

**IN THE LAW AND ON THE LAND:
FINDING THE FEMALE FARMER IN MYANMAR'S NATIONAL LAND USE POLICY**

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ABSTRACT

This paper draws upon twelve months of activist research to examine Myanmar's female farmer on the land and in the law. For rural women, the female farmer was an anomaly with emancipatory implications, one associated with a particular material conditions, social relations, and attitudes. In contrast, the female farmer in the National Land Use Policy text was a rights-bearing legal subject produced by a set of negotiations in which individuals acting as experts 'rendered technical' (Li 2007) distinct ontologies of land, law, and gender. Examining the production of and relationship between these representations helps problematize Myanmar's contemporary political transition by providing an ethnographic entry point to chart shifting discourses and subjectivities.

Keywords: gender; land; agrarian change; democracy; Myanmar/Burma

BIOGRAPHICAL SKETCH

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Also the law has no effect. See how law is ignored! In the transformation [the government] has transformed their promises. We are like marbles in the tray, going back and forth.¹

Dozens of women cheered and clapped when a female land activist stood to make this declaration in a Mandalay monastery meeting room. The women had come to attend a workshop I had organized alongside Burmese colleagues from a Yangon-based women's rights network to gather feedback on a recent public draft of Myanmar's National Land Use Policy. This woman's point – what was written in law had no bearing on her own life on the land – presented an obvious challenge to the premise of our efforts.

In subsequent months, as I traveled from activist meetings to stuffy bureaucratic halls and farmhouse floors seeking to understand access to land and advocate for gender equality, it became clear the promise of a new land policy elicited scant confidence from rural women, despite its potential to ameliorate the legal and technical challenges they repeatedly described. Given Myanmar's history of authoritarian and often-devastating agricultural interventions (cf. Thawngmung 2004), the women's wariness was historically defensible. But their skepticism also stemmed from the fact that they did not see themselves in the document. Any mention of women was excluded from the first public draft in Burmese, despite inclusion in the official English translation. Later drafts featured rights-bearing female farmers who contrasted with rural women's frequent self-identification as agricultural workers. The disconnect between the material conditions and subjectivities of rural women, and the legal subjects invoked in the policy, was a considerable source of frustration for the female activist quoted above. Rather than accept her dismissal, I start from the premise that this particular law would have some effects,

¹ Quotations in this article from workshops and interviews represent statements as conveyed simultaneously in

intended or not. Understanding them requires a closer look at how rural women and policy negotiators experience and envision gendered relations to and on the land.

The National Land Use Policy was debated, and eventually finalized, at a moment marked by a series of highly publicized reforms including a new constitution, the nation's first modern census, and elections that brought democratic icon Aung San Suu Kyi to power. While these symbolic events have received considerable international attention, most reports of the transition away from military authoritarianism fail to scrutinize the emergent and ambiguous effects of liberalization, particularly in rural places. Land in Myanmar is hotly contested; according to one source, in June 2015 the government's Farmland Investigation Commission had received 30,000 land grab complaints since its 2011 establishment. Of the 20,000 cases reviewed, only 4% were awarded any form of compensation (Namati 2015). Such large, if possibly unreliable, numbers emphasize the high stakes of new land regulations for smallholder farmers and would-be reformers. Attention to a central organizing principle of rural life – gender – across 'expert' and farmer discussions brings into focus the contrast between new forms of governance's imagined and situated subjects.

In this article, I examine the female farmer as she appears in conversations with rural women and high-level policy negotiations, arguing that critical attention to these representations can help problematize the space between political transitions as enacted in the law, and experienced on the land. I first take a feminist political ecology approach to examine rural women's own understandings of their socially-mediated agricultural roles, suggesting that, on the ground, to be a female farmer was an exceptional circumstance understood simultaneously as a material position and an elected subjectivity in the context of multiple, relational rural identities. I then turn to the negotiation of a new National Land Use Policy, drawing on theories

of translation and Li's (2007) concept of 'rendering technical' to demonstrate how opposing cultural understandings of land, law, and gender were reconciled through an orchestrated exercise of expertise, which allowed for representation of the Myanmar female farmer as a legal subject. I conclude by discussing the practical and theoretical implications of the tensions between these two female farmers – one mostly aspirational, another the given universal – suggesting the gap between them offers fertile ground for activist and scholarly work in a period of political change.

Methodology

I conducted research for this paper from July 2014 through July 2015 while serving as a technical adviser to a Yangon-based women's rights network. The first section draws primarily on six daylong workshops with over 180, mostly female, farmers, activists, and community-based organization representatives, recruited through formal and informal feminist, indigenous and land activist networks. The first three workshops were organized by members of a working group within the women's rights network, and held in November and December 2014. Women traveled to the major cities of Yangon and Mandalay from twelve of Myanmar's fourteen administrative regions. In these initial workshops, my collaborators and I sought to document women's barriers to land access and solicit feedback on the 5th draft in order to strengthen advocacy for gender equality in the Policy. Working with a local land rights organization, I conducted three more workshops and nine in-depth interviews six months later. In these workshops, held in Mandalay, one lowland town and one upland location, we hoped to gain understanding of how gendered access to land varied with class, ethnicity, and age in particular areas. We spent half a day doing small group work pertaining to local inheritance customs,

agricultural division of labor, registration, conflict, and participation in decision-making, and then provided information and solicited feedback on the 6th draft Policy and other land-related laws.

