farmland has no right to sell, mortgage, lease, exchange or gift on the whole or part of the right to use the farmland without permission of the Government to any foreigner or any organization in which the foreigner is included. If the person who has the right to use the farmland fails to comply with all or any of the above terms and conditions, the ABF appointed by the Ministry for this purpose may pass the following one or more order after scrutinizing in accord with this Law and the rules issued under this Law:

- (a) Causing to pay the stipulated fine;
- (b) Causing to carry out the farmland according to the stipulated means; expelling the deserved person from the farmland;
- (c) Expelling the buildings constructed without permission on the farmland.

- (d) Removing the buildings constructed without permission on the farmland (Min, 2019).

### **3.5.5 Formation of Various Levels of ABF and Duties and Powers of the CABF**

The Union Government has an authority to form and reform the Central Administrative Body of the Farmland (CABF) in accordance with the Article 15, including the Union Minister for the MoALI as the Chairman, the Deputy Minister for the MoALI as the Vice-chairman, the Director General of the SLRD as the Secretary and the Heads of the relevant Government departments and organizations as member. Accordingly, the Union Government formed the CABF with 20 members and designated the functions of CABF by issuing Notification No. 62/2012 at 12<sup>th</sup> September, 2012. The CABF also has an authority to form and reform the various levels of ABF according to article 16 as followed (Min, 2019).

- (i) Region or State Administrative Body of the Farmland (RABF/SABF);
- (ii) District Administrative Body of the Farmland (DABF);
- (iii) Township Administrative Body of the Farmland (TABF);
- (iv) Ward or Village Tract Administrative Body of the Farmland (WABF/VTABF).

To implement and let the various levels of ABF implement the Farmland Law 2012, there are 11 duties and powers of CABF that promulgated in Article 17 as followed (Min, 2019).

- (a) Assigning duties and powers of the various levels of Region or State, District, Township and Ward or Village Tract ABF;
- (b) Guiding and supervising in respect of registration of the right to use the farmland, issuing certificate of the right to use the farmland, permitting the right to use the farmland and settling the dispute;
- (c) Guiding and supervising the matters carried out in respect of sale, mortgage, lease, exchange and gift of the right to use the farmland;
- (d) Revoking the right to use the farmland of the person who is taken in any administrative action provided in Sub-sections(c) and (d) of Section 19, the farmland which is inclusive of Section 31 and the right to use the farmland of the person who is convicted under Section 37;

- (e) confirming after scrutinizing the submissions relating to the rural and urban housing projects of the RABF/SABF under requirements to construct housing for the growing population and increasing households in rural and urban areas;
- (f) confirming after scrutinizing the submission of the RABF/SABF in respect of the matter to use the farmland for school, health care center, hospital, dispensary, library, village market, cemetery and other required buildings relating to the development of the social life of the village people;
- (g) confirming after scrutinizing the submission of the RABF/SABF in respect of the matter to use the farmland in constructing rice-mills, storehouses of crops, necessary road for production and infrastructure and in keeping the necessary farm-machineries and equipment in changing over the system of manual to mechanized agriculture for the development of the agricultural sector;
- (h) confirming after scrutinizing the submission of the RABF/SABF in respect of the matter to use the farmland for the works of improving and consolidating the farmland to change over the system of manual to mechanized agriculture for the development of agricultural sector;
- (i) granting the right to use the alluvial land and laying down, guiding and supervising the policies relating to the right of such persons;
- (j) guiding and supervising in respect of shifting cultivation;
- (k) performing the duties assigned by the Union Government in respect of the farmland from time to time (Min, 2019).

In addition to above duties and powers, the CABF may empower the appropriate ABF so that the value of the farmland is to be a proper and reasonable rate under the local circumstance in registering at the relevant Township Land Records Department, SLRD relating to the bilateral agreement executed in the presence of WABF/VTABF for the matters of sale, mortgage, lease, exchange and gift of the right to use the farmland under the provisions contained in this law (Min, 2019).

And then, the CABF formed five levels of ABF with each 10 members in Nay pyitaw Council and RABF/SABF and each 5 members in DABF, TABF and WABF/VTABF by issuing Notification No. 1/2012 at 16<sup>th</sup> October, 2012. Moreover, the CABF designated the duties and powers of various levels of ABF by issuing Notification No. 2/2012 at 16<sup>th</sup> October, 2012 (Min, 2019).



### **3.5.6 Settlement of Dispute on the Right to Use the Farmland**

To settle the dispute on the right to use the farmland, the Article 22 to 25 are designated. The WABF/VTABF opens an original case of dispute in respect of the right to use the farmland and shall make examination, hearing and decision. The person who is dissatisfied with the order or decision passed by the WABF/VTABF may appeal to TABF within 30 days. And the person who is dissatisfied with the order or decision passed by TABF may appeal to DABF within 30 days. And lastly, the person who is dissatisfied with the order or decision passed by DABF may appeal to RABF/SABF within 60 days. The decision of the RABF/SABF shall be final and conclusive (Min, 2019).

### **3.5.7 Indemnities and Compensations**

CABF shall coordinate as may be necessary in respect of giving compensation not to grieve absolutely for the matters carried out by the person who has the ownership right to use the farmland including the land confiscated for the interests of the State or the public interests and development by building on such land and managing by other means by the relevant. The person whose right to use the farmland is revoked or the farmland is recovered by the CABF is excluded to enjoy compensation (Min, 2019).

