

**YANGON UNIVERSITY OF ECONOMICS  
MASTER OF DEVELOPMENT STUDIES PROGRAMME**

**A STUDY ON THE CHALLENGES OF ISSUING THE  
FARMLAND USE CERTIFICATE  
(CASE STUDY OF THANLYIN TOWNSHIP)**

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**AUGUST, 2019**

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A thesis submitted as a partial fulfillment of the requirement for the degree of  
Master of Development Studies.

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## **ABSTRACT**

In the farmland administration of Myanmar, Land Nationalization Act 1953 had been activated until the Farmland Law 2012 came into place. This Law brings new opportunities to the farmers providing the ownership by accessing to Farmland Use Certificates to enjoy the right to sell, mortgage, lease, exchange and gifts their farmlands. The objective of the study is to analyze the people's perception on the issuance of right to use the farmland certificate and identify the challenges on dispense of Land Use Certificate process. The study approached Quota Sampling Method for village identification and Snowball Method for interviewing the 135 farmers in Thanlyin Township. It was found out that 97% of the respondents have positively perceived the benefits of right to sell, mortgage, lease, exchange and gift the farmlands. Moreover, limitation of time and resources, convincing the farmers by promoting awareness, complicated process for application the land use certificates, and higher workload at the regional level were the main challenges identified in the issuance process by the administrative body. Land administrative body is suggested to revise verification of the certificates already issued using outdated maps to the farmers.

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## LIST OF ABBREVIATIONS

ABF	Administrative Body of Farmland
ASEAN	Association of Southeast Asian Nations
CABF	Central Administrative Body of the Farmland
CSO	Central Statistics Organization
DABF	District Administrative Body of the Farmland
DALMS	Department of Agriculture Land Management and Statistics
DOL	Department of Lands
FL	Farmland Law
KII	Key Informant Interviews
LNA	Land Nationalization Act (1953)
LPT	Land Titling Program
NSEDP	National Social and Economic Development Plan
RABF	Regional Administrative Body of the Farmland
SABF	State Administrative Body of the Farmland
SLRD	Settlement and Land Records Department
TABF	Township Administrative Body of the Farmland
TL	Tenancy Law
WABF/ VTABF	Ward or Village Tract Administrative Body of the Farmland

## **CHAPTER I**

### **INTRODUCTION**

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

Land is the crucial resource to any business investment in Myanmar, such as industrialization, natural resources extraction or agricultural investment, which requires the use of land. As Myanmar is also an agricultural based country, agricultural sector becomes the backbone of the country's economy. In Myanmar, there have been implemented the land reforms under the consecutive political regime. The land reforms were gone through by enacting the Land Laws such as Land Nationalization Act 1953, Tenancy Law 1963 and Farmland Law 2012. As the previous Law of Land Nationalization Act 1953, farmers were given only land use rights to cultivate and occupy lands on their holding, which are not allowed to transfer, mortgage or use as collateral.

Farmland Law 2012 allows farmer the rights to have the farmland in possession; to enjoy the benefit arises from the right, and right to sell, mortgage, lease, exchange and gift. Access to transferable right is also incentives for farmers. As they can mortgage their lands for investment in their agricultural related works, they can operate their land based on their requirements and it states that Farmers' perception on farmland laws becomes important nowadays.

Under the Farmland Law 2012, the issuance of the Land Use Certificate to farmers on farmland aims to make the land more secure and reduce the risk of land grabbing. In early 2013, it estimated that there were about 16 million land parcels in rural areas, very few amount of which had been titled. Under an accelerated program, the department issued around 9.3 million farmland certificates during 2013-14.

In Yangon region, total farmland is about 1295016 acres and Thanlyin Township belongs to 60302 acres that is the 4.7% of total farmland of Yangon Region according to the official report of DALMS in 2019. In Yangon Region, 241578 land use certificates have been issued during 2013-14 and among them 11452 of land use certificates have been issued to the farmers in Thanlyin Township. As Thanlyin is

located just across from Yangon City and the existence of Thilawa deep river port, the land price in Thanlyin Township is getting higher than the nearby regional areas. Due to the consequences of higher value in land, land use dispute cases have arisen among the farmers and businesspeople in the area.

Land utilization, ownership and patterns are key role in agricultural development. If the expansion of unutilized land resources provides few opportunities then it will be substantial growth in developing countries. Hence, Agricultural development is crucial for rural welfare and for overall economic development (DALMS, 2019)

This study could benefit in making decision on issuing the farmland certificates through the analysis on survey results with farmers and highlighted the challenges faced in issuing the farmland use certificates. The challenges identified in this study would be very useful information for the stakeholders involved in the process.

## **1.2 Objective of the Study**

This thesis focuses mainly to analyze the people's perception on the issuance of Right to Use the Farmland Certificate and to identify the challenges of dispense of Land Use Certificate Process.

## **1.3 Method of Study**

Descriptive method is used in this study. The primary data is collected by making interviews with the farmers and related administrative body of the farmland. Various research tools such as Individual survey, and KII are used for this study. Secondary data are gathered from the Department of Agriculture Land Management and Statistics DALMS's annual reports, annual publications from Central Statistics Organization (CSO) and from trusted online sources.

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

Thanlyin Township is occupied with 60302 acres of agricultural land, which is 65% of 92149 total land area of the Township and having much agricultural land. Thus, Thanlyin Township is selected for this study as a sample since the land use certificate issuing process is the same for all the 365 townships in Myanmar. There

might be limitation in accessing the official source for the secondary data and 6-month duration for completing study efficiently.

### **1.5 Organization of the Study**

The study consists of five chapters including chapter (1) introduction, rationale for the study, objectives of the study, method of the study and scope and limitation of the study and organization of the study. Chapter (2) is literature review on land policy related with land reform, land administration and tenure and about a brief of Myanmar farmland policies and similar ASEAN Countries. Chapter (3) presents the land reform process of Myanmar under the different period. The difference between farmland reform in Myanmar Farmland Law 2012 and the land Nationalization Act 1953 is analyzed. Chapter (4) expresses the challenges on the issuing of the farmland use certificate in Thanlyin Township. Chapter (5) comprises conclusion, findings and suggestions.

## **CHAPTER II**

### **LITERATURE REVIEW**

#### **2.1 Role of Farmland Utilization in Agricultural Development**

Farmland utilization plays crucial role in agricultural development in any agricultural based economy. Moreover, land is one of the fundamental inputs into agricultural production. Types of lands such as low land, upland, silty land hill side cultivation land, perennial crops land, nipa palm land, garden land or horticultural land and alluvial land are considered under farmland. Although, the purposes of the utilization of all of the farmland in a country are not farming, the role of farmland utilization is important and directly proportional to agriculture development.

In agricultural based countries, it is important to be effect and efficient utilized the farmland resources to increase its contributions in the economy of the county. When farmers motivated by high productivity, good pricing and able to access the market easily, and the utilization of farmland is fully effective and efficient. That is why, the role of government support as well as sound business environment is essential for farmers to utilize their farmland in a sustainable manner. In the case of Myanmar, Farmland Use Certificate gives to farmers by providing legal right to utilize farmland. The farmers are not given to allow trespassing and carrying out the farming activities except issuing such certificates by respective Administrative body of the farmland to them. In addition to the legal supports from the authorities, the other external factors of a country have effects on the utilization of farmlands. Urbanization is one of the factors that discourage farmers to utilize the farmlands as it increases the demand for labor in the manufacturing and service sectors in the urban areas and these labors normally comes from the rural areas leaving their traditional farming business.

Credit market for initial land preparation, accessibility to processing stages and marketing quality crops are influential for farmland utilization. Hence, it is clear that institution arrangements such as marketing systems, price and credit policies a well-functioning legal system and transparently enforced property play an important

role in stimulating or hindering agriculture development (Norton, Alwang and Master, 2010).

## **2.2 Land Policy, Land Reform and Land Administration**

Farmland laws are part of land policies and land administration. Land reform and land tenure are essential for agricultural land while land administration plays an important role for government to establish an equitable system for levying land and property tax.

### **2.2.1 Land Policy**

Land policy is concerned with the definition of the rule of law and the use and ownership of land that is the objectives of the land business while land management is about controlling the processes that put land resources to good effect that is land business strategy. Land administration includes the function involved in implementing land policy; that is land business operations.

Effective land policy for land tenure and efficient land management are essential for poverty reduction, good governance, environment and economic development for all economies getting by land reform. When access to land is planned it provide for sustainable use of land and natural resources. (Steudler and Williamson, 2002).

Land policies are of fundamental important to sustainable growth, good governance, and the wellbeing of and the economic opportunities open to rural and urban dwellers particularly poor people. There are three principles for effective land use policy. First, providing secure tenure to land can improve the welfare of the poor, in particular, by enhancing the asset base of those. At the same time, it creates the incentives needed for investment, a key element underlying sustainable economic growth. Second, facilitating the exchange and distribution of land, whether as an asset or for current services, at low cost, through markets as well as through nonmarket channels, is central to expediting land access by productive but land-poor producers and, the development of financial markets that rely on the use of land as collateral. Third, governments have a clear role to play in promoting and contributing to socially desirable land allocation and utilization (Deininger, 2003).

### **2.2.2 Land Reform**

"Land reform in a narrow sense refers to measures to redistribute land in favor of peasants and small farmers. It may be taken more broadly to embrace consolidation and registration in area where customary tenure is prevalent and also land settlement on new lands" Land reform is so closely linked with the whole development process that issues of development need to be addressed. Given nationally specific experiences, there can be no one theory able to encompass all the variables. There are however basic theoretical relationships between land reform and economic development (Dorner, 1972)

Consequently, land reform was the major feature of the land administration system in many economies. Many countries had implemented land reform programmes especially in Asia. After the independence, as the policy makers attempted to address the inequality in access to land that has resulted from colonial administration. Some countries implemented land reform programme by means of restrictions on individual land holdings either in terms of areas or in terms of number of parcels. However, sometimes land reform and limit on land holdings and tenancy agreements have faced serious opposition from vested interests and have had a number of negative outcomes. The results were that the rural tenancy still exists and tenants are disadvantaged as they have little protection in law. In land reform programme, government's establishment of maximum farm sizes and redistribution of farmland owned by non-farmers to agriculturalists are a common fashion.

### **2.2.3 Land Administration**

The United Nations Economic Commission of Europe (1996) defines land administration as "the process of determining, recording and disseminating information about the ownership, value and use of land when implementing land management policies".

Land administration can also defined as a combination of routine processes that include regulating land and property development and the use and conservation of the land, the gathering of revenues from the land through sales, leasing and taxation and the resolving of conflicts concerning the ownership and use of land (Dale ad McLaughlin, 1999).

