



Interview

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Toungoo Interview: *Land confiscation and judicial harassment by a Manager from the Ministry of Industry No. 1 in Thandaungyi Township, July 2019*

This interview describes how Aung Kyaw Oo, an Agricultural Manager from the Ministry of Industry No. 1, confiscated lands from local civilians in T--- village, Shaut Pin Chaung village tract, Thandaungyi Township, Toungoo District. Since 2015, he has been subjecting the local villagers to judicial harassment for allegedly trespassing into the confiscated land. The victims are now facing livelihood challenges because they have no lands left to work on.¹

Interview, July 7th 2019 | Naw² --- (female, 56), T--- village, Shaut Pin Chaung village tract, Thandaungyi Township, Toungoo District

Ethnicity: Karen

Religion: Christian

Marital Status: Married

Occupation: Daily labourer

Have you or other villagers faced any difficulties? What about land issues?

We face a lot of difficulties. Actually, this is our land. But it is not recognised as our land. Now, they say that the land we possess is theirs, and that it is vacant, fallow and virgin land. They confiscated the land, destroyed all of our plantations, and they planted rubber trees on our lands. We planted bamboos around our land. We set a fence to show whom these lands belong to.

Who do you refer to when you are talking about ‘they’?

Agricultural Manager Aung Kyaw Oo from the Ministry of Industry No. 1. Now, regarding our lands, the Chief Minister of Bago Region, U³ Win Thein, told us to apply for a Land Form #7.⁴ [...] This is our fence, our village and our home. They [Aung Kyaw Oo] told us that we went into their land and destroyed things, so they prosecuted us in court.

¹ The present document is based on information received in July 2019. It was provided by a community member in Toungoo district who has been trained by KHRG to monitor human rights conditions on the ground. The names of the victims, their photos and the exact locations are censored for security reasons.

² Naw is a S’gaw Karen female honorific title used before a person’s name.

³ U is a Burmese title used for elder men, used before their name.

⁴ Land Form #7 is a land use certificate issued according to the 2012 Farmland Law. This land form can be sold, transferred and inherited.

As for me, I was arrested for three reasons provided by Aung Kyaw Oo. The first reason is that we were trespassing into the land. The second reason is that we were destroying things in the land; and the last reason is that we were threatening them. In reality, we did not know anything. They used a lot of strategies to get our lands. Currently, we are facing difficulties because we have lost every trial that we faced since 2016. We did not have money to win the trials. We could not afford to give what they asked for. We had to face trial and work for our livelihood at the same time. We also faced transportation difficulties to attend the trials. In addition, we had to give between 20,000 kyats (USD 13.25)⁵ and 30,000 kyats (USD 19.88) in every trial we have faced.

Even though this is our land, we have to face these kinds of challenges. In fact, this is our land, but they are saying that it is vacant, fallow and virgin land. This is not true. Now, if you go and look, there are bamboo trees which we planted to mark our lands. The lands were destroyed, but the [bamboo] fences still remain. I would like leaders to help us so that we will not face the same situation again. We hope our leaders will give us suggestions concerning this case.

How many times have you lost a court trial?

As a whole village, we lost trials in 2016. Naw U--- and Saw C--- lost one trial in 2016. Dtee⁶ --- R, Naw U--- and I faced a trial in 2016-2017. We also lost it. Facing trials between 2016 and 2019 was very bad. As I am leading the effort to reclaim our lands, the entire burden is on me. These are our ancestral lands. This village was established by five people in 1950. Among them, there are only two people still alive in the village. [...] The others passed away.

After a dam project was implemented in 1996, all of our lands were confiscated. That is why we could not work on our lands. They also told us that we could not work on our lands as these lands were owned by the Myanmar government. When we went back and worked on our own lands, we were told that we were working on their lands so they came up with the court trials. There are two things that we worry about: our children's education and our livelihood.

We do not even have land to do plantations now. We would like to work on our own lands. Other people from the outside can come and work on our land, but we do not have a chance to work there. We really need our leaders to help us while we are facing this critical situation. It is also really difficult for us as uneducated people when facing trials. Another thing is that we worry about our health. If we are sick, we cannot go to the court. We face trials even though we are working on our own land. This is not vacant, fallow and virgin land. This is our land, and there is evidence. We fenced our land with bamboos. There are still some dog fruit trees in the lands that they have taken. We do have all the evidence to support our case.

According to what you were saying, you lost trials again and again. Could you explain more about how you lost the trials?