Table 3.1 Main different between The Land Nationalization Act and Farmland Law

No.	The Land Nationalization Act	Farmland Law	Different
	<p><b>Section 3(b)</b>“agricultural land” means land which is occupied or is ordinarily utilized, or has been leased, for the purposes of agriculture of horticulture or husbandry or for purposes subservient to agriculture, horticulture or husbandry and includes the sites of buildings, dwelling houses and other structures on such land; but does not include land that is within a town or village and is occupied as the site of a dwelling (Min, 2019).</p>	<p><b>Section 3(a)</b>“farmland” means designated lands as; paddy land; ya land; kiang land; perennial plant land; dhani land; garden land; land for growing of vegetables and flowers; and alluvial island. In this expression, it does not include land situated within any town or village boundary used for dwelling, religious building and premises, and public - owned land which is not used for agriculture purpose (Min, 2019).</p>	<p>In Land Nationalization Act ,it include all for the purposes of agriculture utilization Land but in Farmland law, it only include paddy land; ya land; kiang land; perennial plant land; dhani land; garden land; land for growing of vegetables and flowers; and alluvial island</p>

No.	The Land Nationalization Act	Farmland Law	Different
2	<p><b>Section 3(c)</b> "Agriculturist" means a person –(i)Who works, or who habitually worked prior to that year, any agricultural land, as his principle means of subsistence –(ii)With his own hands as a land-holder or as a tenant or as an agricultural laborer,</p>	<p><b>Section 3(e)</b> "agriculturist" means any person who is in compliance with any one of the following conditions:-  (1)is or was engaged in agriculture (or) livestock breeding (or) both as his principal means of livelihood (or)(2)supervises the land use for agriculture (or) livestock breeding (or) both as his principal means of livelihood during years concerned;(3) invests capital and engages directly or supervises in the production of seasonal crops, orchard, perennial crops (or) commercial livestock breeding as his principal means of livelihood (or);(4)engaged in agriculture (or)livestock breeding;  (5)using farmland for producing (or) breeding and selling of sapling, seed, and breeding in for agriculture production and livestock breeding purposes;</p>	<p>In Land Nationalization Act "Agriculturist" means Who works, or who habitually worked prior to that year, any agricultural land, as his principle means of subsistence or with his own hands but in Farmland law,it only supervises the land use</p>

No.	The Land Nationalization Act	Farmland Law	Different
3	<p><b>Sectoin4.</b>It is prohibited, as from the commencement of this Act, to mortgage, or to sell or to transfer by some other means or to divide the lands, if the act is against this Act or against by-laws of this Act (Min, 2019).</p>	<p><b>Section 9.</b>The following rights shall be enjoyed in connection with the right for farming:(b)right to sell, pawn, lease, exchange, or donate, in whole or in part of the right for farming in accord with prescribed disciplines (Min, 2019).</p>	<p>In Land Nationalization Act, it prohibited to mortgage, or to sell or to transfer by some other means or to divide the lands, if the act is against this Act or against by-laws of this Act but in Farmland law, it allow right to sell, pawn, lease, exchange, or donate, in whole or in part of the right for farming in accord with prescribed disciplines</p>
4	<p><b>Sectoin37.</b>Any agricultural land shall not be posted a legal warrant on properties concerned or sold to someone either by orders or degrees of civil law courts or other orders made by any existing laws (Min, 2019).</p>	<p><b>Sectoin9.</b>The following rights shall be enjoyed in connection with the right for farming.  (c)disputes arising out of inheritance of farmland shall be decided upon by the law respective court in accord with existing law (Min, 2019).</p>	<p>In Land Nationalization act, it prohibited of jurisdiction power of civil law and other authority but in Farmland Law, it allows</p>

No.	The Land Nationalization Act	Farmland Law	Different
5	<p>Use of agricultural land</p> <p>Sectoin38.(1). 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 (Min, 2019).</p>		<p>In Land Nationalization act, it don't allow any kind of crop without permission of authority, but in Farmland Law, it allows</p>
6	<p>Sectoin 39.However, other provisions of this Act mentioned, the President or authority appointed by the President for this particular matter, may deem necessary, any agricultural land can be summoned to use specific mean or method (Min, 2019).</p>	<p>Sectoin30.In respect of the application to utilize the farmland for other purposes in the interest of the public:-(a)The Central Farmland Management Body shall give permission to utilize the paddy land for other purposes, with the recommendation of the Region or State Farmland Management Body; (b)The respective Region or State Government shall give permission to utilize the farmland for other purposes except paddy land, with the recommendation of the Region or State Farmland Management Body;</p>	<p>In Land Nationalization act, farmland to use other purposes is allow by only the president or authority appointed by the president but in Farmland Law, it decentralization in authority as an example paddy land for other purposes form the Central Farmland Management Body and the farmland for other purposes except paddy land allow by the respective Region or State Government</p>