Land administration is implemented through sets of procedures to manage information on rights and their protection, such as procedures for land rights include defining how rights can be transferred from one party to another through sale, lease, loan, gift and inheritance, procedures for land use regulation include defining the way in which land use controls are to be planned and enforced, procedures for land valuation and taxation include defining methodologies for valuing and taxing land (FAO 2002).

Few will disagree that inappropriate land policies could constitute serious constant on economic and social development: insecure land tenure, outdated regulations and dysfunctional land institutions constrain private investment and undermine local government's ability to raise taxes in many countries. Highly skewed land ownership distributions and discrimination along lines of gender or ethnicity limit economic opportunities for the disadvantaged groups.

### **2.3 Land Tenure**

Land tenure is the relationship, whether legally or customarily defined, among people, as individual or groups, with respect to land. Land tenure is an institution, i.e., rules invented by societies to regulate behavior. Rules of tenure define how property rights to land are allocated within societies. They defined how access is granted rights to use, control and transfer land, as well as associated responsibilities and restraints. In simple terms, land tenure systems determine who can use what resources for how long, and under what conditions.

Land tenure is an important part of social, political and economic structures. It is multi-dimensional, bringing into play social, technical, economic, institutional, legal and political aspects that are often ignored but must be taken into account. Land tenure relationships may be well defined and enforceable in a formal court of law or through customer structures in a community. Alternatively, they may be relatively poorly defined with ambiguities open to exploitation.

The respective formulation and shaping of land tenure system have a crucial influence on socioeconomic development. The land tenure system, the framework and impetus for individuals and groups dealings, shape and mold the degree and direction of economic development, policy making, power structure within a society, transformation processes and way in which the people relate to their environment. This is especially true for agriculture.

Secure land tenure refers to an assurance that an occupier of land will continue to occupy the land and benefit from the resources of the land without the threat or risk of involuntary removal, and that they can only be evicted by means of a known and agreed legal procedure which must be objective, equally applicable, contestable and independent. In practice, tenure security can never be absolute. It can never be measured directly because it cannot be defined objectively. To a large extent, security is what people perceive it to be.

The drivers for improving security of land tenure are mainly to be found among the urban and rural poor, and vulnerable groups (indigenous people, women, etc.). Because of this, many governments are trying out new forms of land tenure by choosing innovative approaches and inventing simple rights to land that are relatively easy to assign. Improved security of tenure can raise the expected returns from investment and ease credit constraints.

This in turn raises investment levels and productivity. Secure tenure to land helps assure investors that returns to their investment will not be expropriated by government or private agents. Better land tenure also increases access to credit, since land can be used as collateral.

If land tenure is secured, a functioning land market that allows transfer of property of one owner (or a possessor of user rights) to another can help raise agricultural productivity by transferring land from less efficient cultivator to more efficient one.

#### **2.4 Farmland Policies in Some Selected ASEAN Countries**

In order to learn the experience of land reform in ASEAN member countries, this section focuses on the late comers of ASEAN countries Vietnam and Thailand. The farmland policy of Vietnam is identical with Myanmar's. Thailand farmland policy has been experienced with systems of land titles and land registration activities. The followings are stated in their land laws and policy.

Farmland policy of Vietnam is very similar with Myanmar's. Thailand's farmland policy has been well experienced with land titles system for many years and adopted systematic land registration activities. Farmland policies of these countries were stated in their land laws and it has no specific designation as farmland laws.

### **2.4.1 Vietnam Farm Land Policy**

In the early year after assuming power (August 1945), the State of the Democratic Republic of Vietnam was still in its infancy and was confronted by numerous challenges, including “internal hostility and external enemies”, and extremely weak financial base, illiteracy and food shortages, etc. In order to solve these issues as a matter of urgency, the revolutionary administration had to continue to implement the laws and rules of the previous regime regarding farms and land, so long as the party not contrary to policies and approaches adopted them.

The system of land management during this period was governed by two Constitutions: the Constitution of 1946 and 1959. Under these two Constitutions, the State recognized the existence of different types of land ownership: State ownership, collective ownership and private ownership. The Farm Land Reforms of 1953 did not get rid of private ownership but only led to changes for private landowners by confiscating the farms of colonial and feudal owners, landlords and capitalists and giving them to farmers under the slogan of “farms to the cultivators”. About 810,000 hectare was given to more than 2.1 million peasants. Provisions adopted at this point were mainly aimed at protecting the private ownership of farmers in land. Afterwards, in the 1960s, Vietnam implemented collaboration projects in the North, mobilizing farmers voluntarily to contribute their land, cows, buffaloes and other resources to farming cooperatives and production collectivities.

The objective was gradually to establish the socialist base for agricultural production. Private ownership in land decreased, paving the way for development of State and collective ownership. At the time, all legal instruments with respect to land reflected the leading aims of establishing and strengthening the management and use of land owned by the State and collectives in the form of farming cooperatives. Land law during this period was not well codified. Legal instruments mainly consisted of normative documents issued under the existing law, in the form of decisions and decrees of the government, decisions and directives of the Prime Minister, orders and decisions of Ministries or equivalent agencies, etc., seeking to regulate one or more issues in land use and management. After the national unification (April 1975), the most remarkable normative document on land law was decision No. 201/CP, issued by the government on August 1, 1980, on the strengthening of the nationwide management of farmland. This document was comprehensive, and it systematically

set out provisions on the management and use of land. Many of its provisions were later succeed and developed by the Land Law of 1987.

The process of land law reform in this period was led by a series of events. On December 18, 1980, the Sixth Legislature of the Socialist Republic of Vietnam adopted the new Constitution at its 7<sup>th</sup> session. The 1980 Constitution which contained the provision that “Land belongs to the State all under the ownership of the whole people” (Section 19) left a very deep imprint on the system of land law in Vietnam. A land regime under the ownership of the whole people became the basic legal ground for establishing provisions on land use and management. No longer did any form of collective or private ownership in land exist in Vietnam.

During this period, the law on land was codified, as a series of statues were enacted to respond to the demands for land management in the process of national development. These included the Land Law of 1987, the Land Law of 1993, and the 1998 and the 2001 Laws, which amended and supplemented a number of provisions of the 1987 and 1993 Statues. When the first Land Law was promulgated in 1987 and came into effect in 1988, land registration, the establishment of the cadastral file and issues concerning the land use right certificate were laid down officially as part of the State’s administration of land and compliance became a compulsory matter that central government had to direct local governments to implement. The most important features of the 1987 Land law included the establishment of a legal ground for the State to unify its management of all land capital in the country. The gradual establishment of a legal ground to enable the State to protect the legitimate rights and interest of land users; and the determination of legal rules for use of different types of land in order to regulate land management and land use. However, since the 1987 Land Law was enacted in the early years of DoiMoi (innovation), a number of its provisions retained the ideas of the previous regime. The most serious limitation in the 1987 Land Law was its inability to go beyond the outdated “subsidizing nature” of the ‘land relationship’. It did not shift the land relationship from one based on a barter system to one operated on a value system.

In the North and Central coastal provinces, a rapid turnover of agricultural land occurred. Because of lack of administrative capacity, the process of granting land use right certificates took place slowed down. By the end of 1993, only about 1.6 million farmer households (40% of the total) in about 1,500 communes, mainly in the Mekong River Delta, had been granted land use right certificates. The

14 provinces had issued their own temporary certificates because the by-laws guiding the policies of central government had not been extended in a timely manner.

The 1993 Land Law absorbed ideas relating to DoiMoi in several of its provisions. It recognized a price-frame for land (Section 12). It permitted the State to transfer and lease out land to organizations, households and individuals for long-term stable use, and allowed land users to pass on the right to use land to another user within the duration of the lease (Section 1). Section 3 of this Law stipulated that the land user, whether a household or an individual had five transaction rights attached to their land use right: the rights to exchange, assign, lease, bequeath and mortgage the land use right. As a result, the land use right was considered as a property right or a property of the land user. It also contained detailed provisions on the use of different types of land. In addition, the 1993 Law only paid attention to the issues of the rights and responsibilities of households and individuals, but did not include concrete provisions on the rights and responsibilities of other land use entities. This explains why amendments and supplementary provisions were adopted in 1998 and 2001. More details were provided regarding which entities were to be given land use without payment and which entities were to be given land use with payment. The amendments also distinguished entities, which had to pay annual rents for leases from those who made only one payment for the whole period of lease. They further specified the entities, which had to advance a lump sum in rent for a period of several years, with the period of lease for which the rent had already been advanced being not less than five years. They also determined the rights and responsibilities of land users in a way, which corresponded with the different forms of land use.

As a result, of the process of DoiMoi and integration, the 2003 Land Law has adopted primarily. Its provisions strongly reflect the ideas of DoiMoi. The law clearly distinguishes the role of the State in representing land ownership from that of the State in its capacity as the entity in charge of land management. At the same time, the law also approaches the concept of comprehensive management of land resources in close connection with environmental protection by incorporating provisions on the capacity of the Ministry of Resources and the Ministry of Environment in the State's management of land, resources and the environment. A standard form of land use right certificate has to be issued to land users uniformly for all categories of land including properties attached to land (Nguyen, 2010).

**Table 2.1: Predecessors of land sector in Vietnam**

No.	Years	Progress
1.	1946	The Constitution of 1946
2.	1959	The Constitution of 1959
3.	1980	The 1980 Constitution
4.	1987	The Land Law of 1987
5.	1993	The Land Law of 1993
6.	1998	The Land Law of 1998
7.	2001	The Land Law of 2001
8.	2003	The 2003 Land Law

Source: Land Law Reform in Vietnam (2010)

#### **2.4.2 Farm Land Policy of Thailand**

The land administration system in Thailand has a long history. In 1872, King Chulalongkorn introduced procedures to recognize private rights in land. In 1901, land title system was introduced and the Department of Lands (DOL) was established. Land law was consolidated into a Land Code in 1954. The DOL designed and implemented a 20 year Land Titling Program (LTP) to grant secure tenure to agricultural landholders. A formal systems approach was undertaken in the co-financed Thailand Land Titling project commenced in 1984. The success of this long-term project was due to a combination of factors including, strong political support, institutional capacity and commitment, stable legal order, and national economic progress. Land titling activity concentrated initially in the central rice plains, but gradually expanded to other parts of the country (Rattanabirabongse, 1998).

Under the land administration system established by the DOL, title deeds were only issued to farmers by the Provincial Land Offices. The availability of survey control and cadastral maps was therefore a major constraint for DOL in being able to issue land titles to eligible landholders. Lesser documents such as pre-emptive rights or certificates of utilization could be issued without being charted on a cadastral map. These documents were recognized under the Land Code and were administered by the

District Land Offices. While the pre-emptive rights could only be transferred by inheritance, the certificates of utilization could be sold – although, lacking the certainty of the cadastral map, the DOL would only register the transfer of a certificate of utilization after a period of 30 days public notice.