In the second section, I follow the female farmer to another set of sites (Marcus 1995): ‘expert’ negotiations and public consultations for the 5th and 6th drafts of the Policy. Following Riles’ (2000: xii) ethnographic analysis of the rituals, documents, and networks of transnational women’s rights movements, I take a legal end-point, here the female farmer and her list of rights in the final draft, as an anthropological entryway in order to examine the social process of policy-making, and consider its implications. Specifically, I draw from participant observation in all five high-level meetings to release and revise the Policy held between October 2014 and June 2015, which I attended as a representative of the women’s rights organization for which I worked. My analysis is also informed by observation of two government-led public consultations on the Policy, participation in donor, NGO and activist meetings in Yangon, and review of relevant laws, NGO and activist reports, journalism, and scholarship.

While the analysis presented here is separate from my advocacy work, my data collection was not. This approach facilitated access to high-level discussions and local women’s networks, and allowed research questions to develop alongside collaborative understanding of women’s access to land and attempts to improve their agricultural conditions through policy. My own struggle to reconcile women’s descriptions of themselves as ‘workers’ with the agrarian identities I myself invoked to support gender equality in the Policy engendered this paper’s central queries. It is from this contradictory, difficult, and profoundly generative space (Hale 2006: 98) that I offer the following empirical and analytic insights.

On the Land

For the women in our workshops, local access mechanisms were far more important than legal rights to their lived experiences on the land. To understand the ways in which gender shapes resource tenure regimes, I draw upon literature that theorizes the social dimensions of access (Ribot and Peluso 2003), in particular contributions from feminist political ecology and agrarian studies. These theories explore gendered resource tenure regimes as overlapping, performed, and negotiable, both situated within localized power relations and subject to policy influence (Elmhirst 2011; Nightingale 2011; Rocheleau and Edmunds 1997). Such conceptualizations call into question analytics of property and advocacy of land formalization as a method of poverty alleviation, demanding ethnographic attention to the ways in which women and men actually live on and access land, and formulate and perform gendered and relational agricultural identities (Jackson 2003; O’Laughlin 2007, 2009). By attending to the ways in which gender helps structure the terrain and terms of debate in agrarian struggles (Hart 1991), feminist contributions have deepened scholarly understandings of rural households, livelihoods, and class structure (Razavi 2009), and called attention to gendered dimensions of land ownership (Doss et al. 2013), market-oriented agrarian reform (Razavi 2007), and land grabs (Behrman, Meinziendick and Quisumbing 2012). This work suggests we cannot understand how land policy might play out without first understanding how gender structures agricultural experience and opportunities.

Gendered land relations in Myanmar are diverse, and the format of our workshops lends itself to exploratory rather than comprehensive or comparative analysis. The following section serves as an introduction to how rural women described their own land access, in order to understand how women’s land-based identities vary from each other, and from those imagined

by bureaucrats, urban activists, and internationals discussed in the second part of this article. In particular, I focus on rural women's understanding of the distinction between workers and farmers, arguing these terms are inherently gendered, and that the female farmer in Myanmar is an anomaly associated with an unique set of material conditions, social relations, and subjectivities.

Women's Land Access, in Practice

You have to show your might. [We know the saying] 'You kill a cat in order to intimidate the wife.' When you have a husband, the wife tries to kill an elephant in order to intimidate the husband! Now we are wrestling!

Myanmar women's access to land is determined by their positions as daughters, wives and widows. As illustrated by the quote above from a workshop participant, these family relationships are rarely free from conflict. In many ethnic customs, women are passed over for inheritance in favor of brothers. In one workshop with women affiliated with an indigenous peoples network, women from ten different minority ethnic groups reported that customary land inheritance was always male; two reported both male and female inheritance, but in one case only for married women. During another discussion on inheritance, a woman in a family of only two single daughters said she feared losing her share of inheritance to a brother-in-law, as her younger sister would soon get married – other participants joked she should marry quick.

Women's relationships with their husbands, and perceived reliance on their goodwill, income, and social status, may lead women to stay silent on personal claims to land. In the words of one workshop participant, 'it's quite clear in the countryside, you will be looked after by your husbands.' Participants spoke of the need to change this internal notion of dependency, and

gender roles and high workload that constrained and exhausted women's ability to exercise decision-making authority.

For some women, discrimination was strongest among female members of the same household, for example when mothers were pitted against daughters or daughters-in-law in land claims, or governed their behavior to ensure they did not challenge local norms. One woman from Wa region recalled negotiating with her own mother:

This is my own experience. I have five siblings, I am the eldest daughter. There are two sons. But my mom said all the property would go to the first son. So I challenged my mom. This is not Wa country any more, now we are in Bama country, so you have to write your will and give the properties in an equal way.

This episode of intergenerational negotiation highlights links between land relations and other cultural norms of appropriate behavior for young women, as well as the way new notions of citizenship and ethnicity shaped the younger woman's land claims. Generational issues were not only a family matter; when asked about particular land issues faced by young people in her area, one 23-year-old woman from the lowlands explained that environmental and social problems had caused many of her peers to migrate away:

Yes it is different between young and old generation. Now we are facing climate change and trouble to get Form 7 [land registration document] ... In the past we can work our ancestor's lands freely. [Now] we are concerned about the weather and we could lose our lands if we don't get Form 7.