Source: Department of Agricultural land Management and Statistics

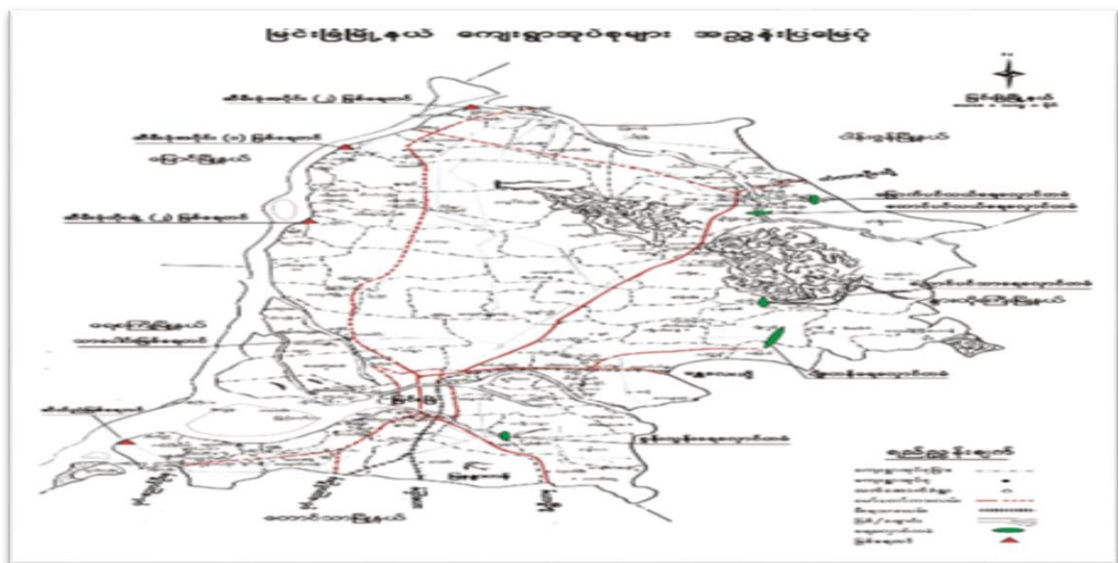
## CHAPTER IV

### ANALYSIS ON SURVEY

#### 4.1 Profile of Myingyan Township

Myingyan Township is located in dry zone area of Myanmar and is composed of plain land. Myingyan Township is 250 feet high above sea level. Myingyan's latitude and longitude is 21° 00' N and 95° 00' E .The Township covers an area of 374.287 square miles. From east to west it stretches a distance of 15.6 miles and from north to south a distance of 24 miles. Myingyan has a population of 282,562 people. Among the population of Myingyan Township, the majority of people are farmers. The neighbors of Myingyan Township are Natogyi Township in the east, Yesago Township in Magway Region and Myaung Township in Sagaing Region, in the west, Taungtha Township in the south and Ngason Township in the north. In Mandalay Region 3,029,936 of agriculture areas was net area sown from 11,075,405 area of total land.

Figure 4.1 Map of Myingyan Township



Source: Myanmar Information Management Unit

Myingyan Township is composed of 20 wards and 65 village tracks. It situated 200 ft. above the sea level. Myingyan's economy is mainly agro-based, including industry and traditional Tabaco blooming economic in central dry zone.

Table 4.1 Land Utilization in Myingyan Township

<b>Year</b>	<b>Reserved Forests ( Acres)</b>	<b>Current Fallows ( Acres)</b>	<b>Net Area Sown (Acres)</b>	<b>Cultivable Waste (Acres)</b>	<b>Other Wood Land (Acres)</b>	<b>Others (Acres)</b>	<b>Total Area (Acres)</b>
2012	-	1014	166544	4171	21420	47913	239544
2013	-	1010	166548	4171	21420	47913	239544
2014	-	1986	158551	3671	21420	55434	239544
2015	-	1203	159334	3671	21420	55434	239544
2016	-	1034	159501	3671	21420	55434	239544
2017	-	1214	159323	3671	21420	55434	234544

Source: Department of Agricultural land management and Statistics (2017 Annual Report)

In Myingyan Township, there are six types of land items distinguished based on land utilization. These are reserved forests, current fallows, net area sown, cultivable waste, other wood land and others area. According to the official source (DALMS), total land area is limited but the land utilization pattern is slightly changed. It is obvious that even though the net sown area had the largest part (69.5 %) in terms of the total land area, it slightly decreased from 166,544 in 2012 to 159,323 acres in 2017. On the other hand, the land utilization for other purpose is gradually increased from 47913 in 2012 to 55434 acres in 2017 due to the decentralization of agricultural land policy and Farmland law 2012.

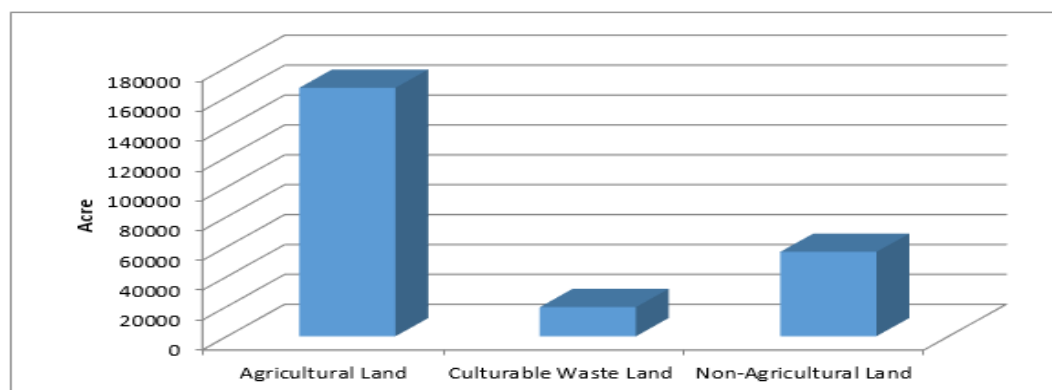
#### **4.1.1 Myingyan's Regional Economy**

In Myingyan district, Myingyan Township had 164,208 of agriculture areas from 239,544 areas of total land and 5% of agricultural land in Myingyan district. Myingyan Township is an agriculture based township and rapidly developing township in Mandalay Region.

Its land use and crop production play crucial role for the economy and living standard of the people of the township. At the same time the use of agricultural land

by other means is increasing for various purposes in parallel with the development of the economy. There are five major crops available, maize (corn), sesame, pigeon-pea, tobacco (Myanmar) and Groundnut in Myingyan Township.