In the 1970s, a new type of certificate of utilization was introduced and this document had the same legal status as the certificates of utilization, the difference is the scale of cadastral map. A major program of systematic registration of rights in rural areas was introduced and in the decade from the mid-1970s about 7.33 million new type of certificate of utilization were issued covering 6.34 million hectare (about 12.3% of the area of Thailand). Studies for the fifth Five-Year National Social and Economic Development Plan (NSED, 1981-1985) estimated that only about 12% of the 23.7 million hectare of occupied agricultural land was held by title deeds, a further 49% was held by lesser documents, 18% was occupied by persons who may have a claim but lacked documentation, and 21% was illegally occupied forest land.

In 1985, the title register held about 4.5 million titles throughout Thailand and in the year to the end of September 1985, there were about 1.6 million registered transactions. The LTP had issued 8,506,929 titles over about 4.87 million hectare to the end of September 2001. Most of the 8,506,929 new titles produced under the LTP to the end of September 2001 by field adjudication. At the end of September 2001 the title register held 18,029,088 titles over about 11.3 million ha (about 22% of the total area of Thailand) and in the year to September 2001 there were over 4 million registered transactions. The increased number of titles indicates the growth of the register through sporadic processes and the increasing efficiency and responsiveness of DOL service delivery.

The success of the land-titling program in Thailand has been due to a number of factors. A major factor has been the clear vision for the project, the long-term plan to achieve this vision and the commitment of Royal Thai Government and the key stakeholders to project implementation. There was a strong policy, legal and institutional framework for land administration in Thailand. Thailand had a long history of land titling and a well-developed legal framework that required minimal changes. The land administrative procedures that had been developed by DOL were efficient and very responsive to public demand. There was public confidence in the land administration system and active participation by the public. In Thailand, various vested interests that complicate projects in other countries – such as public notaries,

private lawyers and private surveyors – were not present. The DOL was a strong organization with a large number of reasonably well educated staff distributed in a network of offices throughout Thailand.

Despite the success of the land titling project in Thailand, it should be noted that task is incomplete and a significant number of Thai citizens have not been able to directly benefit from the project. Law to non-forest land restricted the systematic registration activity under the project. Individual landholders who live in forestland and are entitled to titles can apply for titles under a sporadic process. Over 50 percent of Thailand has been reserved as forestland and there has been significant encroachment of forestland. Various studies have shown that tree-canopy only covers 20-30% of the country and perhaps as many as 12 million people live and work on land deemed forestland. These people have not and cannot benefit from land titling activity until there are some fundamental changes in the policy and legal framework. However, the project has strengthened the DOL and land administration in Thailand so that it is better placed to support future changes in government policy (Feder, 1988).

**Table 2.2 Predecessors of Land Sector in Thailand**

No	Years	Progress
1	1872	Recognize private rights in land.
2	1901	Department of Lands (DOL) was established
3	1954	Land law was consolidated into a Land Code
4	1970	a new type of certificate of utilization was introduced
5	2001	Issued 8,506,929 titles over about 4.87 million hectare to the end

Source: The Thailand Land Titling Project

## 2.5 Review on Previous Studies

Since the study focuses on Farmland Law 2012, there has been not many number of research conducted on the topic. U Tar Lwin, had conducted the perception of farmers on the current farmland law however this study has focused mainly on the challenges faced in issuance of Farmland Use Certificate. U Tar Lwin (2013), pointed out in the study that most of the farmers regardless of age, education and occupied area, are well aware of current land policy because of major activities of Farmland 2012, which is issuing certificates of the right to use the farmland all over the country (Lwin 2013).

In, Vietnam, Nguyen has evaluated the various reforms and assessed the impacts and concluded with the values of the reforms in the study of Land Law Reforms in Vietnam (Nguyen (2010)). The study stated that Vietnam's land law has institutionalized the idea of innovation in terms of the way in which ownership by the Party and the State ought to be perceived in building the market economy. The study examines land law reforms in Vietnam during three post-war periods which are the period between 1945 and 1980, the period between 1980 and 2003, and the period since 2003. It concludes by evaluating the various reforms and assessing their impact and concluded that Vietnam's land law has been revised, supplemented and improved unceasingly, to create a pattern of land management. In addition, the study also added that Vietnam's land law is consistent with the true values of integration and development including the openness, transparency, justice, equality and sustainable development included in values (Nguyen (2010)).

In Thailand, in the 1980s, the Thai government tried to legalize squatters living in certain geographical areas by issuing special titles that allowed for cultivation but restricted the sale and rental of the land. Xavier Gine has pointed out the benefits of land reforms his study of Land Security in Rural Thailand in the 1980s, by allowing for cultivation but restricted the sale and rental of the land (Xavier, 2005). Rattanabirabongse, stated the substantial success the situation in Thailand at the time that the The Thailand Land Titling Project had its genesis and traces the history from that point was pointed out in the study. It was also pointed out the factors which have contributed to the success of the project and also the issues which have emerged and the lessons which have been learnt during the course of the project, Rattanabirabongse (1998).

## **CHAPTER III**

### **FARM LAND POLICY IN MYANMAR**

#### **3.1 Land Reforms Process in Myanmar Under Successive Government**

Land policy and land reforms in Myanmar were down and implemented by the successive government. It can be analyzed into two periods. Myanmar Kings, over land policy was based on the domestic agriculture and subsistence farming and not for commercial farming, merely small scale individual farming because of least developed in transportations and communications.

In Colonial period, the British government enacted land reform and the objective of the reform was to exploit the profit from the land resources. The government encouraged to expand the cultivated land by means of small-scale farming, large-scale farming and cooperative farming. Having recognized the land feudalism that could not develop and increase productivity, the government attempted to increase the productivity on the line of land capitalism. Therefore, the main objective was expansion the cultivated land and collection of land tax.

In the period when Japanese rules in 1942 to 1945, most farmers were forced as porters and laborers for military purposes and it had no land policy and land use activities were only targeted for domestic consumption and military use.

After the war and in the Post Independent Period, to abolish landlordism and grant land to the Tillers, it was provided that, "The State is the ultimate owner of all lands", which was stated in the Section 30(1) of the 1947 Constitution of the Union of Burma. In this regards, the State shall have the right to regulate, alter or abolish land tenures or resume possession of any land and distribute the same for collective or cooperative farming or to agricultural tenants.

In order to abolish landlordism and to work farmers to own land, the government of Myanmar, promulgated laws, especially LNA 1953. It should be noted that it was the first turning point of the country to combat landlordism. The aim of the Land Nationalization Act (1948 amended in 1953) was to confiscate land owned by

the Chettyars, foreign landowners and money lenders who tried to abolish large land holdings and capitalist farming methods distributing land to the Myanmar tillers.

However, there remained areas where the Land Nationalization Act, 1953, (LNA 1953) was not came into force and landlords still occupied these areas and they did not operate the land as usual because they let tenants operate the land. In 1961, the area of land operated by pure agriculturalists reached 8.99 million acres while the areas operated by tenants were 6.99 million acres and showed that landlordism remained.

After the Revolutionary Council came into power in 2<sup>nd</sup> March 1962, the main objective of the government was to nationalize all agricultural land and to form the government tenancy system, the remarkable laws were enacted to combat the remaining landlordism in Myanmar. These are Tenancy Law 1963, enacted in 25<sup>th</sup> March 1963, Peasant's Right Protection Law 1963, enacted in 25<sup>th</sup> March 1963 and Tenancy (Amendment) Law 1965, enacted in 5<sup>th</sup> April 1965.

Farmers did not have the official rights to exchange, transfer, lease, inherit or mortgage their land. Nevertheless, all government's measures were the most progressive in the agrarian history of Myanmar and it was the second turning point of combating landlordism and finally implemented by the Government.

Land tenure system at that time, in accordance with above land laws and policy, was Non-Proprietary Tenure. The government practiced land tiller's right while not giving holder's right (Tenancy Law, 1963).

### **3.1.1 Land Policy and Reform after 1965**

In 1974, the Constitution of the Socialist Republic of the Union of Burma stated in Section 18(a), "The State is the ultimate owner of all natural resources above and below the ground, above and beneath the waters and in the atmosphere, and also of all the land". With this Section, Burma Socialist Programme Party claimed to be abolishing the landlordism for the benefit of all the people in the country.

According to previous farmland laws, the government did not allow the rights to exchange, transfer, lease, inherit or mortgage the agricultural land for fear of comeback of landlordism. The farmers were content with the tilling right because they did not want to become landless farmers. However, in real world, there were so many illegal transferring activities of agricultural land such as buying, selling, leasing, and mortgaging and any means of transfer.

In the constitution of the Republic of the Union of Myanmar 2008), Section 37(a), it is stated that "The Union is the ultimate owner of all land and all natural resources above and below the ground, above and beneath the water and in the atmosphere in the Union". This meant that all land belongs to the State. The Government of the Republic of Myanmar has taken the power in 1<sup>st</sup> April 2011. The Union parliament enacted the distinguished land laws in 30<sup>th</sup> March 2012 that are Farmland Law 2012 and The Vacant, Fallow and Virgin Lands Management Law 2012 in line with the transforming political, economic and social conditions.

On the day after FL 2012 came into force, farmers became proprietary tenants who got the transferable rights with peasant proprietorship that is similar to land holder's right granted in colonial period (Pyidaungsu Hluttaw, 2012).

### **3.2 Current Land Reform in Myanmar**

The Government of the Republic of the Union of Myanmar has taken the power in 1<sup>st</sup> April 2011. The Union parliament (PyidaungsuHluttaw) enacted the distinguished land laws n 30<sup>th</sup> March 2012 as PyidaungsuHluttaw Law No. 10/2012 and 11/2012 that are The Vacant, Fallow and Virgin Lands Management Law 2012 and Farmland Law 2012 in line with the transforming political, economic and social conditions. (Pyiduangsue Hluttaw, 2012). In 31<sup>st</sup> August 2012, these two laws and bylaws came into enforcement and in accordance with FL 2012 section 43, The Land Nationalization Act 1953 (LNA 1953), Tenancy Law 1963 (TL 1963) and Peasant's Right Protection Law 1963 are repealed.

The first step of land reform in any country is to provide secured tenure rights to the individual farmer. Before promulgating the Farmland Law, 2012, (FL 2012) farmers were State tenants or occupancy tenants who got only tiller's right or cultivator's right according to the LNA 1953 and TL 1963. After the day FL 2012 came into force, farmers became proprietary tenants who got the transferable rights with peasant proprietorship that is similar to land holder's right granted in colonial period. It is the most remarkable turning point and third land reform in Myanmar land policy history (Tenancy Law, 1963).