In another area, women mentioned increased Chinese investment in the area had brought land loss, a new source of vulnerability. While these issues – youth landlessness and land acquisitions – affect both men and women, women's subordinate role within the household meant a greater impact. In the words of one participant, 'When the land value is higher and higher, the family problem is bigger and bigger.'

Increased autonomy or control within the family did not always correspond to publicly recognized rights. In some communities with high levels of male out-migration, alcoholism, or drug-use, women reported that absent husbands led to *de facto* female land management, but that these forms of control were not recognized outside the household. One young woman we interviewed managed day-to-day decisions on her family's land, but needed to bring any documents to the prison in town so her father, a political prisoner and the official landholder, could sign them. Inequalities continued after a husband's death with barriers to succession. In various communities, a dead man's land went to his sons, his son-in-law, his widow's new husband, or his parents or brothers over his wife. In one case, a widow without children trying to claim family land described the administrative and financial difficulties of obtaining a death certificate for her husband to contest the confiscation of their land. When trying to assert her right, she repeatedly confronted an irrational obstinacy: '[they think] the land belongs to the guy in the coffin!'

In workshops, women explained that local administrative offices, including survey departments and courthouses, were male domains. Their testimonies are echoed in statistics: in the General Administrative Department, the face of government in rural Myanmar, 17 of 15,972 ward/village tract administrators are female, and there are no female administrators for the country's 330 townships (Kyi Pyar Chit Saw and Arnold 2014). Local government offices were so intimidating to women that widows were considered completely cut off from these agencies. Women were also constrained by a lack of knowledge about land issues, confidence and experience public speaking, and, in for some ethnic minority women, ability to speak and read Burmese. Gendered barriers were common across different government, farmer's association, and customary decision-making spaces:

I went to the farmers' committee, and there were hardly any women, all the invitees were men. Women couldn't have their voice heard. When there were about 100 men, only 10 were women. They forgot to think about women throughout the process and women did not have access to the draft. There was not much [in the resolutions] about women. Women themselves wouldn't want to get involved. They are afraid of going to office and going through office procedures.

These exclusions at the local level, another participant emphasized, were echoed at the national level, in which male authority also presided over land management.

This assertion is supported by research demonstrating that leadership, rule making and enforcement are typically male (Minoletti 2014; Maber 2014; PTE and GEN 2012). Low female participation was evident from my fieldwork: women were almost completely absent from the public consultation on the policy in Mandalay and from government committees, though several female activists attended meetings in Yangon and Nay Pyi Taw. Workshop participants emphasized that women who participated were often larger landowners, or those with husbands in power, demonstrating the role of class in sub-dividing the spectrum of women's access.

Women workers or female farmers?

For women in our workshops, access to land was determined not only by gender but also by geography, ethnicity, age, and class. Generalizing gender relations was difficult, and some women refused to see personal claims as a priority. Where was the female farmer capable of exercising equal rights to land?

In fact, most women considered themselves agricultural workers. This identity often surfaced in relation to economic conditions. Women employed outside their own family received less pay per day of 'female' work, such as weeding, than men were paid for 'male' tasks, such as those involving heavy harvests or equipment. On their own plots, they complained of restricted

access to inputs necessary for productive farming. Agricultural extension services and equipment were all perceived as being designed for and used by men. In some cases, safety concerns around transportation, or childcare duties, restricted women's access to market. Women explained it was difficult to obtain loans and credit because men were registered as head of household, not only for land titles but also for tax and educational purposes, whereas their legal status was recorded as 'dependent' on household registration forms. All of these material barriers were linked to a lower, more limited agricultural identity.² One noted:

We are only skilled workers not land owners. The land belongs to the government. We have only the lease, not the land. Actually the entitlement is with men, not women.

Women's identification as 'workers' or 'helpers' was not only exemplified by limited access and control over agricultural land, technology, markets, and decisions, but also rooted in social constructions of gender roles. Myanmar culture places a premium on exclusive male space and power: for example, to wash male and female laundry together is said to sap men of their 'hpone,' or masculine strength. These norms are codified in a host of proverbs, as well as in textbooks that routinely depict farmers as men, while women are shown cooking or washing clothes (GEN 2015: 88-9). One rural woman explained how such beliefs influence agricultural subjectivities:

Our traditional belief is that women are helpers in field and men are farmers. In rural areas, women still practice our traditional [proverb] 'husband is god and son is master.' Then women lose their rights voluntarily. They depend on their husband very much. If something happens to him, she totally collapses.

Claiming the Female Farmer

² An Oxfam (2014; 13) report notes similar links between women's landlessness, underpaid work, and 'worker' identity: 'Women are rarely the landholders in Thazi [village], and are, therefore, considered 'casual labour,' not 'farmers,' despite being responsible for many of the most critical tasks. Transplanting of paddy, and sowing and harvesting of cotton, are all women's roles, but their work is undervalued. Women report wages of approximately 20 per cent less per day than men even for the same work.'

The words ‘lehtama’ or ‘taungdu,’ Burmese for paddy or upland farmer, implied a very different set of relations to land, and men. In contrast to the women workers who were ‘dependent’ on male heads of household and separated from agricultural decisions and land possession, female farmers were often described as women who managed their farms alone.