Figure 4.2: Land Utilization of Myingyan Township



Source: Department of Agricultural land management and Statistics

## 4.2 Survey Design

In this study, the questionnaires to farmers who use of farmland by other purposes, key informants interview were used as the major information sources. In addition to primary data source, secondary data and information were collected from DALMS, Myingyan Township Department of Agricultural land management and Statistics and from different sources of reports, books. Accordingly, quantitative data available from primary as well as secondary data collections were analyzed in order to get the objectives of this study. The study is based on survey research design. Random sampling methods, purposive samplings and sampling based on criteria were used for the selection of study area. Based on those samplings, were selected from Myingyan Township, Myingyan district, Mandalay Region.

### 4.2.1 Sample Design

Random sampling was used in selecting respondents for carrying out data collection methods of questionnaire survey in primary data collection. Based on the availability of respondents and their willingness to participate in survey, 110 households from the whole township were selected.

### 4.2.2 Questionnaire Design

The questionnaire was prepared for the collection of data to know the awareness of farmland by other purposes in compare with Land Nationalization Act (1953) and Farmland law (2012). There are four parts in questionnaire. The first one



is demographic information. The second is the awareness questions of Land Nationalization Act (1953). The third one focuses on Farmland Law (2012). The fourth part is other activities related with farm unitization. For the in-depth study, key informant interview (KII) was conducted by interviewing with village head. There are seven questions concerned with the farmers' perception on the Farmland law and Land National Act 1953 and 2012. The questionnaires are attached in appendix: 2 and 3.

#### **4.3 Analysis on the use of farmland by other purposes after promulgation of Farmland Law (2012)**

According to the survey data, there are 69 male and 41 female and 63% and 41% respectively. Therefore, most of the respondents are male who involve the farmers and other business men lived in Myingyan Township.

Table 4. 2 Demographic Characteristics of the Respondents

Variables	Measuring Group	Respondents	%
Gender	Male	69	63
	Female	41	37
	Total	110	100
Age( Years)	18-39	2	2
	40-49	58	53
	50-59	44	40
	60-69	6	5
	Total	110	100
Education Qualification	Primary school level	31	28
	Middle school level	43	39
	High school level	25	23
	High school graduate	7	6
	College graduate	4	4
	Total	110	100

Source: Survey data, 2019

As above Table 4.2, among the respondents, majority are about 40 to 49 years old and it comprised of (53%) of total respondents and the rest are between 18 and 39 and it is about (2%), between 50 and 59 (40%) and between 60 and 69 (5%) respectively. Regarding to the education level, it is classified into five groups. The

respondents who have the primary school level are 28%, middle school level is 39%, high school level is 23%, high school graduate level is 6% and college graduate level is 4%. Therefore, among the respondents, middle school level respondents are the highest percentage. With high education level, the people who use the farmland by other purposes know the law and it important items.

Table 4.3 Awareness on Land Nationalization Act (1953) and Farmland Law (2012)

Act	Yes		No	
	No.	%	No.	%
Did you know Land National Act?	101	92	9	8
Did you know the Farmland Law?	110	100	0	0
Did you know in Land Nationalization Act (1953) didn't have right to sell mortgage lease exchange and gift on the Whole or part of the farmland?	101	92	9	8
Did you know in the Farmland Law (2012) right to have the farmland in possession right to use the farmland right to enjoy the benefit arises from this right?	110	100	0	0
Did you know in Land Nationalization Act (1953) didn't have right to cultivate any kind of crop or sell agricultural output as they like?	101	92	9	8
Did you know in Farmland Law (2012) did have right to cultivate any kind of crop or sell agricultural output as they like?	110	100	0	0

Source: Survey data, 2019

According to the survey result, 92 % of the respondents known Land Nationalization Act (1953) and 8% of the respondents didn't known Land Nationalization Act (1953).The Land Nationalization Act (1953) enacted in Myanmar for a long time ago, Farmer need to know this act but in that period, awareness of this act is poor.

According to the survey result, 100% of the respondents known Farmland law (2012).The awareness of land use certificate and Farmland law were explained not

only the government but also the International non- government organization and other related organization. In this period, Information technology is rapidly developed, so the respondents easily known from the social media and other resources.

According to the survey result, 92 % of the respondents known in Land Nationalization Act didn't have right to sell, mortgage, lease, exchange and gift on the whole or part of the right to use the farmland and 8% of the respondents didn't know in Land Nationalization Act didn't have right to sell, mortgage, lease, exchange and gift on the whole or part of the right to use the farmland.

100 % of the respondents known in Farmland Law (2012) right to have the farmland in possession, right to use the farmland, right to enjoy the benefit arise from this right. In this period, Information technology is rapidly developed, so the respondent easily known that kind of issue from the social media and awareness of the each stage of the farmland administrative bodies and other related agencies.

According to the results, 92 % of the respondents are known about the Land Nationalization Act (1953) didn't have right to cultivate any kind of crop or sell agricultural output as they like and the rest 8% of the respondents didn't know about the 1953 Land Nationalization Act. Among them, 100% of the respondents know about the Farmland Law (2012) have right to cultivate any kind of crop or sell agricultural output as they like. Therefore, most of the respondents are familiar with the Farmland Law (2012) and opposite of the Land Nationalization Act (1953).

Table.4.4 Types of purpose use of the farmland between Previous Land Nationalization Act (1953) and Farmland Law (2012)

What kind of purposes do you use your farmland in Land Nationalization Act (1953)?	Total	%	What kind of purposes do you use your farmland in Farmland Law (2012)?	Total	%
Residential purpose	0	0	Residential purpose	30	27
Industrial purpose	1	17	Industrial purpose	40	37
Fuel station purpose	0	0	Fuel station purpose	5	5

Grain storage purpose	5	83	Grain storage purpose	23	21
Restaurant purpose	0	0	Restaurant purpose	2	2
Hotel purpose	0	0	Hotel purpose	5	5
Others purpose	0	0	Others purpose	3	3
Total	6	100	Total	108	100

Source: Survey data 2019

According to the survey result, one of the respondents use the farmland by industrial purpose with 17% and another five of the respondents use the farmland by grain storage purpose with 83%. It means only very a few people use the farmland by other purposes in Land Nationalization Act (1953) because of prohibited by the Land Nationalization Act.