### 3.3 Region and State Wise Holdings and Acres in Myanmar

In Myanmar, land can be categorized as agricultural land and non-agricultural land. Agricultural land refers to cultural wasteland at the disposal of the state and land that is for the purposes of agricultural, housing, religious buildings and precincts within town boundary and village boundary and communal land, which are not important of our country. Myanmar is one of the poorest countries in the world and with the population of 51.4 million according to 2015 census. The 70% of the population is living in rural area and the rest only 30% are in urban areas. From public development point of view, getting the farmland certificated is one of the most important priorities for our country.

Before the administration of democratic government, the tiller used to have the right to till land but not the ownership. According to land laws in force, the government did not give them the rights to exchange, transfer, lease, inherit or mortgage the agricultural land for fear of comeback of landlordism. The farmers contended with the tilling right because they did not want to become landless farmers. But in real world, there were so many illegal transferring activities of agricultural land such as buying, selling, leasing, mortgaging and any means of transfer. In Constitution of the Republic of the Union of Myanmar (2008), section 37(a) stated, "The Union is the ultimate owner of all land and all natural resources above and below the ground, above and beneath the water and in the atmosphere in the Union". This meant that all land belongs to the State. The following Table (3.1) presents the region and state wise total holdings and acres of land in Myanmar (DALMS, 2019)

According to the data in June 2019, there are 1,055,4251 holdings in Union of Myanmar. Sagaing is identified to be the largest number with 1953057 of holdings and Chin State has the smallest number of holdings 32,141 which is 0.30% of total holdings. Yangon, where the study area, Thanlyin Township is located, has 245,340 holdings with 2.32% of total holdings. The details information of holdings and acres in each state and region in Myanmar was presented in the following Table 3.1.

**Table 3.1. Region and State Wise holdings and Acres in Myanmar-(2019-June)**

<b>Sr. No.</b>	<b>Region/State</b>	<b>Number of Total Holdings</b>	<b>Percentage of Total Holdings</b>	<b>Area (Acres)</b>	<b>Percentage of Total Area</b>
1	Nay Pyi Taw	153704	1.45%	302699	1.08%
2	Kachin	170587	1.61%	803877	2.86%
3	Kayar	64872	0.61%	154969	0.55%
4	Kayin	190704	1.81%	896366	3.19%
5	Chin	32141	0.30%	52414	0.19%
6	Sagaing	1953057	18.5%	4558160	16.21%
7	Taninthari	217482	2.01%	777296	2.76%
8	Bago	1114651	10.56%	3333951	11.85%
9	Magway	1759905	16.67%	2987557	10.62%
10	Mandalay	1888125	17.89%	3321853	11.81%
11	Mon	229999	2.18%	1234712	4.39%
12	Rakhine	438594	4.16%	1046808	3.72%
13	Yangon	245340	2.32%	1295016	4.60%
14	Shan	883734	8.37%	2794398	9.94%
15	Ayeyarwaddy	1211356	11.48%	4564842	16.23%
	<b>Union of Myanmar</b>	<b>10554251</b>	<b>100%</b>	<b>28124918</b>	<b>100%</b>

*Source:* Annual Report of Department of Agriculture Land Management and Statistics-June 2019 (DALMS)

### **3.4 Farmland Law 2012**

Farmland Law 2012 consists of 13 chapters and 43 sections. . These are; title, enforcement and its definition, permission to use the farmland, rights of person who has the right to use the farmland, terms and conditions to be complied by the person who has the right to use the farmland, formation of the various levels of

Administrative Body of 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, and offences and penalties and miscellaneous. The following Table (3.2) presents the 13 sections of The Farm Land Policy 2012 and the detailed information of the enacted law can be seen in Appendix A (Pyidaungsu Hluttaw, 2012).

**Table 3.2 Contents of the Farmland Law 2012**

<b>Chapters</b>	<b>Contents</b>
Chapter 1	Title, Enforcement and Definition
Chapter 2	Permission to use the Farmland
Chapter 3	Rights of person who has the right to use the Farmland
Chapter 4	Terms and conditions to be complied by the person who has the right to use the Farmland
Chapter 5	Formation of the various levels of Administrative Body of the Farmland
Chapter 6	Duties and Powers of the Central Administrative Body of the Farmland
Chapter 7	Taking actions for the failure to comply terms and conditions
Chapter 8	Settlement of disputes on the right to use the Farmland and Appeal
Chapter 9	Indemnities and compensations
Chapter 10	Utilization of Farmland
Chapter 11	Administration of the Farmland
Chapter 12	Offences and Penalties
Chapter 13	Miscellaneous

Source: The Farmland Law 2012

### **3.4.1 Definition of Farmer**

According to section 3(e) express, the meaning of farmer that 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 or a person who personally supervises the agriculture or livestock breeding or both by using the land in respective year as his main livelihood or 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 or a person who participates in businesses relating to agriculture and livestock breeding by using the land or a person who produces and sells seedlings, seeds, breeds and off springs by himself by using the land for agriculture, livestock breeding and the production connecting to them.

In section 3(i) stated that the implementing organization is Settlement and Land Records Department (SLRD), Ministry of Agriculture, Livestock and Irrigation (MOALI).

### **3.4.2 Legal Document for Permission to Use the Farmland**

All the people and the organizations who have the rights to use the farmland shall apply for the right to use the farmland to the Township Land Records Department, DALMS (former known as 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.

According to the section 7(a), the qualification of person who could apply for the right to use the farmland is that the household which has the right to use the farmland shall be the household of the farmer or the member of the household, the head of the household or the member of that household, 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, he shall be the legal beneficiary in accord with the law, in accord with the provisions of the rule carried out under this law after enacting this law or he shall attain the age of 18 years, he shall be a citizen, an associate citizen or a naturalized citizen.

According to the section 7(b), it is stated that the government department, governmental organization, non-government organization, company or association which has the right to use the farmland. The certificate 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 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.

### **3.4.3 Right Person, Right to use the Farmland**

The section 9 stated that the person who has the right to use the farmland shall have the rights. These are right to have the farmland in possession, right to use the farmland, right to enjoy the benefit arises from this right; 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, 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, right to use the farmland so long as there is no breach of the stipulated terms and conditions, 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 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 holding are 11 million were issued the certificate of the right to use the farmland.

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

The persons who have the right to use the farmland must comply the terms and conditions in accordance with the section 12. The terms and conditions to be complied are; shall carry out the farmland as prescribed in this Law, shall pay land revenue and other taxes levied by the ministry relating to the farmland, shall register in the relevant township department by paying the stamp duty and registration fees for the contract stipulated by the department in carry 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 and 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, shall not trespass and carry out without being granted by the relevant Administrative Body of 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.

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, ABF appointed by the Ministry for this purpose may pass one or more order after scrutinizing in accord with this law and the rules issued under this law. These orders are causing to pay the stipulated fine, causing to carry out the farmland according to the stipulated means, expelling the deserved person from the farmland and removing the buildings constructed without permission on the farmland.

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

In accordance with the Section 15, the Union Government has an authority to form and reform the Central Administrative Body of the Farmland (CABF), 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 (DALMS) as the Secretary and the Heads of the relevant Government departments and organizations as members.

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 section 16 as, Region or State Administrative Body of the Farmland (RABF/SABF); District Administrative Body of the Farmland (DABF); Township Administrative Body of the Farmland (TABF); Ward or Village Tract Administrative Body of the Farmland (WABF/VTABF).

In Section 17, eleven duties and powers of CABF promulgated. In addition to these 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.

Then, the CABF formed five levels of ABF with each 10 members in Naypyitaw 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 (Pyidaungsu Hluttaw, 2012).

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

The Section 22 to 25 designated by right to use the farmland. 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. In addition, the person who is dissatisfied with the order or decision passed by TABF may appeal to DABF within

30 days. Lastly, the person who is dissatisfied with the order or decision passed by DABF may appeal to Regional Administrative Body of the Farmland or State Administrative Body of Farmland (RABF/SABF) within 60 days. The decision of the RABF/SABF shall be final and conclusive.

### **3.4.8 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.

### **3.4.9 Utilization and Administration of the Farmland**

Utilization of farmland include three ways, the first is application to alter originally cultivated crops to others, the second is using of farmland by other means for the purpose of long-term national interests of the State and the third is application to use the farmland by other means for the interests of the public.

Regarding with the first way, CABF may permit to cultivate other crops in low land (paddy land) after scrutinizing in accord with the stipulations so as not to affect the sufficiency of rice which is the staple crop of the State and the relevant RABF/SABF may, if it is to alter crops on the farmland except low land (paddy land), permit after scrutinizing in accord with the stipulations.

In order to use the farmland by other means for the purpose of long-term national interests of the State, the relevant Ministry that will implement the huge projects may carry out with the approval of the Union Government after obtaining remark of the CABF according to second way.

In line with the third way, CABF may permit to use the low land (paddy land) by other means with approval of the Union Government by scrutinizing actual using area and not to reduce farmland in order to be sufficient foods.

The Union Government also issued the instructions regarding with giving permissions in using of farmland by other means. These instructions are; the CABF should not allow the permissions in using farmland (low land) by other means in

regions states where the staple crop rice is not sufficient, the CABF and the relevant Region or State Government Organization should not allow the permissions in using farmland by other means in places included in irrigated areas, advise how it can be taken action in line with laws, rules and regulations, if there is illegal utilization in farmland by other means.

In confiscating the farmland for the projects of the State interests, only the required minimum area shall be confiscated. The project shall be implemented to complete as soon as possible within the prescribed period and when the project is not carrying out, it shall be returned to the person or organization, which has the original right to use the farmland. The Union Government or the authority assigned by the Union Government for this purpose shall, except summons by other means, continue to keep not to damage pastures and communal land of the village.

In respect of vacant, fallow and virgin lands that are permitted to carry out or use for agriculture and livestock breeding businesses, when the cultivation and production of crops is stable, those who implement the vacant, fallow and virgin lands shall get the rights of person who has the right to use the farmland (Pyidaungsu Hluttaw, 2012).

### **3.5 Current Activities in Line with Farmland Policy**

In implementation of land administration according to current farmland policies, the various levels of ABF are formed. TABF shall, with the approval of the relevant DABF, issue the certificate to use the farmland to the persons or organizations after scrutinizing by WABF/VTABF and TABF; and after registration of right to use the farmland by paying registration fees in accord with the stipulations. And registration of right to use the farmland is implemented by SLRD with cadastral maps which already existed. Those who got the certificates to use the farmland have tenure secured and they become State tenants to proprietary tenants.

Those who worked on the vacant, fallow and virgin lands could not get the same right as the farmers who used the farmland because the vacant, fallow and virgin lands are not included in the world "farmland". However, when the vacant, fallow and virgin lands became farmland after cultivating crops and plants, they shall have the farmland rights. Therefore, the persons who implement the vacant, fallow and virgin lands could get the certificate of the right to use the farmland after changing the vacant, fallow and virgin lands to farmland.