One middle-aged woman I will call Daw Khine Maw illustrates some of the traits of woman who self-identified as farmers. Daw Khine Maw was the daughter of civil servants, but had moved to the village to marry and learned how to manage a farm while balancing care for her four sons. Daw Khine Maw said she discussed and decided together with her husband on issues such as what crops to plant and whether to take out a loan. The family was well-off, with an estimated 4-5 acres of paddy rice, some of which was registered in her name, and some in her husband’s. Daw Khine Maw was proud of this, and articulated the value of registration for women given dominant cultural norms:

In our society if you marry a man, you have to be with him whether he is good or bad. It is not good tradition I think. In our tradition, when a man wants to marry a woman, he has to put up calf or cow to prospective bride’s parents. So some bad guys think they bought their wives, they can do everything...

...For a woman, if you have Form 7 with your name, it is good for you. If your husband dies or divorces you, you still own the lands. You can prove that with Form 7. I think it is an advantage for women.

Daw Khine Maw was more educated than her husband and took a leadership role in her community. While her husband held a village government position, she explained, ‘He is just a person with the title. I control the administration behind him.’ She felt her own leadership was easier because female management and authority was becoming more common where she lived, a change she attributed in part to increased male alcoholism and drug use. She also noted that her economic and social position enabled her to speak out more than poor women and widows. Like many women in Myanmar, Daw Khine Maw managed the family finances, while her husband

plowed the fields. While the household practiced a partial gender division of labor, she did not ascribe to the traditional view that her work was ‘lighter’ or ‘easier’ than her husband’s. When asked if she regarded herself as a farmer, Daw Khine Maw agreed: ‘Yes, even though my husband plows in the fields, I do other things. So we are equal. I think of myself as a farmer.’

As Daw Khine Maw’s story illustrates, women who identified as farmers were more likely to be educated, come from a higher class, and participate in decision-making in the household and community. But while women workers and female farmers demonstrated material differences, the distinction was not necessarily fixed. Some women deliberately claimed a ‘farmer’ identity as a form of activism, and called for others to do so as well. When asked if women were more likely to refer to themselves as ‘farmer’ or ‘worker,’ another woman replied:

Yes, it is like ‘farmers’ only refers to men. But women must change their attitudes. Women who are managing their land with Form 7 in their name see themselves as farmers in very strong way, I think.

Women had ideas about how such an attitude might be fostered. In our last workshop, one shared her idea of an ‘Ideal Women Farmers’ campaign, which would feature agricultural extension for women, reforms and education on land administration and agricultural loans, and a Rural Women’s Forum to promote women’s confidence as farmers. Notably, this suggestion came from a particularly active crowd of grassroots female land activists, women with a history of leadership in their own communities and some exposure to ideas about women’s and land rights.

Who is the Female Farmer?

My search for the female farmer among workshop participants roughly resembled Klenk’s (2004) ethnographic description of rural Indian women’s interpretation of the ‘developed woman’ through their own material and social positions. In Klenk’s account, rural

women actively and selectively appropriate the discourses of development to construct new and particular subjectivities based on their own knowledge and aspirations. As they interpreted our initial open-ended prompts, rural women put forth a specific notion of the ‘developed woman’ – a female farmer who could access, register and manage her land, and participate in collective action. These female farmers were an exception to the norm of women as agricultural workers and household dependents. The female farmer had material, social, and personal characteristics that distinguished her from typical rural women, and it required some degree of agency, autonomy, and fortune on the part of the individual in question to achieve this position.

In the Law

In contrast to our workshops, the female farmer who appeared in the National Land Use Policy (NLUP) was based not on material, social, and subjective realities of rural women, but rather a political negotiation aimed to respond to escalating land-related protest, rationalize a messy legal system, and establish a precedent for public participation in policy formulation. The 5th draft NLUP was released in two languages – Burmese and English – that, at least in regard to gender, constituted fundamentally different documents. During the drafting process, some drafts were first produced in English and then translated, while others were initially written in Burmese. I do not speculate on these closed-door processes here, but rather start from the premise that the way women were represented or erased in the public documents reflects disparate ontologies of gender, law, and land. In the following sections, I first explore discrepancies in how the 5th draft Burmese and English texts represented the female farmer, and then describe an ethnographic scene of expert performance that helped to produce a final, bilingual, figure.

To approach the first of these tasks, I draw on theories of translation that emphasize the boundary- and meaning-making processes inherent in the circulation of ideas, objects, texts, and values across space, time, and language (Gal 2015). Moving self-proclaimed universals and value packages to new locations requires negotiation across difference that produces fresh alliances, entanglements, and imaginaries (Tsing 2005). In particular, literature on the ‘vernacularization’ of women’s rights emphasizes the ways in which feminist activists adapt international norms to particular environments. As they cross cultural categories, are packaged with new interpretive framings, and encounter uneven power relations and particular constraints of different languages and discursive fields, legal rights take local forms (Merry 2006a, 2006b; Levitt and Merry 2009) and can generate new implications across chains of translation (Gal, Kowalski and Moore 2015). Such processes call attention to the social production of commensurability (Pigg 2001) and its political implications for the dominance of liberal ideologies (Povenelli 2001), which have high material stakes in negotiations over land. As Silva-Castañeda (2015) has demonstrated with the World Bank’s Land Governance Assessment Framework and McMichael (2014) has explored through the land grab debate, distinct ontologies of land require significant labor, and loss, to cross. Semiotic tensions often manifest in linguistic difficulties, not least in the ominous, baffling or unintelligible results of English-Burmese conversion. For example, Metro (2014: 176) describes a Burmese colleague advising her to use translated IRB consent forms only with an apology, and explanation that ‘some words have no meaning.’