According to the survey result, 27 % of the respondents use farmland to residential purpose, 37% of the respondents use farmland to industrial purpose, 5% of the respondent use farmland to fuel station purpose, 21% of the respondents use farmland to grain storage purpose, 2% of the respondents use farmland to restaurant purposes, 5% of the respondent use the farmland by hotel purpose and 3% of the respondent use farmland by other purpose. It means most of the people use the farmland by other purposes in Farmland law (2012). The people who use the farmland in industrial purpose is the highest percentage in Farmland Law (2012). Because Myingyan region were also developed not only agriculture but also in industrialization. No.1 Steel Mill Factory, Mobile Axle Factory, 220 Mega Watt Gas Turbine project with Singapore Company and Solar energy project are based on that region. In Farmland Law (2012), it allow farmer to use other purpose in accord with the stipulated terms and conditions by relevant the Administrative body of the farmland.

Table.4.5 The procedure perception for use of farmland by other purposes in Land Nationalization Act (1953) and Farmland Law (2012)

How do you think the procedure of use of farmland by other purposes in Land Nationalization Act (1953)?	Total	%	How do you think the procedure of use of farmland by other purposes in Farmland Law (2012)?	Total	%
Strongly Difficult	4	67	Strongly Difficult	0	0
Difficult	2	33	Difficult	22	20
Normal	0	0	Normal	57	53
Easy	0	0	Easy	29	27
Very Easy	0	0	Very Easy	0	0
Total	6	100	Total	108	100

Source: Survey data, 2019

According to the survey result, from their point of the person who use the farmland by other purpose view 4% of the respondents is very difficult for them, and another 2% of the respondents is procedure is difficult for the use of farmland by other purposes. It means that most of the people use the farmland by other purposes in Land Nationalization Act (1953) is strongly difficult for them. Because of prohibited by the Land Nationalization Act (1953), Section 4. During the period, according the national land policy of the government strongly prohibited by Food Security view.

In Farmland Law (2012) among the respondents 20% of the respondents response procedure is difficult, 53% of respondents response procedure is Normal and 27% of the respondents response procedure is Easy for them in use of farmland by other purposes. It means that procedure for use of farmland by other purposes in Farmland Law(2012) is normal situation for the people and because of the decentralization of Farmland Law(2012) section 30 (b) the relevant region or state government organization may permit to use the farmland by other means expect low land(paddy) with the recommendation of the region or state administrative body of the farmland.

Table.4.6 Experience in the sale of farmland to other People

Question	Yes		No	
	No.	%	No.	%
Do you have experience in selling your farmland to other People?	6	5	104	95

Source: Survey data, 2019

According to survey data, most of the respondents have not the experience in the sale of farmland land. Among the total respondents 110, 5 % of them have the experience in the sale and the rest 95% do not have the experience in the sale of farmland to other purpose. Therefore, most of the people who have the farmland use their farmland for the cultivation of the various crops as they like.

Table.4.7 The Price condition for selling the farmland

How much you get price for 1 acre?(lakhs)	No.	%
1-25	1	17
26-30	0	0
31-35	3	49
36-40	1	17
41-100	1	17
Total	6	100

Source: Survey data, 2019

Among the people who have the experience of the sale in their farmland, only 1 person gets 25 lakhs for 1 acre with 17%, 3 people get between 31 and 35 lakhs for 1 acre with 49%, another 1 person get 40 lakhs with 17% of them and the last person get the highest price of 100 lakhs for 1 acre with 17% of the respondents. According to the survey data, when the respondents are selling their farmland, they can get the highest price of 100 lakhs for 1 acre with the highest percentage of 49%.

Table.4.8 Kind of main career changed from agriculture

What kind of main career did you change from agriculture?	No.	%
General Worker	1	17
Shopkeeper	2	33
Carpenter	1	17
Restaurateur	0	0
Barber	0	0
Others(Specify)	2	33
Total	6	100

Source: Survey data, 2019

According to the survey results, among the six respondents change main career, one respondent change to the general worker with 17%, another one respondent to the carpenter with also the 17%. Similarly, two respondent changed his career from the owner of the farmland to the shopkeeper and other is 2% respectively.

#### 4.4 Results of the Key Informant Interview

Key informant interview had been conducted with 25 key Village Track chairman of Village Track Administrative Body of the Farmland in twenty five villages who are also employed as village tract administrator. According to the 25 people of the respondents, the results of the key informant interview are as follows:

- (i) How do you know previous Land Nationalization Act 1953 law and Policy?

Nationalization Action Act 1953 land policies had no grant to transfer each other. Farmers were State tenants and because of State's monopoly of agriculture marketing especially the compulsory procurement of crops from farmers at fixed price; insisting to grow planning crops; less yield per acre; using less agricultural inputs and less farming machines; trying so hard to get paddy for food; crops production had less developed. Land policies surely affect crops production. As farmers become

proprietary tenants. The statement of 1953 farm law is clear for the farmer and they did not sell their land. They could apply the principles to activities and systems other than agricultural ones and it seemed more appropriate for the farmers to produce the agricultural products.

- (ii) Do you have any experience village tract land administrative committee or any activities of previous Land Nationalization Act 1953?

Most of the comments of key informants are nearly the same on land policies and land laws because their occupation and functions directly related with farmland. Village tract administrators are responsible for chairman of Village Tract Administrative Body of the Farmland and they are also farmers. Their experiences in farming are over 20 years to 50 years. Regarding with perception on farmland policies and land laws, summary of their views were explained according to their experiences.

