

Statement: 12 March 2019, Day One

Today marks the beginning of a crisis that will impact the livelihoods and rights of millions of ethnic villagers across Myanmar. Since midnight, all unregistered lands in the country have officially become vacant, fallow or virgin. In practice, it means that the government can now discretionarily reassign up to 50 million of acres for other purposes under the Vacant, Fallow and Virgin Lands Management Law (2012), thus paving the way for large-scale land confiscation in ethnic areas. This number amounts to one-third of Myanmar's landmass, 82% of which is located in ethnic areas where customary land tenure remains important.

On 11 September 2018, the Vacant, Fallow and Virgin Lands Management Law was amended to require all those occupying or using unregistered land to apply for a permit by 11 March 2019. Even though the amended law clearly states that it does not govern the management of ethnic customary lands, the corresponding provision is vaguely worded and lacks a formal definition of the term customary land. In addition, there is no official mechanism to classify customary lands as such. As a result, there is absolutely no guarantee that the rights of millions of people who depend on customary land tenure for their income and livelihood will be protected.

KHRG finds it disturbing that the registration process did not give ethnic communities a fair opportunity to register their customary lands in time. In addition to the short six month deadline, civil society organisations pointed out that many people in rural areas do not have access to land administration services, are unaware of the very existence of the Vacant, Fallow and Virgin Lands Management Law or even lack the necessary Burmese language skills to apply for a permit. Ethnic villagers who failed to register are now at risk of being charged with trespassing for using or occupying vacant, fallow or virgin lands. In brief, they could face up to two years in prison and a fine of MMK 500,000 (around USD 330) just because they are working or living on their ancestral lands.

Land governance in Myanmar is regulated by a complex framework of over 70 laws, none of which recognise customary land tenure. For decades, this has enabled the government, the military and private or armed actors to engage in the confiscation of customary lands with impunity, depriving entire communities of their ability to secure their livelihoods. The time has come to address this shortcoming to make sure that customary land tenure is fully recognised and protected. The failure to act will only exacerbate existing land-related problems in Southeast Myanmar. It would have dramatic consequences for local communities and ultimately undermine the current peace process.

Therefore, KHRG urges the Myanmar government to halt the implementation of the Vacant, Fallow and Virgin Lands Management Law without delay. Ethnic farmers are not criminals and under no circumstances should they be treated as such for merely trying to provide for their families. KHRG further calls on the Myanmar government to take the necessary measures, in close cooperation with relevant civil society organisations, to speed up the enactment of a comprehensive National Land Law that fully recognises and protects customary land tenure in line with the 2016 National Land Use Policy.

Yesterday, the Permanent Representative of Myanmar in Geneva stated to the United Nations Human Rights Council: "Human rights and inclusiveness are fundamental to the successful transformation of Myanmar into a democratic society." There can be no inclusiveness as long as millions of ethnic people continue to be denied their legitimate customary land rights. The Myanmar government must live up to its word and ensure that the culture, customs and rights of all its citizens, regardless of their ethnic background, are protected.