To grasp the reconciliation of disparate translations into a final document, I draw upon Li’s (2007) notion of ‘rendering technical,’ in which value-laden decisions are de-politicized to enable the design and implementation of development projects. Beyond the unintended anti-

political consequences of this exercise (Ferguson 1990), the process of rendering technical deliberately creates new boundaries, formulas, and rationalities for the set of practices Foucault referred to as government. Li's analysis in Indonesia focuses on the proliferation of policy documents and reports, the inevitable disjuncture between these texts and reality they seek to describe, and resulting suppression, but never erasure, of contentious politics in the quest for 'getting the social relations right.' In the case of Myanmar's NLUP, the rationalities and practices of rendering technical were packaged in the title of 'expert.' As I show through ethnographic attention to one Expert Round Table meeting, stakeholders representing quite different views were encouraged to perform particular 'expert' behaviors that ultimately enabled a final document featuring a new legal subject: the rights-bearing female farmer.

Land Conflict, Legal Order, and Democratic Process

Since reform rhetoric began in 2008, Myanmar's widespread land conflicts have been loudly protested and publicized by farmers, activists and journalists. Many complaints are connected to military land grabs in the 1980s and 90s, but the reform period has brought new causes of conflict, including large-scale land acquisitions for commercial agricultural (Woods 2015) and resettlement in former war zones (South and Jolliffe 2015). Despite identifying conflict adjudication as a key goal, the Policy document stayed vague on the contentious issues of re-distribution and resettlement. During Policy meetings officials repeatedly dismissed land grab complaints as unconstructive or irrelevant.

Addressing land conflict was not the NLUP's only priority. The Policy was billed as an overarching framework to guide the creation of a National Land Law and the 'harmonization' of

existing laws pertaining to land, paving the way for comprehensive inventory and registration (U Shwe Thein 2014). The English-language press statement accompanying the 5th draft's release in a high-end Yangon hotel presented land tenure security and good governance as joint policy objectives, adopting the language of international initiatives (LUASC 2014b). Aspirations to administrative order pervaded the document itself, which aimed: 'to benefit and harmonize the land use, development and environmental conservation of the land resources of the State, to protect the land use right of the citizens and to improve land administration system' by serving as a guide 'for the emergence of a new land law including harmonization of existing laws relating to land and their implementation... [and] for the matters which shall be decided by all relevant departments and organizations relating to land use and the right to use land' (LUASC 2014a: 3). This document was not only about land, but also part of the push by government, the opposition party, and donors to achieve 'rule of law' in Myanmar.

The Policy's task of legal rationalization was made daunting by Myanmar's messy, redundant, and ambiguous collection of over 30 pre-colonial, colonial, and socialist laws relating to land, including contemporary promotion of large-scale agriculture and government land seizure in the 2012 Farmland Law and the Vacant Fallow and Virgin Land Laws (cf. Mark 2016; Obendorf 2012). While the 2008 Constitution declares the state ultimate owner of all land and resources, rival ministries and Ethnic Armed Organizations jostle for control and advance their own claims to territory. Genuine harmonization would require attention to colonial, socialist, and contemporary laws and practices, as well as to the legacies of armed conflict and ongoing peace negotiations. Integration would necessarily be a both technical and normative task, requiring knowledge of laws and histories as well as decisions about which to let stand.

Beyond the textual outcome, the policy-making process itself modeled a new, consultative procedure. The Land Use Allocation and Scrutinisation Committee released the Policy's 5th draft for public consultation on October 18, 2014. The following month, three government teams facilitated seventeen half-day public consultations in every State and Division. In response to their compressed format, civil society groups affiliated with two Yangon-based networks, Land Core Group and Lands in our Hands, organized over 100 independent 'pre-consultation' meetings designed to inform the public about the Policy, and collect their input to present in high-level discussions. Due to objections to the quick feedback period, data-entry delays, and concurrent student protests, the government extended discussions on the 5th draft from the original endpoint of December 2014 through mid-March 2015. Altogether, the government reported 909 comments collected from official public consultations, as well as 12 major written submissions from national networks and NGOs, international NGOs, and the UN, some of which synthesized the results of the 'pre-consultations.'

These findings were shared and sorted in two Expert Round Table Meetings, a conference on customary tenure, and a final Expert Round Table on the 6th draft. Policy meetings were held in the capital, Nay Pyi Taw, with one in Yangon, Myanmar's largest city, and attended by invited government officials, civil society organizations, and donors. In the first group were members of the Policy drafting committee, as well as bureaucrats from related national ministries and, at later meetings, representatives from State governments. In the second were mostly Yangon-based professional activists, many of whom had spent substantial time in smaller towns or rural areas, and several of whom had worked with international NGOs. In the third were representatives of the United Nations, International Labor Organization, European Union,

USAID, World Bank, and other international advocacy groups.³ Despite substantial limitations, the policy-making process was domestically unprecedented in its outreach, involvement, and openness: a self-conscious experiment in democratic process.