- (iii) How do you think the procedure for use of farmland by other purposes in Land Nationalization Act 1953 ?

The procedure of use of farmland by other purposes in Land Nationalization Act is strongly difficult because of the prohibited, as from the commencement of this Act, to mortgage, or to sell or to transfer by some other means or to divide the lands, if the act is against this Act or against by-laws of this Act.

- (iv) How do you know Farmland Law (2012) and Policy?

The awareness of land use certificate and Farmland law was explained not only the government but also the non- government organization. In this period, Information technology is rapidly developed, so as the village tract administrators are responsible for chairman of Village Tract Administrative Body of the Farmland known easily the law and most of the time they made negotiation and judiciaries process between the farmer for land dispute case and also land confiscation case.

- (v) Do you have any experience Village Tract Administrative Body of the Farmland or any activities of Farmland Law?

Most of the comments of key informants are nearly the same on land policies and land laws because their occupation and functions directly related with farmland. Village tract administrators are responsible for



chairman of Village Tract Administrative Body of the Farmland and they are also farmers. Their experiences in farming are over 20 years to 50 years.

- (vi) How do you think the procedure for use of farmland by other purposes in Farmland Law (2012) ?

The procedure of use of farmland by other purposes in Farmland Law is Normal situation for them because the respective Region or State Government gives permission to utilize the farmland for other purposes except paddy land, with the recommendation of the Region or State Farmland Management Body. Democratic Government laid down agriculture policy from horizontal extension to vertical extension for the purpose of to increase yield per acre. Most of the people used farmland to other purpose not only legally granted by law, but also for the development of industrialization and socio-economic infrastructure.

- (vii) How do you think Farmland Law (2012) allow right to sell, mortgage, lease, exchange and gift on the whole or part of the right to use farmland in accord with the stipulated terms and conditions but in Land Nationalization Act 1953 didn't allow?

Current Farmland (2012) is better than previous Land Nationalization Action Act 1953 because in land nationalization didn't have right to sell, mortgage, lease, exchange and gift on the Whole or part of the right to use the farmland and current Farmland Law right to have the farmland in possession, right to use the farmland, right to enjoy the benefit arises from this right. According to the result of key informant interview, most of the respondents are well known about the Land Nationalization Act in 1953 and 2012 and they prefer the 2012 Land Nationalization Act that allows the right to sell, mortgage, lease, exchange and gift on the whole or part of the right to use farmland in accord with the stipulated terms and conditions

## **CHAPTER V**

### **CONCLUSION**

#### **5.1 Findings**

According to the Land Nationalization Act (1953), all farmlands in Myanmar are owned by the state and farmers have no right to own farmland. In the Land Nationalization Act, it is prohibited to mortgage, or to sell or to transfer by some other means or to divide the lands. At the enactment of the Land Nationalization Act (1953) was intended to abolish the landlord system because most of the farmland was owned by the foreigner and landlord. After the enactment of the Farmland Law (2012), people have the right to use farmland, right to have farmland in possession, right to enjoy the benefit arising from this right, right to sell, mortgage, lease, exchange, gift on the whole or part of the right to use the farmland in accordance with the stipulated conditions, right to accept the decisions of the relevant court in accordance with the existing law if the dispute arises relating to the inheritance of the right to use the farmland, right to use common interest with the investment of village co-operative or with the private investors for the development of agriculture in the farmland and right to use common interest in the farmland in accordance with the foreign investment law of Myanmar by cooperating with the foreigner or the organization in which the foreigner is included and allow the farmland for other purposes for the interest of the people. That is a remarkable land reform of Farmland law and policy along the historical period.

Most of the respondents have middle school level education with 39% and 28% is the Primary school level. With education level, the person who uses the farmland for other purposes know the law and its important items. 92% of the respondents know the Nationalization Act (1953) and 8% of the respondents didn't know the Nationalization Act (1953). There is only a few percent who didn't know the law but actually the Land Nationalization Act 1953 had been used many years. 100% of the respondents know the Farmland law (2012). The awareness of land use certificate and Farmland law was explained not only by the government but also by the International non-

government organization and other related agencies. In this period, Information technology is rapidly developed, so the people who use the farmland by other purposes known easily from the social media and other resources.

According to the survey result, 92 % of the respondents known in Land Nationalization Act didn't have right to sell, mortgage, lease, exchange and gift on the whole or part of the right to use the farmland and 8% of the respondents didn't know in Land Nationalization Act didn't have right to sell, mortgage, lease, exchange and gift on the whole or part of the right to use the farmland. 100 % of the respondents known the person who use the farmland by other purposes known in Farm Land Law (2012) right to have the farmland in possession, right to use the farmland, right to enjoy the benefit arise from this right.

About 92 % of the respondents known about the Land Nationalization Act (1953) didn't have right to cultivate any kind of crop or sell agricultural output as they like and the rest 8% of the respondents didn't know about the Land Nationalization Act(1953) . Among them, 100% of the respondents know about the Farmland Law (2012) have right to cultivate any kind of crop or sell agricultural output as they like. Therefore, most of the respondents are familiar with the Farmland Law (2012) and opposite of the Land Nationalization Act (1953).

In questionnaires design, it includes and divided into seven types of purposes from farmland by other purposes. There is only very a few people use the farmland by other purposes in Land Nationalization Act (1953). Because of prohibited by the Nationalization Act 1953, Section 4. During the period, according the national land policy of the government strongly prohibited by Food Security view. In Farmland law (2012), most of the people use the farmland by other purposes because it allow farmer right to have the farmland in possession, right to sell, mortgage, lease, exchange and gift on the whole or part of the right to use the farmland in accord with the stipulated terms and conditions by relevant the administrative body of the farmland.