Issuing the certificates to use the farmland has conducted all over the country. In the whole country, 6.04 million farmers whose holdings are 11 million have been issued the certificates of the right to use the farmland.

### **3.6 Comparison of Land Nationalization Act 1953 and Farmland Law 2012**

The Land Nationalization Act 1953 was actively remained until the new Farmland Law (2012) came into force on 31<sup>st</sup> August 2012. Under Land Nationalization Act (1953), in Section – 3 and 4 stated that “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.

In the updated Farmland Law 2012 section 3.(a) it is amended that "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.

The main differences between The Land Nationalization Act (1953) and Current Farmland Law (2012) are under land classification, more rights given to the farmers such as providing land certificates for perennial plant land and land for growing vegetables and flowers. The most significant benefit brought to the farmers by Farmland Law 2012 is that now they have the Right to sell, mortgage, lease, exchange and gift on the whole or part of the right to use the farmland in accordance with the stipulated terms and conditions which were prohibited earlier by The Land Nationalization Act (1953). The more transformations between The Land Nationalization Act (1953) and Farmland Law (2012) are presented in the following Table (3.3) (Pyidaungsu Hluttaw, 2012).

**Table 3.3 Main differences between the LNA (1953) and FL (2012)**

<b>Particulars</b>	<b>The Land Nationalization Act (1953)</b>	<b>The Farmland Law (2012)</b>
Land Ownership	Owned by State	Owned by State
Cost and Benefits	Crops tax to the State	right to have such land in hand, right for farming and gain benefit of such farm;
Rights	Prohibited to mortgage, or sell or to transfer or by some other means or to divide the lands	right to sell, pawn, lease, exchange, or donate, in whole or in part of the right for farming in accord with prescribed disciplines;
Dispute Mechanism for inheritance	The court did not have the right to decide any land disputes	Disputes arising out of inheritance of farmland shall be decided upon by the law respective court in accord with existing law;
Farmland Tenure	The duration of the right for farming is solely decided by the State	The duration of the right for farming shall continue so long as the stipulated conditions are not breached
Scope for Land Development	Land development operation such as doing joint-venture with the purpose of investment was not allowed.	Land development operation are to be carried out by doing joint-venture with the investment of rural cooperative association or private investors
Cooperation with foreign firms	It was prohibited to cooperate with any foreign firms.	In accordance with Foreign Investment Law, foreigner or organization containing foreigner are to be carried out by doing joint-venture;

Source: Author's Classification

The significant differences identified in Farmland Law 2012 from Land Nationalization Act (1952) were more benefits oriented to the farmers from the farmlands, settlement of dispute mechanism related to farmlands, longer duration of ownership, joint venture opportunity and most important of all right to sell, pawn, lease, exchange, or donate, in whole or in part of the right for farming in accord with prescribed disciplines. In addition, the latter law provides to cooperative with foreigner or organization containing foreigners are to be carried out by doing joint-venture in accord with the Foreign Investment Law.

## **CHAPTER IV**

### **ANALYSIS ON SURVEY RESULT**

#### **4.1. Profile of Survey Area**

Thanlyin Township in Yangon Region was selected for the study since the land use certificate process is the same for all the 365 townships in Myanmar. It comprises 17 quarters and 28 village tracts and is the home to the largest port in the country namely Thilawa. As the Township is occupied with 60,302 acres of agricultural land, which is 65% of 92,149 total land area of the Township and having much agricultural land. As Thanlyin is close to Yangon and the land price is getting higher day by day. It resulted that the agriculture lands in the Township are being threatened by the businessmen for industrialization. For all these stated reasons, Thanlyin Township was selected to be the sample area for the study.

#### **4.2 Survey Design**

The survey approached using both quantitative and qualitative data collection tools. The qualitative methods was used through KII with the different level of stakeholders to identify the strengths and weaknesses of dispense of Land Use Certificate Process whereas individual structured interviews were used to analyze the people's perception on the issuance of Right to Use the Farmland Certificate.

##### **4.2.1 Sampling Design and Method**

In Thanlyin Township, there are total 11,594 holdings and among them 11,452 certificates have been issued to the farmers as in 31. March. 2019. The study was selected five Village Tracts under Thanlyin Township and they were Ka La Wae, Nyaung Lay Pin, Nga Pyae Ma, Nyaung Thone Pin and Nga Pa where these villages are close to Yangon and being threatened by the industrialization. The holdings in the study villages ranged from 209 to 407 in maximum. There are total 1792 holdings, or number of Form 7, and 7547 in total area of farmland. The study approached 10% of holdings belong to each village and total 180 holdings owned by 135 farmers were

Individually interviewed. Total 12 KII with the Village Leaders, Revenue Survey, Township Officer and District Officer. The following Table 4.1 presented the study villages, number of holdings in each village and sample size selected for each village.

**Table 4.1 Number of Villages and Surveys**

<b>Sr.</b>	<b>Name of the Villages</b>	<b>Holdings</b>	<b>Area (Acre)</b>	<b>Sample Size</b>	<b>10% of total Holdings</b>
1.	Ka La Wae	407	1532	41	40.7
2.	Nyaung Lay Pin	341	1292	34	34.1
3.	Nga Pyae Ma	499	2380	50	49.4
4.	Nyaung Thone Pin	336	1524	34	33.6
5.	Nga Pa	209	819	21	20.9
<b>Total</b>		<b>1792</b>	<b>7547</b>	<b>180</b>	<b>100%</b>

Source: Survey Data, 2019

#### **4.2.2 Questionnaire Description**

The individual questionnaire was mainly constructed into five sections in order to identify the people's perception on the issuance of Right to Use the Farmland Certificate. The main sections were demographic information of the respondents, number of holdings and acre owned under study and the awareness on Farmland Law 2012 and along with the benefits received by the targeted respondents.

#### **4.3 Analysis on Survey Data**

The study identified the people's perceptions on the issuance of right to use the farmland certificates and the demographic information such as gender, age, education of the respondents were captured and examined accordingly. Secondly, the challenges found out in issuing Farmland Use Certificate at different levels were analyzed and presented in this study.

#### 4.3.1 Gender Distribution of Targeted Farmers

The study approached the 180 sample holdings belong to the 135 farmers for the individually interviews. The gender ratio of the respondent was found out to be dominated by male farmers with 63% followed by 37% female farmers. The male respondents are well informative and much interested to get interviewed than the females as they are leading the farming business of a typical housing. The detailed gender distribution of respondents is described in Table 4.2.

**Table 4.2: Gender Ratio of the Respondents**

<b>Gender</b>	<b>Frequency</b>	<b>Percentage</b>
Male	85	63
Female	50	37
<b>Total</b>	<b>135</b>	<b>100%</b>

Source: Survey Data, 2019

#### 4.3.2 Age Level of Targeted Farmers

The interviews conducted under the study approached 135 respondents with the age ranged from 18 to 70 years. Ages of the respondents were categorized into three levels and the majority of the respondents, 67% lied in the age category of 31 to 50 years. The minimum percentage of 15% respondents fell under the age category of 51 to 70 years old and all the age level was presented in the following Table 4.3.

**Table 4.3. Age Level of the Respondents**

<b>Age Levels</b>	<b>Frequency</b>	<b>Percentage</b>
18 - 30	25	18
31 - 50	90	67
51 - 70	20	15
<b>Total</b>	<b>135</b>	<b>100%</b>

Source: Survey Data, 2019

### 4.3.3 Education level of the respondents

The education level of the respondents has direct relationship with the awareness on the Farmland Laws and regulations related to their farming business. Therefore the study tried to identify the education level of each respondents into different levels. The majority of the respondent with 37% has primary education background followed by 26% in elementary level. The minimum 4% was found out to be in University Level and all the levels were stated in details in following Table 4.4.

**Table 4.4 Education Level of the Respondents**

<b>Particulars</b>	<b>Frequency</b>	<b>Percentage</b>
Monastic	15	11
Primary	50	37
Elementary	35	26
High School	30	22
University	5	4
<b>Total</b>	<b>135</b>	<b>100%</b>

Source: Survey Data, 2019

### 4.3. Total Number of Holding

The study focused on 180 holdings of farmers and the detailed number of parcels comprised in each holding was identified. The parcels were also categorized into four levels from the smallest to the largest number. The maximum percentage was found out be 39% in the category of 1 to 5 parcels which formed 70 holdings by the respondents followed by 33% of 6 to 10 parcels. The maximum number of parcel identified by the study was 16 to 20 in number which formed 20 holdings and contributing 11% to the total holdings. The following Table 4.5 represented the number of parcels comprised in 180 holdings under study.

**Table 4.5 Number of Parcels under the Holdings**

No of Parcels	No of Holdings	Percentage
1 - 5	70	39
6-10	60	33
11-15	30	17
16-20	20	11
<b>Total</b>	<b>180</b>	<b>100</b>

Source: Survey Data, 2019

**4.4.1 Number of areas (Acre) under Holdings**

The number of acres in the targeted 180 holdings comprised minimum 0.1 to 20 acres in maximum. The acres are also classified into seven different categories and 28% of holdings was found out to be the highest by 3.01 to 6 acres of farming land followed by 22% of holdings composed of 6.01 to 9 acres of farming land belong to the 135 farmers. The following table 4.6 described the number of area under the number of holdings respectively.

**Table 4.6 Number of Area under the Holdings**

No of area (Acre)	No of Holdings	Percentage
0.1 – 1.00	10	6
1.01 – 3.00	15	8
3.01 – 6.00	50	28
6.01 – 9.00	40	22
9.01 – 12.00	30	17
12.01 – 15.00	25	13
15.01 – 20.00	10	6
<b>Total</b>	<b>180</b>	<b>100</b>

Source: Survey Data, 2019

#### 4.4.2 Number of Crop in a Year

The study captured the number of crops cultivated on the targeted farming lands in three categories. Among the three types of crops commonly grown in Myanmar, Thanlyin Township was found out in the study that double crop was grown on the 150 holdings whereas single crop was cultivated to the rest 30 holdings. None of the farmers under the study grow multiple crops in the study area. The number of crop information cultivated yearly was presented in the following Table 4.7.

**Table 4.7 Number of Crop Cultivated Yearly**

No of Crop	Number of Holdings	Percentage
Single Crop	30	16
Double Crop	150	84
Multiple Crop	-	-
<b>Total</b>	<b>180</b>	<b>100</b>

Source: Survey Data, 2019

#### 4.5 Purpose on Land Use Certificate

The 2012 Farmland Law has issued farmland law certificates for specific purposes such as agriculture, livestock, for both or others. It was found out under the study that all the 100% holding which was issued land certificated was for the purpose of agriculture only. No other purposes such as livestock or both livestock and agriculture purposes for which land certificate was issued was identified in the survey. The detailed result found out by the study was stated in the following table 4.8.