Laws in Translation

Unpacking gender in Myanmar and international development discourse is beyond the scope of this article, but a brief sketch reveals quite different starting points from which to consider, and legislate, women's relationship to land. Women's rights are not seen as 'a problem' in Myanmar (GEN 2015) and while I worked in Yangon, government officials frequently reminded my colleagues that gender inequality did not exist in the country, despite mounting evidence to the contrary (Than 2014; Ikeya 2005/6; Oxfam et. al 2011). While female land rights activists have played prominent roles in social movements, before the Policy's 5th draft was released, the gendered dimension of land had remained largely ignored in research, policy, and the movement demands.⁴ Women were not visible in the Policy's drafting committee, composed of senior male technocrats drawn from several government departments and external consultants, mostly male foreigners employed by the agencies supporting the Policy's development: USAID, The Swiss Development Corporation, and the European Union. This lack of attention contrasts with the widespread promotion of women's rights to land in development discourse. In the two decades since Bina Agarwal's (1994) assertion that the key gender gap was women's command

³ I remain intentionally vague about institutional affiliations in the subsequent section to protect participants and ongoing research relationships.

⁴ Specifically, gender considerations are largely absent from recent political economy analysis of land tenure (Kyaw Thein 2014; USAID 2013), timber trade (TNI 2013) and rubber plantations (Woods 2012). Recent reports have highlighted gender within dry zone agriculture (Oxfam 2014) and land related impacts of the Dawei SEZ (TWU 2014).

over property, development actors have broadly promoted women's land rights as a key path towards economic security and empowerment (cf. IIED 2014; IRBD/WB 2001; World Bank 2012). Women's equal rights to land have been enshrined and endorsed by international agreements such as the UN's Convention on Elimination of all forms of Discrimination Against Women (CEDAW) and the FAO's Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security. In Myanmar, however, the Policy process featured one of the first discussions of women's land rights at the national level.

Given this novelty, the resulting text was surprisingly gender sensitive, at least in the English version foreign donors and development workers read. Part 1, Chapter 1 listed 'Basic Principles of the National Land Use Policy,' including section 10b 'It shall provide equal right in all sectors for the women for land use and secure land tenure' and 10d. 'It shall have the rights, regardless of man or woman, to choose the right to use farmland and the manners for growing crops.' The Policy contains thirteen parts, about half of which contained some gendered language. Most notably, Part Eight, 'Equal Rights between Men and Women in Land Tenure and Land Use Management,' invoked CEDAW and enumerated five rights related to succession, inheritance, allocation, and representation in dispute resolution and concession-related decision-making. While Part Eight listed only a partial set of property rights, and neglected to acknowledge of gendered barriers to land or provide mechanisms to realize rights in practice, the English document seemed on its way towards the type of gender-equal liberal property scheme advocated by mainstream international development actors, who were this translation's primary audience. The female farmer already existed in this text as a rights-holding subject; she just needed a longer list of claims and the means to recognize them.

But the female farmer did not appear in the Burmese text. The Myanmar draft omitted all explicit mentions of women, with the dubious exception of references to taxation on husbands and wives. Section 10b in Basic Principles now read: ‘It shall provide equal right in all sectors for land use and secure land tenure.’ Part Eight in Myanmar excluded ‘between Men and Women,’ and read simply ‘Equal rights in Land Tenure and Land Use Management.’⁵ As a result, despite maintaining a reference to CEDAW, the section was interpreted by some government officials as applying to urban-rural, not male-female, inequalities. Women’s rights advocates had a fundamentally different task in Burmese: to insert the female farmer, and her claims to land.

Further ambiguity stemmed from a particular Burmese word – amyotha – that can refer to ‘man/men’ or ‘national,’ and from ‘lehthamataungdu,’ a word for paddy and upland farmers that, as explored in the previous section, is typically applied to men. The Burmese word most often translated as ‘rights’ – akwinaye – is often interpreted in a sense closer to the English ‘opportunities.’ Together, these three words created a more vague and potentially exclusionary meaning in the Burmese text. As international groups pored over the English draft to prepare their written submissions, they were essentially reading a different policy, one in which women were explicitly identified, and ‘national’ ‘farmers’ and ‘rights’ carried strong and inclusive definitions.

While some of the written submissions by international groups noted differences between translations, they all engaged primarily with the English-language text. These documents emphasized compliance with international best practices and urged more comprehensive attention to gender and land issues. None of these submissions were included in the Myanmar-language booklets given to participants of the first Expert Round Table to analyze and

⁵ For full analysis of gender equality in the 5th draft text see GEN (2014) and TNI (2015). I am grateful to Naw Mu Paw Htoo and Elliot Prasse-Freeman for their insights and translation analysis.

summarize. While gender equality was a popular topic in the English-language analyses, only 11 of the government's collected comments addressed women's rights to land, and there was a nearly even split between calls to eliminate any mention of women – usually in the name of tradition and culture – and calls (several from attendees of our workshops) to strengthen women's access to land (MOECAAF 2015). The two Policies, the outcome not only of linguistic differences but of divergent understandings of land, women, and rights, generated two separate sets of responses, one led by foreigners and focused on international development norms, and another reacting to specific perceived threats to tradition or tenure, and largely ignoring women.