In Nationalization Act (1953), most of the respondent's response that farmland to other purposes process is strongly difficult for them. Because of prohibited by the 1953 Farm Land Nationalization Act, Section 4. During the period, according the national land policy of the government strongly prohibited by Food Security view. The procedure for use of farmland by other purposes in Farmland Law(2012) is normal situation for the people and because of the decentralization of Farmland

Law(2012) section 30 (b) the relevant region or state government organization may permit to use the farmland by other means expect low land (paddy) with the recommendation of the region or state administrative body of the farmland. Democratic Government laid down agriculture policy from horizontal extension to vertical extension for the purpose of to increase yield per acre. Most of the people used farmland to other purpose not only legally granted by law, but also for the development of industrialization and socio-economic infrastructure.

In this study, there are six people who changed their main careers from the agriculture to another, including the general worker, shopkeeper and they have the experience of selling their farmland because they sold their farmland to other people and changed their profession. When these respondents are selling their farmland, they can get the highest percentages is between 31 lakhs and 35 lakhs per acre.

## **5.2 Suggestions**

The awareness section of land used certificate, the benefit of Farm Land Law and the right to use the farm land was explained as national wide. Although this law used for about 7 years, some of the farmers need to know the awareness of 2012 farm land their opportunity. The farmers had only land as their main asset, their inability to use land as collateral for bank loans has made it difficult for them to access formal credit with lower interest rate for large-scale investment in agriculture. The statement of 1953 farm law is clear for the farmer and they did not sell their land. They could apply the principles to activities and systems other than agricultural ones and it seemed more appropriate for the farmers to produce the agricultural products.

As other benefits, the restriction of sold out or transferred according to 1953 Act, the small scale farmers were protected from landless. The livelihoods of Myanmar's farmer depend primarily on agriculture, as at least two-thirds of the total labor force is engaged directly or indirectly in agriculture –related enterprises. As the farmers received Land Use Certificate, they can be sold out or transferred according to 2012 farmland law. The farmers also have an opportunity to transfer or hire their farm. As the farmer can borrow loan investment from Agricultural Development Bank depending on the type of crop, the land use certificate supports the ownership of the farmers. As a result of sold out their land, it can be declined land ownership of the farmers. Whole or partially in Farmland Law (2012), it can be declined the number of

land ownership of the farmers, especially for small scale farm. As the farmer transfer their farmland, land ownership of the farmers can be declined especially for small scale farmers. If the farmer face any unexpected risk for their livelihood because of seasonally, climate condition, flooding or some disaster risk, the farmer will transfer their farmland to solve the problem. Thus most of the small scale farmers will become landless or renting from large scale farmers. Most of the respondents' response any verse of 2012 land law should be amended and needed to amend. The 2012 Farmland Law can regard some weak points and it need to amend , Thus Land Nationalization Act (1953) is better than Farmland Law (2012) on penalty as for Village Farm Land Administration.

In Land Nationalization Act (1953), farmland to use other purposes is allowed by only the president or authority appointed by the president but in Farmland Law, it decentralization in authority as an example paddy land for other purposes form the Central Farmland Management Body and the farmland for other purposes except paddy land allowed by the respective Region or State Government , to create modern development country, need to be used the farmland by other purposes for the purpose of industrialization and long-term interest development for industrialization of the public and private.

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**APPENDIX 1**

**Sample Data Collection in Twenty Five Village**

Sr	Sample Village	The person who use the farmland by other purpose in village	Respondents		Key Informants	
			Number	Percent	Number	Percent
1	Ywar Se	25	15	60	1	4
2	Ku Ywar	17	7	41	1	6
3	Shar Taw	6	3	50	1	17
4	Si Me khone	7	4	57	1	14
5	ChaungDaung	34	17	50	1	3
6	Kaung Taw	2	2	100	1	50
7	Kyar Tine	1	1	100	1	100
8	PyweBwe	5	4	80	1	20
9	Le Thit	35	19	54	1	3
10	GaungGwe	21	10	48	1	5
11	Joke Pin	5	1	20	1	20
12	KanSint	1	1	100	1	100
13	Na Bu Aine	3	2	67	1	33
14	Son Lone	7	3	43	1	14
15	Pauk	1	1	100	1	100
16	Gwe Pin Yoe	4	3	75	1	25
17	Sa Khar	4	1	25	1	25
18	Nat Htar	3	1	33	1	33
19	Lay Aine Tine	10	5	50	1	10
20	MeePauk	4	2	50	1	25
21	Sin Chaung	1	1	100	1	100
22	Kyi Pin Kan	1	1	100	1	100
23	Koke	5	1	20	1	20
24	Chay Say	3	2	67	1	33
25	Thar Pone	4	3	75	1	25