**Table 4.8 Purpose on Land Use Certificate**

Purpose	Frequency	Percentage
Agriculture	180	100
Livestock	-	-
Both Agriculture and Livestock	-	-
Other (Specify)	-	-
<b>Total</b>	<b>180</b>	<b>100</b>

Source: Survey Data, 2019

#### 4.6 Awareness on Farmland Laws

Based on the findings of the survey, the questions on respondents' awareness to the two Farmland Laws in Myanmar, 84% of the 135 respondents were aware of the Land Nationalization Act 1953 and their awareness has increased as 94% in The Farm Land Law 2012. Therefore, the unawareness on the farmland laws has decreased to 10% in the comparison to two farmland laws highlighted in this study. The following table 4.9 presented the people's awareness between the Land Nationalization Act 1953 and Farmland Law 2012.

**Table 4.9. People's Awareness on the two Farmland Laws**

<b>Farmland Laws</b>	<b>Yes</b>	<b>%</b>	<b>No</b>	<b>%</b>
Do you or any of your family member know The Land Nationalization Act 1953	113	84	22	16
Do you or any of your family member know The Farm Land Law 2012	126	94	9	6

Source: Survey Data, 2019

The Land Nationalization Act 1953 has existed for a long time in the country so the awareness level of respondents was satisfactory. Nevertheless, The Farmland Law 2012 was found out to be aware by many more farmers despite the shorter period of existence due to the awareness programs implemented by Government, NGOs and INGOs. It showed that people's awareness was higher on the Farmland law compared to The Land Nationalization Act 1953.

#### 4.7 Perception on the Right to Use the Farmland Certificate

According to the finding of the study, the perception of the Farmland Law 2012 was identified in five points Likert scale, with presents 5=Very Much, 4=Like it, 3=Neutral, 2=Not Like It and 1=Not At All. The following table 4.10 presents the quantitative results of the survey respondents It was found out that mean 4.33 is significant on the preference on paying registration fees for the contracts to carry out sale, mortgage, lease, exchange and gift. It showed that earlier 1953 Land Nationalization Act provided only the right to cultivation to the farmers whereas the Farmland Law 2012 brought more rights to the farmers. The overall perception of the

respondents can be considered as positive to the Farmland Law 2012 and the detailed responds were stated accordingly in the following table 4.10.

**Table 4.10 Overall Perceptions on The Right to Use the Farmland Certificate**

<b>Particulars</b>	<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>	<b>Mean</b>
Shall pay Land Revenue and Other Taxes	35	50	25	15	10	3.63
Registration fees for the contract to carry out sale, mortgage, lease, exchange and gift	75	42	8	7	3	4.33
Shall register in the relevant Township Department when the farmland is inherited	43	72	14	4	2	4.11
Shall have the right to mortgage, to use the land only for the purpose of cultivation	21	34	23	43	14	3.04
Shall not use the farmland by other means without permission	16	21	26	63	9	2.79

Source: Survey Data, 2019

The study found out that the mean is 4.33 and it can be analyzed that the preference on bearing registration fees for the contract to carry out sale, mortgage, lease, exchange and gift was higher which was not available before the Farmland Use Certificate 2012. However, the mean is 2.79 and it can be stated their opinion on shall not use the farmland by other means without permission as it is limited to do other business activities rather than other means and the area is still needs to be developed.

The overall perception of the respondents towards right to use the farmland use certificate was identified to be positive. The reasons of increase in having positive perceptions identified by this study in 2019 might be due to the awareness promoting programs of INGOs, NGOs and Government since the commencing of Farm 31<sup>th</sup> August. 2012.

#### 4.7.1 Perceptions on the Benefits from Access to Farmland Certificate

Based on the findings of the study, the respondents were interviewed to find out their perceptions on the benefits of accessing Farmland certificates. The common five benefits were disclosed to the respondents and they have ranked the benefits as the following order. It was recorded that right to cultivation was agreed by 132 respondents which is the 97% of the total target population. Right to cooperative the Farmland was the least agreeable by 53 respondents and which is 39% of the total target respondents. The following table 4.11 stated the number of responds to each category.

**Table 4.11 Perceptions on the Benefits on accessing Farmland Certificates**

<b>Benefits</b>	<b>Frequency</b>	<b>% of the target population</b>
Right to Cultivation	130	96
Right to sell, mortgage, lease, exchange and gift	132	97
Ownership of Assets in Hand	120	88
Right to Inheritance	93	68
Right to Co-operative	53	39

Source: Survey Data, 2019

In the above figure 97% of the target population has stated the benefits on right to sell, mortgage, lease, exchange and gift of Farmland Certificate and 96% has opined on right to cultivation. However, right to co-operative was found out to be less benefited to the farmers as only 39% has stated its benefits. It showed the importance of promoting awareness to the farmers in terms of the areas of benefits less scored by the target farmers.

#### **4.8 Challenges in Issuance of Farmland Used Certificates**

In the qualitative data collection, 12 key informants have stated the challenges faced in different levels of the issuance of Farmland Used Certificates to the farmers. The key informants were from the village level to district as five Village Leaders, five Revenue Surveyors, respective Township Officer and District Officer.

According to the village leaders' response, challenges on the issuance of farmland used certificates are in convincing the uninterested farmers to get involved in the opportunity; promoting public awareness is a major requirement in accord to issuing farmland use certificate. In addition, limitations in providing awareness to the farmers on the benefits of accessing to certificate by the officers, the process for application to land used certificate is complicated. Then, the people in charge for the process are not well digested to the policies and there are limitations in providing sufficient information to farmers in extraordinary land issues and the cost for hosting the officers during their field visits to the villages as part of the process. Another challenge is that there are no proper required land records in the farmers' hand to check with the criteria.

As the result of revenue surveyors' response, the challenges are insufficient time to complete the whole process within three months, budgets constrict for the process and the transportation allowance is not provided for the field visit to the villages. In addition, insufficient staffing as well as limitation of knowledge by the staff at the department and the existing cadaster maps are out of dated and there are mismatches in order to verify with the field real situation and leads the conflicts. Other challenges are difficult to convince the farmers in the process, unwilling to bear the initial application cost by the farmers and lack of sound mechanism to settle the land use dispute for the entire process.

As stated by Township Officer from DALMS, challenges on the issuance of farmland used certificates are limited resources such as men, materials and money for the process, the inflation of paper works and process involved demotivate and burden the staff and outdated existing of farmland lists at the department. It is a challenge to verify the area, occupier and location of a holding in the field. Other challenges are limitation of period for the completion of issuance of certificates in the entire township and the mismatches the information at the department and the data provided by the applicants.

As responded by District Officer from DALMS, challenges on the issuance of farmland used certificates are the time limitation for the project, the workload was high for the regional level in taking care of all the townships covered and poor technology to support process to be effective. In addition, limited skill levels of the staff for the new procedure, lack of capacity building support to the department staff for this procedure and too many land use disputes to solve in the district level as a whole.

Therefore, the main challenges identified in this study were summarized as insufficient time to complete the whole process, limited resources such as men, materials and money for the process, convincing the uninterested farmers, ignore the importance of Certificate due to the lack of awareness, limitations in providing awareness to the farmers, complicated process for application to land used certificate, and high workload at the Regional Level.

#### **4.9 Settlement on Farmland Dispute in Thanlyin Township (2012 to 2019)**

According to the key informant interviews with the Township Officer of Thanlyin, it was identified that there have been total 48 farmland disputes aroused in the Township. The majority of the type of dispute was on right to use the Farmland with 85% and the minimum dispute was on 5% on dispute on Inheritance. The detailed information of disputes from the year 2012 to 2019 was presented in the following figure 4.11.

**Table 4.11 Farmland Disputes of Thanlyin Township (2012 to 2019)**

<b>Type of Farmland Dispute</b>	<b>Number</b>	<b>Percentage (%)</b>
Dispute on Farmland Ownership	5	10
Dispute on Right to Use Farmland	41	85
Dispute on Inheritance	2	5
<b>Total Number of Dispute</b>	<b>48</b>	<b>100</b>

Source: Survey Data, 2019

Due to limited time in issuing the farmland certificate and using outdated map and data, mismatch in ownership in Certificates identified challenges occur disputes. Since the 85% of the disputes were on right to use farmland it should be given more awareness on this regard.

## **CHAPTER V**

### **CONCLUSION**

#### **5.1 Findings**

The study highlights the challenges of the issuance of the farmland use certificate through primary data collection and findings under this chapter. The major findings from Vietnam, it was found out that the 2003 Land Law is a standard form of land use right certificate issued to land users uniformly for all categories of land including properties attached to land. Moreover, in Thailand, The 20 year Land Titling Programme commenced in 1984 brought successful results to the country due to strong political support and institutional capacity and commitment.

The 63% of respondents was recorded as males and it can be stated that males were more interested to be interviewed related to the farming sector and are more informative about the concept compared to females. The age of the respondents was found out to be more in the category under 31 to 50 and it showed the active participation of middle aged people in the study as well as in the farming business they get involved in. In terms of education level of the respondents, the majority of respondents 37% is in the primary level. The parcels belong to the respondents was observed to be more in 1 to 5 by 39%, as the study area is close to Yangon and connected with the urban area of Thanlyin where there is significant increase in land pricing. In terms of crop pattern, the study villages in Thanlyin Township were identified to be 84% cultivating double crops. It showed that despite the lack of proper irrigation resource in the villages the farmers have opportunities to their farming business and which can be incentives to access farmland use certificates. Another significant finding of the study was that all the 100% farmers who have accessed to farm land certificate was for the purpose of agriculture and it is matching with the objectives of the government. The main objectives of the study on the perceptions on the issuance of Right to Use the Farmland Certificate was found out that 97% of the respondents stated their benefits on right to sell, mortgage, lease and exchange the farmlands. It was also identified that contract farming was still

unfamiliar with the farmers from the targeted villages as only the 39% stated their perception as benefits to it.

The main findings on the challenges was found out in the study that there was lack of preparation for the process and very limited implementation period for the completion of the farmland use certificate issuance. Despite the 138 days was stated in Farmland Law 2012 for the entire process for issuance of a Farmland Use Certificate, the actual time given for the staffs was only 90 days by force for completion. In addition, capacity building plan to the staff and effective technology support in the process were absent in the process also hamper the issuance of Farmland Use Certificate to the farmers.

## **5.2 Suggestions**

The perceptions levels of the respondents on the issuance of the Farmland Certificate Use Certificate was positive in the findings of the study, however to experience the benefits in reality, the respective authority should do revise verification of the certificates already issued using outdated maps to the farmers. The capacity development inputs to the staff is essential and by conducting effective workshops and sufficient logistic supports to participate in the events. The staff from the focal department should seek for the advantage of technology by using updated digital maps and effective electric records maintenance system.