Acting as Experts

The First Expert Round Table was held in Myanmar's ghostly capital of Nay Pyi Taw, a six-hour drive through dry zone scrub from the activist hub of Yangon, or a short international flight from Bangkok. The military government created the town and relocated the nation's administration in 2005, constructing dozens of sprawling and massive buildings, connected by chronically empty multi-lane highways. The city is literally built on land grabs, and locals continue to protest government land seizures by farming in the diplomatic zone, and bringing their claims to court.⁶ Our meeting took place on a weekend at the MOECAAF headquarters, an isolated cement structure painted light green. While I attended all three Expert Round Table meetings as a representative of the women's rights network with whom I worked, here I focus on

⁶ cf. Htoo Thant, 'Court delays land-grab hearing over two dozen times.' Myanmar Times. April 27 2016. <http://www.mmtimes.com/index.php/national-news/nay-pyi-taw/19982-court-delays-land-grab-hearing-over-two-dozen-times.html> (Accessed May 8 2016).

the first because it was in this negotiation that discussions about gender and the appropriate behavior of experts were most explicit.

In our invitations to the meetings, civil servants, activists, and international development professionals were welcomed as ‘experts.’ My letter, signed by the Director General of the Forest Department, read in part: ‘In order to fine-tune the drafted National Land Use Policy... it will be grateful for us [sic] to seek your expert contribution to the First Expert Round Table Meeting.’ The two-day event began with a morning of welcomes from high-ranking government members of the Land Use Allocation and Scrutinizing Committee, who invited participants to work together for an effective and proper land use policy system. These were followed by presentations by international activists on transnational guidelines and lessons learned from international cases of land reform. In the afternoon, four invited Yangon-based civil society groups presented the findings of their ‘pre-consultation’ meetings. When it came time for our presentation, we stumbled through a 20-minute bilingual powerpoint describing barriers in women’s access to land, identifying discrepancies between the Burmese and English drafts in sections dealing with gender, and suggesting revisions to the Policy texts.

The presentation met with immediate pushback by senior, male government officials. Several alleged that Myanmar, or at least the Burman Buddhist lowlands, did not have any gender inequality. If inheritance bias existed, one noted, it was only in upland ethnic minority communities. Another argued that Myanmar’s Constitutional anti-discrimination clause foreclosed the need for any further legislation about women. One official remarked that women were permitted to register their farmland and did appear in committees at various levels – nothing was stopping them from doing so but lack of will, he seemed to imply. Other male government officials emphasized that Myanmar should not just copy international norms; the

word ‘amyotha’ (male/national) was not discriminatory, but rather a Burmese concept with historical roots.

Both Burmese and foreign participants outside of government spoke in response. Their interventions emphasized the need to look beyond formal rules to how men and women use land differently in various situations. One urban activist discussed her experience providing legal aid in cases where land registration had been given to men, who then migrated away from the area and left women without legal claims. A male activist with substantial rural experience explained that ‘men and women’ was necessary for the Burmese language Policy because, in Myanmar, the word ‘farmer’ implied a male, and excluded women. A subsequent presentation by another set of Burmese activists emphasized gendered consequences of land grabs and registration efforts. These were specific examples, born of interaction with women and men working the land in particular places. In contrast, one international aid worker privately recommended we revise our strategy to give the government what they wanted to hear: evidence that gender equality would increase national agricultural productivity.

These first discussions about gender, like the English and Burmese drafts and the comments they engendered, displayed dissimilar underlying notions of what the law should do and how gender equality should be conceived. These differences would be reconciled through our collective efforts to integrate and synthesize feedback as ‘experts.’ Later that afternoon and during the morning of the second day, mixed groups of bureaucrats, local activists, and internationals were instructed to get into groups and analyze the 909 comments by topic, in order to present the main themes back to the group. As we departed for group work, one facilitator instructed us to “put on our expert hats.” We were reminded that the document was an overarching ‘Policy,’ a status invoked both to imply the significance of our collective work, and

to negate the need to iron out contentious details, which were more appropriate for laws and regulations. The emphasis on rationalizing the legal landscape helped establish a common goal amenable to expert solutions. Our presentation was not the place to voice grievances over specific land grabs; it was an opportunity to insert broader principles of conflict-resolution.

In our working groups, we labored for hours over milky tea to translate and sort feedback. Comments were presented in Burmese, in hefty printed booklets of tables, sorted by who made the comment and where, and the content's general and sub-themes. While each group seemed to be working slightly differently – some altogether with informal translation, others in sub-groups by language – the sheer number of comments and social ritual of formatting diverted attention from specific content and substantial differences in the 'experts' own understandings of rights, gender, and policy. The subsequent presentations, shown in the meeting's final hours, featured color-coded charts, bulleted summaries, and excel spreadsheets. Through the group exercise of ordering, translating, and organizing, individuals with particular agendas came together through the enactment of a common technical and social exercise, acting as experts to distill normative differences into powerpoint tables. Like the square brackets, genealogical grids, and organizational diagrams Riles (2000) examines, the aesthetic form of these presentations overpowered their contentious content.

This process stood in contrast with how land has been debated throughout Myanmar's recent history: protest, coercion, and armed conflict. Timothy Mitchell (2002) has demonstrated that the expertise that dominates modern techno-politics is premised on the creation of distance between the subject and the object of development. Here, constant reminders that we were not warring activists tied to particular positions, places, or people, but rather collective experts engaged in a policy-making process, helped create the distance necessary to render technical.

Female Farmers in the Final Document

Acting as experts was essential to achieving agreement. For women's rights activists, the final draft of the Policy, released January 2016, represented a substantial improvement in both languages, with an expanded list of rights and an additional clause stating, 'Elders and civil society and other organizations shall be encouraged to support the realization of the rights mentioned above...' (LUASC 2016: 32). In both Burmese and English, the document clearly mentioned equal rights or inclusion of women nine times in sections on guiding and basic principles, the composition of the National Land Use Council, mapping, land rights of ethnic nationalities, and research and monitoring & evaluation. By emphasizing not only 'nationals' or 'farmers,' but also 'men and women,' the document paved the way for future legal and development efforts aimed at the female farmer.