Source: Survey data, 2019

**APPENDIX 2**  
**SURVEY QUESTIONNAIRE FOR HOUSEHOLD**

Form  <b>Analysis on the changes in usage of Farmland by other purposes after promulgation of Farmland Law(2012) in Myingyan Township</b>  <b>Interview Questionnaire</b>	<b>1A.Geographic Identification</b> 1. State/Region: ----- 2. District :----- 3. Township :----- 4. Village Tract :----- 5. Village :-----
<b>1B.Holding Identification</b>	
Name of holder -----	
Sex 1.Male <input type="checkbox"/> 2.Female <input type="checkbox"/>	
Age <input type="text"/>	
<b>Education Attained (Enter Code)</b> <span style="float: right;"><input type="text"/></span> 01-Primary school level 02-Middle school level 03-High school level 04-High school graduated 05-College graduate	
<b>2. Interview Land Nationalization Act 1953</b>	
2.1 Did you know the Land Nationalization Act (1953)? <span style="float: right;"><input type="checkbox"/></span>	
1 – Yes <span style="margin-left: 150px;">2– No</span>	
2.2 Did you know in land nationalization didn't have right to sell, mortgage, leas,exchange and gift on theWhole or part of the right to use the farmland? <span style="float: right;"><input type="checkbox"/></span>	
2.3 Did you know in land nationalization act, didn't have right to cultivate any kind of crop or sell agricultural output as they like? <span style="float: right;"><input type="checkbox"/></span>	
1 – Yes <span style="margin-left: 150px;">2– No</span>	
2.4 Did you have experience use of farmland by other purposes? <span style="float: right;"><input type="checkbox"/></span>	
1 – Yes <span style="margin-left: 150px;">2– No</span>	
2.5 If Yes in Q.2.4 what kind of purposes do you use your farmland?	
(a) Residential purpose	<input type="checkbox"/>
(b) Industrial purpose	<input type="checkbox"/>
(c) Fuel station purpose	<input type="checkbox"/>
(d) Grain storage purpose	<input type="checkbox"/>
(e) Restaurant purpose	<input type="checkbox"/>
(f) Hotel purpose	<input type="checkbox"/>
(g)Others purpose	<input type="checkbox"/>
2.6 How do you think the procedure use of farmland by other purposes ?	
Strongly Difficult <input type="checkbox"/> Difficult <input type="checkbox"/> Normal <input type="checkbox"/> Easy <input type="checkbox"/> Very Easy <input type="checkbox"/>	
<b>3.Interview the Farmland Law 2012</b>	
3.1 Did you know theFarmland Law (2012)? <span style="float: right;"><input type="checkbox"/></span>	
1 – Yes <span style="margin-left: 150px;">2– No</span>	
3.2 Did you know in the Farmland Law right to have the farmland in possession, right to use the farmland , right to enjoy the benefit arises from this right? <span style="float: right;"><input type="checkbox"/></span>	
1 – Yes <span style="margin-left: 150px;">2– No</span>	
3.3 Did you know in Farmland law(2012), did have right to cultivate any kind of crop or sell agricultural output as they like? <span style="float: right;"><input type="checkbox"/></span>	
1 – Yes <span style="margin-left: 100px;">2– No</span>	
3.4 Did you have experience use of farmland by other purposes? <span style="float: right;"><input type="checkbox"/></span>	
1 – Yes <span style="margin-left: 150px;">2– No</span>	



3.5 If Yes in Q.3.4 what kind of purposes do you use your farmland?

(a) Residential purpose	<input type="checkbox"/>
(b) Industrial purpose	<input type="checkbox"/>
(c) Fuel station purpose	<input type="checkbox"/>
(d) Grain storage purpose	<input type="checkbox"/>
(e) Restaurant purpose	<input type="checkbox"/>
(f) Hotel purpose	<input type="checkbox"/>
(g)Others purpose	<input type="checkbox"/>

3.6 How do you think the procedure of use of farmland by other purposes ?

Strongly Difficult  Difficult  Normal  Easy  Very Easy

**Other Activities**

4.1 Do you have experience in sold your farmland to other People?

1 – Yes  2– No

4.2 If you have yes in , Qestion 4.1, how mcuh you get price for 1 acre?(lakhs)

4.3 If you have been experience , what kind main carrier did you change from agriculture?

(a) General Worker	<input type="checkbox"/>
(b) Shopkeeper	<input type="checkbox"/>
(c) Carpenter	<input type="checkbox"/>
(d) Restaurateur	<input type="checkbox"/>
(e) Barber	<input type="checkbox"/>
(f) Others(Spescify)	<input type="checkbox"/>

**REMARKS/SPACE FOR INTERVIEWER**

**APPENDIX 3**

**SURVEY QUESTIONNAIRE FOR KEY INFORMANT**

<p align="center"><b>Analysis on the changes in usage of Farmland by other purposes after promulgation of Farmland Law(2012) in Myingyan Township</b></p> <p align="center"><b>Key Informant Interview</b> (Village Tract )</p>		<p align="center"><b>1A.Geographic Identification</b></p>	
		<p>1.State/Region _____</p> <p>2.District_____</p> <p>3.Township _____</p> <p>4.Village Tract/_____</p>	
<p align="center"><b>1B.Identification of the Community Leader</b></p>			
<p>Name of village tract leader/departmental staff:_____</p>		<p>Sex: _____</p> <p>1M <input type="checkbox"/> <input type="checkbox"/></p>	
<p>Age: _____</p> <p><input type="checkbox"/></p>			
<p><b>Education Attained (Enter Code)</b></p> <p>01-Primary school level 02-Middle school level 03-High school level 04-High school graduated 05-College graduate</p> <p><input type="checkbox"/></p>			
<p align="center"><b>2. Inerview to Key Informat</b></p>			
<p>a. How do you know previous Land Nationalization Act 1953 law and Policy?</p>			
<p>b. Do you have any experience village track land administrative committie or any activites of previous Land Nationalization Act 1593?</p>			
<p>c. How do you think the procedure for use of farmland by other purposes in Land Nationalization Act 1593 ?</p>			

d. How do you know Farmland Law (2012) and Policy?

e. Do you have any experience Village Tract Administrative Body of the Farmland or any activities of Farmland Law?

f. How do you think the procedure for use of farmland by other purposes in Farmland Law (2012) ?

g. How do you think Farmland Law (2012) allow right to sell, mortgage, lease, exchange and gift on the whole or part of the right to use farmland in accord with the stipulated terms and conditions but in Land Nationalization Act 1953 didn't allow?