We were told that we have no documents – this was the reason why we lost our trials. As for me, I have a land receipt but my siblings do not. Nobody holds a receipt except me. If I go and show my receipt, the other people would have to stay behind because they have no documents with them. I could [go alone] if I wanted to. However, as a leader, if I did that, I would not be a good leader. I realised that we must 'eat delicious and small meals together' [suffer together], no matter what the situation is. We would live together whether we are to live in a town or a village. I also have a recommendation letter but I didn't [apply for a registration]. Aung Kyaw Oo already had a 30 year land grant. He arranged that somewhere by himself. I didn't know about that. We had our recommendation letter before the implementation of the dam. We have had the land receipt since 1975.

⁵ All conversion estimates for the kyat in this report are based on the 24 July 2019 official market rate of 1508 kyats to US \$1.

⁶ *Pa Dtee* or *Dtee* is a familiar term of respect in S'gaw Karen attributed to an older man that translates to "uncle", but it does not necessarily signify any actual familial relationship.

Have you faced injustice in the judiciary or corruption while facing trials?

When it comes to injustice or corruption, I did not see them offer money in front of us. Regarding the case, they invited Toungoo leaders who are general administrators.

Who do you mean by ‘they’?

I mean manager Aung Kyaw Oo. He invited the general administrators for agriculture and animal husbandry at the Toungoo Township level. He [manager Aung Kyaw Oo] told them that villagers invaded their lands. Then, I stood up and told them that we are not confiscating their land. This is our primary land. We are the original people from this village. Actually, he is not from here. He is from A Nyar. He never lived here. After the dam was constructed, he came to live here. When he came here, he wanted to make all the lands his possession. There are witnesses who heard him say that he would not give back the land even if he lost the court trials [and that] he would keep fighting until he wins. He was unjust.

I did not witness that he gave money during the trials. But, he shouted at us in the court, saying that we [could not work on our lands] and that he already has documents. He shouted: *“When did you apply for the registration? You don’t have any cogent evidence. I have cogent evidence.”*

Aung Kyaw Oo said there are land documents which have been granted by the Ministry of Industry. But if that documentation had really been granted by the Ministry of Industry, they would have confiscated all the land. But they did not. Currently, in places such as Kyauk Taing and Ywar Gyi areas, villagers have been granted permission to do plantations, but not in our area. Aung Kyaw Oo is only intimidating the people living here in the village. I want our leaders to come and give a speech in support of villagers. Now, there is nobody who talks on our behalf. I am the only one who has to speak. I have to speak a lot. People don’t like how I talk too much. This is a critical time. During this period, our villagers do not listen to me. They are just waiting to get support from other people.

These lands are not owned by Aung Kyaw Oo. We are the original villagers who live here. The land he is registering now is not vacant, fallow and virgin land. [...] We would like to know who is granting the land and recommending it to him. We are facing difficulties now. We have a different attitude and there is controversy among us about going to the court in Toungoo. [...]

Because of the trials, we had to spend money to go to the court [...]. That’s causing difficulties for us. We do not even have lands to farm now. We are also banned from working on the land that we have. We do not have houses or land. Where are we going to keep our children? We are not educated people. We cannot bring this case to an end even though we want to. Another thing is that we do not have income. We need our leaders to help us to be able to work on our own lands and escape from Manager Aung Kyaw Oo’s trials. We want our leaders to guide us. We cannot do it alone.

Have you hired lawyers to help you face the trials?

We cannot afford to hire a lawyer. People from the Justice Centre help us. There is a Karen female lawyer working there. [...] They told us: *“[Aung Kyaw Oo] has documentation, but you do not. Even though you guys are right, you do not have land documents”*. We felt really disappointed and angry. As I could not stand it, I went to meet with the Chief Minister of Bago Region. I really wanted our villagers to know how much I try for them, but they do not stand by me. I am alone now. What should I continue to do to persuade all my villagers to remain united?

Did the lawyers charge you?

No.

Did they use Myanmar land law when advising you?

I did not see any justice in the court. When we went to the court, people who prosecuted us were rich. We could not afford to hire lawyers. The lawyer was voluntarily helping us. However, we did not understand anything they did for us. What I think is that we could not do anything because we do not have money. Whether they help us or not, we cannot do anything.

When I arrived home, I phoned [the lawyer] and asked about how the situation was going to be. She said that the case was not so bad: *"You will only have to pay the fine. You will have to give 30,000 Kyats (USD 19.88) per person."* I wanted to record her voice but my phone cannot record calls.

Who talked to you?