The main challenge found out was insufficient timing of the process and sufficient timeframe should be granted for the process with the support of effective technology system in order to reduce the paperwork. The adherence to the respective law was essential for any new process implementation and forcing the stakeholders in the process should be avoided for the accuracy of the work. The certificates issued by mistake should be revised through the issuance of directives from the respective governing body for verification and corrections. The knowledge on the farming laws and its benefits should be provided to the farmers.

In order to access the benefits of right to sell, mortgage, lease, exchange and gift the farmers should be aware of their farmland being registered in accordance with the directives stated by the focal department. Aquatic farming is unfamiliar with the respondents and there interest and potential should be found out for the implementation of relevant policies. In addition, the respective regulation should be properly formulated and law enforcement is essential in order to lead the agriculture

sector sustainable and preventing from the sector redirecting to the previous Land Lord System investing the agriculture lands for the profits orientated business.

The agriculture lands issued Farmland Use Certificates should continue doing the business with the stated purpose and law enforcement is crucial for the farmers to adherence. Furthermore, the Farmland Law 2012 only enforcement to the farmers who received Farmland Use Certificate to the adherence of the directives and the law should be revised to cover all the farmers.

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**The Republic of the Union of Myanmar**  
**Pyidaungsu Hluttaw**  
**The Farmland Law**  
**(2012)**

**The Farmland Law**  
**(The Pyidaungsu Hluttaw Law No.11/2012)**  
**(The 8<sup>th</sup> Waxing Day Tagu, 1373 M.E)**  
**(30<sup>th</sup> March, 2012)**

**The Pyidaungsu Hluttaw hereby enacts this Law.**

**Chapter I**

**Title, Enforcement and Definition**

1. This Law shall be called the Farmland Law.
2. This Law shall come into force on the designated date by notification of the President.
3. The following expressions contained in this Law shall have the meanings given hereunder.
  - (a) **Farmland** means land defined as low land (paddy land), upland (Ya), silty land (Kaing Kyun), hill-side cultivation land (Taungyar), perennial crops land, nipa palm land (Dhani), garden land or horticultural land and 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;
  - (b) **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;
  - (c) **Alluvial Land** means unstable land submerged under water and altered soil texture and structure by yearly water current;
  - (d) **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.
  - (e) **Farmer** means 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 relation to agriculture and livestock breeding by using the land;
  - (v) a person who produces and sells seedlings, seeds, breeds and offsprings by himself by using the land for agriculture, livestock breeding and the production connecting to them;
- (f) **Framer household** means members of a family of a farmer, in which the farmer is the head of the household, who live together in the household by being related by blood or by law;
  - (g) **Head of the household** means the head of a household who leads the businesses in the household;
  - (h) **Development by building** means improvement which causes to increase the value of the farmland permanently by the expense or by the service of the person who has the right to use the farmland or of other person who have the right to use the farmland before possession. In that expression, building for the person who carries out the farm to live or to support the farm activities for irrigation and drainage, irrigation canals, lakes, wells, embankments, roads and other activities which are carried out to improve permanently are included, However, land clearing for cultivation, making paddy dyke and the activities which are carried out to improve temporarily are excluded.
  - (i) **Guardian** means the person appointed by the relevant competent court to look after the person who has not attained age of maturity or the person of unsound mind of the property of any of that person or the property of any of that person or the property and the person;
  - (j) **Farmer organization** means the farmer organization formed in accord with any law issued to support the development of rural economy;
  - (k) **Ministry** means the Ministry of Agriculture and Irrigation of Union Government;
  - (l) **Department** means the Settlement and Land Records Department.

## Chapter II

### Permission to Use the Farmland

4. The person who has the right to use the farmland shall apply for the right to use the farmland to the township Department via the relevant ward or village tract Administrative Body of the Farmland in accord with the stipulations.
5. Township Department shall scrutinize the application of the right to use the farmland under Selection 4 in accord with the stipulations and submit it to the relevant Township Administrative Body of the Farmland.
6. Relation to the farmlands existed on the date on which this Law come into force, Township Administrative Body of the Farmland shall, with the approval of the relevant District Administrative Body of the Farmland, issue the certificate to use the farmland to the following person or organization after registration by paying registration fees to the Township Department in accord with the stipulation;
  - (a) if it is a person,
    - (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;
  - (b) if it is an organization, it shall be the government department, governmental organization, non-governmental organization, company or association which has the right to use the farmland.
7. Township Administrative Body of the Farmland shall, with the approval of the District Administrative Body of the Farmland, Issue the certificate to use the farmland to the following person or organization after registration by paying the registration fees to the Township Department in accord with the stipulations relating to 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;
  - (a) if it is a person;
    - (i) he shall carry out the agriculture by using the farmland;
    - (ii) he shall reside in the relevant ward or village tract if there is no special reason;

- (iii) he shall attain the age of 18 years;
  - (iv) he shall be a citizen, an associate citizen or a naturalized citizen;
  - (b) if it is an organization, it shall be the government department government organization, non-governmental organization, company or association which is actually desirous to carry out agriculture in the farmland.
8. Township Administrative Body of the Farmland shall 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 of 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 Department in accord with the stipulations of this law.

### **Chapter III**

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

9. 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.
10. The provisions contained in Sections 4,5,6,7,8 and 9 of this Law shall not apply with the granting of alluvial land.
11. The granting alluvial land shall be prescribed in the rule made under this Law.

**Chapter IV**  
**Terms and Conditions to be Complied by the Person who has**  
**The Right to Use the Farmland**

12. The person who has the right to use the farmland;
- (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;
  - (d) 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;
  - (e) 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 Administrative Body of the Farmland;
  - (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;
13. If the dispute relating to the right to use the farmland arises after this Law has come into force, it shall have the right to settle legally only after registration in the Department.
14. The person who has the right to use the farmland shall not 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.

**Chapter V**  
**Formation of the Various Levels of Administrative Body of the**  
**Farmland**

15. The Union Government;
- (a) shall form Central Administrative Body of the Farmland including the Union Minister for the Ministry of Agriculture and Irrigation as the Chairman, the Deputy Minister for the Ministry of Agriculture and Irrigation as the Vice-Chairman, the Director General of the Settlement and Land Record Department as the Secretary and the Heads of the relevant Government departments and organizations as members;
  - (b) may re-form the Central Administrative Body of the Farmland formed under Sub-section(a) from time to time.
16. The Central Administrative Body of the Farmland:
- (a) shall form the following various levels of Administrative Body of the Farmland;
    - (i) Region or State Administrative Body of the Farmland;
    - (ii) District Administrative Body of the Farmland;
    - (iii) Township Administrative Body of the Farmland;
    - (iv) Ward or Village Tract Administrative Body of the farmland;
  - (b) may re-form the various levels of Administrative Body of the Farmland format under Sub-section(a) from time to time.

**Chapter Vi**  
**Duties and Powers of Central Administrative Body of the**  
**Farmland**

17. The duties and powers of the Central Administrative Body of the Farmland are as follows:
- (a) assigning duties and powers of the various levels of Region or State, District, Township and Ward or Village Tract Administrative Body of the Farmland;
  - (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 setting 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 Region or State Administrative Body of the Farmland to use the farmland under requirements to construct housing for the growing population and increasing households in rural and urban areas;
- (f) confirming after scrutinizing the submissions of the Region or State Administrative Body of the Farmland in respect of the matter to use the farmland for school, health care centre, 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 submissions of the Region or State Administrative Body of the Farmland 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 submissions of the Region or State Administrative Body of the Farmland in respect of 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.

18. The Central Administrative Body of the Farmland may empower the appropriate Administrative Body of the Farmland so that the value of the farmland is to be a proper and reasonable rate enter the local circumstance in registering at the relevant Township department relating to the bilateral executed in the presence of the Ward or Village Tract Administration Body of the Farmland for the matters of sale, mortgage, lease , exchange and gift of the right to use the farmland enter the provision contained in this law.

## **Chapter VII**

### **Taking Action for the Failure to Comply Terms and Conditions**

19. If it fails to comply with all or any of the terms and conditions contained in Section 12 of this Law, the Administrative Body of the Farmland 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;
- (c) expelling the deserved person from the farmland ;
- (d) removing the building constructed without permission on the farmland.

20. The Administrative Body of the Farmland contained in Section 19 may , direct complaint to the relevant court if it exceeds the stipulate date contained in such order if the person who has the right to use the farmland does not comply with the order passed under this section.

21. If the person who has the right to use the farmland fails to pay taxes levied by the Ministry, these taxes shall be recovered as the arrear of land revenue in accord with the existing laws.

## **Chapter VIII**

### **Settlement of Dispute on the Right to Use the Farmland and Appeal**

22. The Ward or Village Tact Administrative Body of the Farmland opens an original case of dispute in respect of the right to use the farmland shall make examination, hearing and decision.

23. (a) The person who is dissatisfied with the order or decision passed by the Ward or Village Tract Administrative Body of the farmland under Sections 22 may appeal to the relevant Township Administrative Body of the farmland in accord with the stipulations within 30 days from the day of such order decision.

(b) The Township Administrative Body of the Farmland may approve , amend or cancel The order or decision passed by the Ward or Village Tract Administrative Body of the Farmland.

24. (a) The person who is dissatisfied with the order or decision passed but the Township Administrative Body of the Farmland under Sub-section (b) of Section 33 may appeal to the relevant District with the stipulations within 30 days from the day of such order or decision.

(b) The District Administrative Body of the Farmland may approve, amend or cancel the order or decision passed by Township Administrative Body of the Farmland.

25. (a) The person who is dissatisfied with the order or decision passed by the District Administrative Body of the Farmland under sub-section (b) of Section 24 may appeal to the relevant Region or State Administrative Body of the Farmland in accord with the stipulation within 60 day from the day of such order or decision.
- (b) The Region or State Administrative Body of the Farmland may approve, amend or cancel the order or decision passed by the District Administrative Body of the Farmland.
- (c) The decision of the Region or State Administrative Body of the Farmland shall be final the conclusive.

## **Chapter IX**

### **Indemnities and Compensations**

26. Notwithstanding contained in any existing law , the Central Administrative Body of the Farmland 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 of the public interests and development by building on such land and managing by other means by the relevant .

27. The person whose right to use the farmland is revoked or the farmland is recovered by the Central Administrative Body of the Farmland under Sub-section (d) of Section 17 shall not have the right to enjoy compensation.

## **Chapter X**

### **Utilization of Farmland**

28. In respect of application to alter originally cultivated crops to others:

- (a) The Central Administrative Body of the Farmland may permit to cultivate other crops in low land (paddy land) after scrutinizing in accord with the stipulations so as not to affect the sufficiency of rice which is the staple crop of the State;
- (b) The Relevant Region or State Administrative Body of the Farmland may, if it is to alter crops in the farmland except low land (paddy land). Permit after scrutinizing in accord with the stipulations.