Women's clear inclusion in both languages was largely a product of the process of reconciliation through rendering technical I described above. The exposure of gender-related 'mistranslations' in the 5th draft policy prompted closer scrutiny of specific language in the Policy, and discussion of international standards of proper and precise translation. During expert meetings, internationals, urban activists, and government officials converged on an agreement that linguistic equivalence was a prerequisite for legal legitimacy, and subsequent drafts were checked closely. One member of the drafting committee told me that the need to cite CEDAW – an international convention to which Myanmar had acceded – was one the most powerful levers for inclusion of a section on equal rights of men and women. Getting gender right was no longer just about women or some imported idea of gender justice, it was about external and internal

consistency. Framing the female farmer as a formality enabled heterogeneous ‘experts’ to resolve gender debates through the technical practices of citation and translation.

To render technical is not, necessarily, to render meaningless. To reach consensus on a final draft, individuals had to act as experts, privileging certain procedures while side-stepping the substantive divide between the ideas of gender justice activists sought, and bureaucrats’ understandings of the role of women and law. These practices allowed groups with no experience with cooperation a template for engagement, generated new meanings for the social position of ‘expert,’ and produced a representation of the female farmer as a rights-holding legal subject. While this figure bears varied relation to the ways women of different class, ethnic, and geographic positions actually make and defend land claims, she provides a path to legal recognition.

Conclusion

In the cases presented above, I have described the ways in which the female farmer was understood and represented in two distinct instances. For rural women, the female farmer was an anomaly, distinguished by material and social position, as well as subjectivity, from the default women worker with limited access to land. In the National Land Use Policy process, ‘experts’ were able to render technical different ontologies of law, land, and gender to produce a final document that features the female farmer as rights-bearing subject. While these representations were not static or uncontested in either case, there is a clear gap between them: one female farmer is exceptional, affluent, and mostly aspirational; the other is a given universal with claim to enumerated rights. Below, I briefly discuss the relationship between these representations both

in terms of practical implications for rural woman's empowerment in Myanmar, and theoretical possibilities for understanding laws and life on the land in a time of political transition.

It is tempting to read these cases in a Spivakian light, foregrounding subaltern silences and strategic essentialism (1988). No self-identified female farmers, much less self-identified women workers, were among those bestowed with the title of experts and tasked with negotiating policy. As a result, a composite female farmer emerged in the document that did not (yet) exist on the ground, but furthered gender equality goals within the text. This disjuncture begs the question of how the Policy's female farmer might interact with, and influence, real rural women. Certainly, policy can promote access to the material goods and services our workshop participants sought – land registration documents, agricultural extension, higher wages – but can a policy make farmers?⁷

Not entirely. Taking rural women's subjectivities seriously means recognizing that while policy, like popular international development interventions that give women titles, seeds, and shovels, can provide some of the material pre-requisites, enacting the female farmer is mediated through cultural categories and social relations in different ethnic and geographic spaces. Just as Keyes (2012) described 'cosmopolitan villagers' dwelling in Bangkok but identifying as rural, and Resurreccion and Sajor (2010) noted the strategic use and denial of 'worker' identity among migrant female shrimp farmers in Thailand, women in our workshops suggested that to self-identify as 'farmer' was a choice with personal, political, and economic implications, albeit one constrained by material and social circumstances. Unlike the legal subject articulated in the Policy, women's own understandings of their access to land and agrarian identities were diverse and fluid; a 'female farmer,' was not a known quantity, but rather an asserted identity with

⁷ I'm grateful to Timothy Gorman and Laura Schoenberger for first posing and debating this question.

emancipatory possibilities. Studies reporting a similar pattern of perception of women as workers or farm helpers in Kenya (Githinji et al. 2014), Latin America (Deere 1985 cited in Doss, Summerfield and Tsikata 2014) and globally (Agarwal 2014) suggest gendered constructions of women workers and female farmers are not unique to Myanmar, and that attention to production and maintenance of these identities could help to better understand dynamics of global agrarian change.

Recognition of the tensions between structural position and personal agency is essential to conceptualizing and catalyzing empowerment in particular sites. As a step in this direction, I am currently working with a team in Myanmar to hold a series of 'Female Farmers Forums,' an event suggested by workshop participants to disseminate knowledge on land and agricultural laws, regulations, and judicial redress, and to foster connections and exchange among rural women. Following Kabeer's (2012) suggestion that notions of citizenship, both as legal status and potential for collective action, can help bridge institutional ideas of gender equality and locally-salient forms of women's empowerment, this project asks participants to consider the Policy's female farmer in relation to their own experiences and aspirations.

Minding the gap between female farmers is a prerequisite to practical and conceptual attempts to cross it. Through the proceeding discussion, I hope to suggest that dialectical examination of these figures can help unpack the idea and implications of political transition in Myanmar, and to invite further scrutiny to the ways social and legal identities are contrasted and contested over time. Empirical attention to the creation and reconciliation of disparate representations offers a grounded approach to theorizing the crystallization and legitimation of new social forms in the wake of declarations of democracy.

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