Her name is Zin Mar Htoo. She was hired by the Justice Centre. The person in charge of the Justice Centre is Kyu Kyu Lwin. Kyu Kyu Lwin told me that she was trying her best for us, but we did not have all our witnesses there.

The Chief Minister of Bago Region, U Win Thein, [...] went to see village leaders and talked to them. I asked for permission to be the first person to talk. When I stood up, the Chief Minister asked me if I wanted to ask for electricity. I told him: *"I am not asking for electricity. I would like to ask for the revocation of the trials."* I told them to give my lands back to me because I do not have any land to work for our livelihoods. Those are the two things I talked about. The village head stood up and said: *"If we make any mistakes while we are talking, please forgive us - we also want electricity."* And then I stood up again and said: *"I do not want electricity because I do not have money."* [...]

I also told the Minister that we were told to apply for a VFV registration. I said: *"In the past, you told us to apply for a Land Form #7. I went to apply for that with the village tract administrator."* They [people responsible for land titles] gave us a Land Form #1 instead and told us to make more copies. [...] We took the Land Forms #1 to apply for Land Forms #7 but [the village administrator] did not sign them for us. Again, they told us to apply for VFV registration. I told them that I cannot apply for a VFV registration because my lands are not vacant, fallow and virgin. When I told the minister that, he said: *"There is something wrong."*

During the meeting, I asked one of the leaders what he thinks about it. He stood up and said: *"It is true. When we investigated ten or eleven of them [villagers], there were more than 200 acres of land that were confiscated"*. Then I stood up and said: *"Not only eleven. There are 54 of us but when you called us to meet, only eleven of us came. We do not have lands anymore and we have to work outside so not all of us could meet you. People who stayed back at home were old people and children."* They said our confiscated lands are over 200 acres. So I told them, it is not over 200 acres of land. It is over 500 acres of land. I said that I had letters with me. I also sent them to the upper leaders with a list of names. I sent them to several departments. Then the Minister asked Aung Kyaw Oo: *"Are you from Karen state? If you are from Karen state, will you accept me to ask for 50 acres of land in Karen state even though I am from Bago Region? [...] If you want the lands, you should pay compensation. If not, give the lands back. You said you are government staff, right? If you are government staff, you can work in many places. You are not supposed to come here and ask for lands for your own benefits."*

If our lands do belong to the government, the government should give us compensation. But they do not pay us anything. If they belong to a private company, then [the company] should also pay us. But they do not. Why do they have to oppress us like this? They do not do it to other villages. They only do it to our village. Most villagers here are women so we dare not protest against them. We just pray. We do not want to oppose or hurt others. We want to get our lands back and work freely. We do not want to attend court anymore. We want to be free from that. My children don't go to school anymore. I cannot send them to school. I have to work alone. I had to sell my pig after coming back from Nay Pyi Taw. It is not for my children - I sold my pig to pay my debts.

Did you see any change after the Chief Minister said that?

Nothing has changed. Aung Kyaw Oo harvests the rubber every day.

When will your trial finish?

On July 15th 2019, they will submit the files and then they will make a decision. I dare not tell anyone because if many people hear that the case is not solved yet, and if they spread that information, some people will be happy about it. I cannot sleep at night.

[Following this interview, this case was postponed until July 29th, and then postponed again until August 12th 2019. On that day, the judges ruled against the villagers who had been sued. They were sentenced to fines ranging from 10,000 to 20,000 kyats (USD 6.51 to 13.01). The villagers think that they lost the trial because they did not have money to offer to the court.]

Further background reading on the issue of land confiscation in Southeast Myanmar can be found in the following KHRG reports:

- ["Mergui-Tavoy Interview: Land Confiscation by the Asia World Company, March 2019"](#), (July 2019)
- ["Mergui-Tavoy District: Land Confiscation by the A Lin Yaung Company in Ler Muh Lah Township, December 2018"](#), (June 2019)
- ["Do Not Trespass: Land Confiscation by Armed Actors in Southeast Myanmar"](#), (May 2019)
- ["Hpapun Incident Report: Land confiscation by armed actors impede refugee return in Bu Tho Township, February 2018"](#), (December 2018)

About KHRG

Founded in 1992, the Karen Human Rights Group is an independent local organisation committed to improving the human rights situation in Southeast Myanmar. KHRG trains local people to document and gather evidence of human rights abuses, and publishes this information to project the voices, experiences and perspectives of local communities. More examples of our work can be seen online at www.khrq.org.

Taw Oo (Toungoo) District