29. In order to use the farmland by other means for the purpose of long-term national interests of the State, the relevant Ministry that will implement the huge projects may carry out with the approval of the Union Government after obtaining remark of the Central Administrative Body of the Farmland.

30. In respect of application to use the farmland by other means for the interests of the public:

- (a) the Central Administrative Body of the Farmland may permit to use the low land(paddy land) by other means with the recommendation of the Region or state Administrative Body of the Farmland :
- (b) The relevant region or State Government Organization may permit to use the farmland by other means except low land (paddy land) with the recommendation of the Region or State Administrative Body of the Farmland .

31. The Central Administrative Body of the Farmland may, if the farmland is not put into effect the stipulated manner within six months from the permitted day or if the business is not completed within the stipulated period after having permission to use the farmland by other means under Section 30. Confiscate such farmland.

## **Chapter XI**

### **Administration of the Farmland**

32. In confiscating the farmland for the projects of the State interests, only the required minimum area shall be confiscated. The project shall be implemented to complete as soon as possible within the prescribed period and when the project is not carrying out , it shall be returned to the person or organization which has the original right to use the farmland.

33. The Union Government or the authority assigned by the Union Government for this purpose shall, except summons by other meand, continue to keep not to damage pasture and communal land of the village.

34. In respect of vacant, fallow and virgin lands that are permitted to carry out or use for agriculture and livestock breeding businesses, when the cultivation and production of crops is stable, the Central Committee for the management of vacant, fallow and virgin lands shall alter and stipulate as the farmland and cause to involve in this Law.

## **Chapter XII**

### **Offences and Penalties**

35. Any person who has the right to use the farmland fails to comply with the order passed under Section 19 or the order or decision passed in the dispute of the right to use the farmland under this Law shall, on conviction, be punished with imprisonment for a minimum of six months to a maximum of two years and shall also be liable to fine for a minimum of three hundred thousand kyats to a maximum of five hundred thousand kyats.

36. The person who is convicted of falling to comply with the order passed under Section 19 shall, if previously convicted with the same offence, be punished with maximum imprisonment contained in Section 35 for the subsequent offence.

37. Any person who has the right to use the farmland breaches and commits the prohibitions contained in Section 14 shall, on conviction, be punished with imprisonment for a minimum of one year to a maximum of three years and shall also be liable to fine not less than one million. Moreover money and propertied relating to the offence shall be confiscated.

### **Chapter XIII**

#### **Miscellaneous**

38. The Farmer organization may be formed as Laws provided for the socio-economic development of the farmers.

39. The members assigned in various levels of Administrative Body of the Farmland formed under this Law shall be deemed as civil servants under the interpretation contained in Section 21 of the Code of Criminal Procedure.

40. No proceedings shall be filed at any court for any matter carried out in good faith in accord with this Law or rules made under this Law to the members of various levels of Administrative Body of the Farmland.

41. The offence filed under Section 37 is determined as cognizable offence.

42. In implementing the provisions contained in the Law:

- (a) the Ministry may issue rules, regulations and by-laws with the approval of the Union Government if necessary;
- (b) the Central Administrative Body of the Farmland and the Department may issue the necessary notifications, orders, directives and procedures.

43. The following laws are repealed by this Law:

- (a) The Land Nationalization Act. 1953;
- (b) Tenancy Law, 1963;
- (c) Peasant's Right Protection Law , 1963.

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I Hereby sign under the Constitution of the Republic of the Union of Myanmar.

Sd / Thein Sein

President

The Republic of the Union of Myanmar

<b>Questionnaire to study the Issuance of Farmland Certificate, Form (7) in Thanlyin Township</b>					
<b>1. District Level</b>					
1.1. Name of the District					
<b>2. Respondent's Details</b>					
2.1 Name of District Officer		2.2 Gender		2.3 Age	
<b>3. Education Background</b>					
1. Monastic Education					
2. Primary School					
3. Middle School					
4. High School					
5. University Level					
6. Other					
<b>4. District Details</b>					
4.1 Number of Townships in the District					
<b>5. Farmland Area</b>					
5.1 Number of farmland Area in the District					
5.2 Number of Farmlands Areas already issued Form (7)					
4.4. Number of farmland Areas left to issue Form (7)					
<b>6. Understanding the Land disputes after The Farmland Law (2012)</b>					
6.1 Number of Land Disputes after the settlement of The Farmland Law (2012)					
<b>6.2 Types of Land Dispute</b>					
1. Dispute on Inheritance					
2. Disputes in selling or buying					
3. Dispute on Ownership					
<b>7. How the disputes are addressed?</b>					

<b>Questionnaire to study the Issuance of Farmland Certificate, Form (7) in Thanlyin Township</b>					
<b>1. Demographic Details</b>					
1.1. Village Tract		1.2. Village Tract			
<b>2. Respondent's Details</b>					
2.1 Farmer's Name		2.2 Gender		2.3 Age	
<b>3. Education Background</b>					
1. Monastic Education					
2. Primary School					
3. Middle School					
4. High School					
5. University Level					
6. Other					
<b>4. Farmland Details</b>					
4.1 Number of Farmland under cultivation					
4.2 Number of Areas under cultivation					
4.3 Number of Crops in a year					
<i>Understanding access to Form (7)</i>					
4.4. Number of farmland received Form (7) under cultivation					
4.5 Total areas of farmland received Form (7) under cultivation (Acres)					
4.6 Year in which Farm Land Certificate received					
<b>5. Comparison of The Land Nationalization Act (1953) and The Farmland Law (2012)</b>					
<b>5.1 Do you know the following farm laws (1953 and 2012)</b>					
The Land Nationalization Act (1953)			Yes		
The Farmland Law (2012)			No		

<b>5.2 If yes what are the differences between the laws.</b>	
1. Farmers have 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 and conditions	
2. Right to accept the decisions of the relevant court in accord with the existing law if the dispute arises relating the inheritance of the right to use the farmland	
3. Upon selling the farmland, legal contract is not allowed earlier but it can be done these days.	
4. The cultivator has the ownership according to The Land Nationalization Act (1953) but The Farmland Law (2012) states that the farmers belongs Form (7) have right to manage the farmland.	
5. According, to Farmland Law (2012), the farmers have right to use common interest the farmland in cooperation with the foreign and local firms.	
<b>5.3 Please give information on the utilization of land which received Form (7)</b>	
a. Agriculture b. Livestock c. Both Agriculture and Livestock d. Other (Specify)	
<b>6. Express the benefits received due to the issuance of Form (7).</b>	
1. Ownership of assets in hand 2. Right to sell, mortgage, lease, exchange 3. Right to inheritance 4. Right to Cultivation 5. Right to Co-operative	
<b>6.2 Overall Perception on rights to use the Farmland Certificate</b>	

<ol style="list-style-type: none"><li>1. Shall pay Land Revenue and Other Taxes</li><li>2. Registration fees for the contract to carry out sale, mortgage, lease, exchange and gift</li><li>3. Shall register in the relevant Township Department when the farmland is inherited</li><li>4. Shall have the right to mortgage, to use the land only for the purpose of cultivation</li><li>5. Shall not use the farmland by other means without permission</li></ol>	<ol style="list-style-type: none"><li>1. Like it very much</li><li>2. Like it</li><li>3. Neutral</li><li>4. Do not like</li><li>5. Not at all</li></ol>
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<b>Questionnaire to study the Issuance of Farmland Certificate, Form (7) in Thanlyin Township</b>					
<b>1. Regional Level</b>					
1.1. Name of the Region					
<b>2. Respondent's Details</b>					
2.1 Name of Regional Officer		2.2 Gender		2.3 Age	
<b>3. Education Background</b>					
1. Monastic Education					
2. Primary School					
3. Middle School					
4. High School					
5. University Level					
6. Other					
<b>4. Region Details</b>					
4.1 Number of Township in the Region					
<b>5. Farmland Area</b>					
5.1 Number of farmland Area in the Region					
5.2 Number of Farmland Areas already issued Form (7)					
4.4. Number of farmland Areas left to issue Form (7)					
<b>6. Understanding the Land disputes after The Farmland Law (2012)</b>					
6.1 Number of Land Disputes after the settlement of The Farmland Law (2012)					
<b>6.2 Types of Land Dispute</b>					
1. Dispute on Inheritance					
2. Disputes in selling or buying					
3. Dispute on Ownership					
<b>7. How the disputes are addressed?</b>					

<b>Questionnaire to study the Issuance of Farmland Certificate, Form (7) in Thanlyin Township</b>					
<b>1. Township Level</b>					
1.1. Name of the Township					
<b>2. Respondent's Details</b>					
2.1 Name of Township Officer		2.2 Gender		2.3 Age	
<b>3. Education Background</b>					
1. Monastic Education					
2. Primary School					
3. Middle School					
4. High School					
5. University Level					
6. Other					
<b>4. Township Details</b>					
4.1 Number of Township in the Region					
<b>5. Farmland Area</b>					
5.1 Number of farmland Area in the Township					
5.2 Number of Farmland Areas already issued Form (7)					
5.3 Number of farmland Areas left to issue Form (7)					
<b>6. Understanding the Land disputes after The Farmland Law (2012)</b>					
6.1 Number of Land Disputes after the settlement of The Farmland Law (2012)					
<b>6.2 Types of Land Disputes</b>					
1. Dispute on Inheritance					
2. Disputes in selling or buying					
3. Dispute on Ownership					
<b>7. How the disputes are addressed?</b>					

<b>Questionnaire to study the Issuance of Farmland Certificate, Form (7) in Thanlyin Township</b>					
<b>1. Village Tract (or) Surveyor Level</b>					
1.1. Name of the Village Tract					
<b>2. Respondent's Details</b>					
2.1 Name of respondent		2.2 Gender		2.3 Age	
(If Village Leader) Total number of Farmland in the Village Tract					
(If Surveyor) Total number of Farmland under his supervision					
<b>3. Education Background</b>					
1. Monastic Education					
2. Primary School					
3. Middle School					
4. High School					
5. University Level					
6. Other					
<b>4. Township Details</b>					
4.1 Number of Township in the Region					
<b>5. Farmland Area</b>					
5.1 Number of farmland Area in the Township					
5.2 Number of Farmland Areas already issued Form (7)					
5.3 Number of farmland Areas left to issue Form (7)					
<b>6. Understanding the Land disputes after The Farmland Law (2012)</b>					
6.1 Number of Land Disputes after the settlement of The Farmland Law (2012)					
<b>6.2 Types of Land Disputes</b>					
1. Dispute on Inheritance					
2. Disputes in selling or buying					
3. Dispute on Ownership					
<b>7. How the disputes are addressed?</b>					

