

Burma's Dead-End Peace Negotiation Process: A Case Study of the Land Sector

A new political dialogue framework must be established that can go beyond the 2008 Constitution, and only then can a genuine and inclusive nationwide political dialogue take place.



Karen Peace Support Network

July, 2018



Karen Peace Support Network

Burma's Dead-End Peace Negotiation Process:

A Case Study of the Land Sector

July 2018

Front page cartoon

LaiLone

Acronym

AA - Arakan Army

CSOs - Civil Society Organizations

FPD - Framework for Political Dialogue

IDPs - Internally Displaced Peoples

JICM - Joint Implementation Coordination Meeting

JMC - Joint Ceasefire Monitoring Committee

KPSN - Karen Peace Support Network

KNU - Karen National Union

KNLA - Karen National Liberation Army

KIO - Kachin Independence Organization

KIA - Kachin Independence Army

LDU - Lahu Democratic Union

MNDAA - Myanmar National Democratic Alliance Army

NMSP - New Mon State Party

NLD - National League of Democracy

NCA - Nationwide Ceasefire Agreement

ND - National Dialogue

PPST - Peace Process Steering Team

RCSS - Restoration Council of Shan State

TNLA - Ta-an National Liberation Army

TWC - Thematic Working Committee

21CPC - Union Peace Conference (21st Century Panglong Conference)

UPDJC - Union Peace Dialogue Joint Committee

CONTENTS

I. Executive Summary.....	4
II. Brief overview of the peace negotiation process.....	6
III. Governing the Peace negotiation process.....	10
IV. The “Five Gate” Framework for Political Dialogue.....	11
IV.I. 1st GATE: The Five Thematic Working Committees.....	13
IV.II. 2nd GATE: The Union Peace Dialogue Joint Committee Secretariat.....	14
IV.III. 3rd GATE: The Union Peace Dialogue Joint Committee.....	14
IV.IV. 4th GATE: The Union Peace Conference (21CPC).....	15
IV.V. 5th GATE: Parliament.....	15
V. Land in the Peace negotiation process.....	16
VI. Karen National-level Political Dialogue on Land and Environment..	18
VI.I. 1st GATE: Land and Environment Working Committee.....	19
VI.II. 2nd GATE: The Union Peace Dialogue Joint Committee Secretariat.....	21
VI.III. 3rd GATE: The Union Peace Dialogue Joint Committee.....	21
VI.IV. 4th GATE: The 2nd 21st Century Panglong Conference.....	21
VI.V. 5th GATE: Parliament.....	22
VI.VI. The Ten Principles of the Land Sector Vs. Existing Myanmar Legislation.....	22
VI.VII. EAO leaders outline the limits of current peace negotiation process.....	24
VII. Postponement of 3rd 21CPC.....	28
VIII. Burma Army Breaching the 2015 NCA.....	30
IX. Conclusion.....	32
X. Recommendations.....	33
Annex 1	34
Annex 2	36
Annex 3	41

I Executive Summary

It became undeniably clear that Burma's peace negotiation process would not result in the establishment of "a new democratic federal union" following the second 21st Century Panglong Conference¹ (21CPC), held in May 2017. The objective of the 2nd 21CPC was to create a forum where representatives of the Burma Army, also known as the Tatmadaw, Ethnic Armed Organisations (EAOs), political parties, government, parliament and other stakeholders could negotiate a set of principles to guide the formation of a democratic federal union.

This brief analyses the peace negotiation process using dialogue over land management powers as a case study, by tracing original demands and negotiations related to land from the Karen ethnic-level national political dialogues held in January 2017 up to the 21CPC in May 2017. The land policy principles "agreed" during the 2nd 21CPC contradict the recommendations developed through Karen national-level political dialogues, which clearly called for local ownership and state land management powers.

Building on the 2008 Constitution, the Burma Army is clearly using the peace negotiation process to further entrench military rule and expand their control into ethnic areas. Since in office, the National League for Democracy (NLD) has reneged on a number of its core election pledges, leading to growing concerns among civil society that the NLD's decision making is being increasingly influenced/determined by the Burma Army, facilitating the further centralisation of power. The Myanmar government and the Burma Army continue to call on the country's Ethnic Armed Organisations (EAOs) to sign the Nationwide Ceasefire Agreement (NCA), yet simultaneously the Tatmadaw and its proxy forces are engaged in multiple coordinated offensives against those very same EAOs in Kachin, Karen and Shan States.

The control, management and ownership of land is a major issue within the peace negotiation process. The military-penned 2008 Constitution and existing laws provide the state with absolute power and authority over land

¹ This was the 3rd Union Peace Conference (21CPC) but the 2nd 21CPC. The first 21CPC took place in January 2016 under the Thein Sein government. The National League for Democracy (NLD) renamed it the 21CPC in August 2016 when holding the 2nd 21CPC / 1st 21CPC.

and natural resources. This continued centralisation of powers with the union government is unacceptable to ethnic organisations as it represents the primary cause of conflict. However, the Burma Army has imposed these fundamentally undemocratic powers through the commander-in-chief's "six-point policy" for the peace negotiation process which demands all EAOs "strictly abide by the existing laws...in accordance with the 2008 Constitution."²

Land tenure and resource access are also tied to opportunities for peace, as they are at the centre of all ethnic groups' longstanding struggles to secure equal rights and self-determination.³

Ethnic political parties and ethnic armed organisations (EAOs) have institutionalised devolved systems of land and natural resource management within their administrative areas. As a case in point, the Karen National Union (KNU), in its own administered areas, has institutionalised land and forest policies, based on federal principles which recognise customary systems of land and natural resource management.⁴ Representatives of the KNU and Karen civil society organizations (CSOs) have carried these policies forward to the peace negotiation process, advocating for recognition and respect for these fundamental rights within the framework of a future democratic federal union.

Our findings show that the peace negotiation process is restricted by the 2008 Constitution and any proposals suggested outside these limits are simply blocked by the military while the NLD remains largely silent in this process and does not act on its own election manifesto to establish a federal democratic union. Therefore, this process has effectively come to a dead-end.

KPSN argues that a comprehensive and genuine revision of the flawed process must be made, and a new framework established that replaces the military penned 2008 constitution. Only then can a genuine, inclusive and acceptable nationwide political dialogue take place.

² Tatmadaw outlines 6-point policy for peace talk, The Nation, 23 Sept. 2014, accessible <http://www.nationmultimedia.com/asean&beyon/Tatmadaw-outlines-6-point-policy-for-peace-talk-30243970.html>; Sai Wansai discusses how EAO leaders interpret the Tatmadaw's controversial six "principles for peace" as "more of a stumbling block to cooperation than a road-map to peace." Sai Wansai "Aftermath of 21st Century Panglong: Positive Symbolism Throws the Door of Earnest Negotiations Wide Open", Shan Herald Agency for News (SHAN) 4th Sept 2016; accessible <https://www.burmalink.org/aftermath-21st-century-panglong-positive-symbolism-throws-door-earnest-negotiations-wide-open/>

³ All people's right to self-determination is protected International Covenant on Economic, Social and Cultural Rights. ICESCR is one of the core International Human Rights Treaties. The Myanmar government ratified the ICESCR on 6th Oct 2017.

⁴ Karen Environmental Social Action Network (2017) Kawthoolei Land Policy Briefer: Land to the Native People

II. Brief overview of the peace negotiation process

War and not-quite-peace

In September 2011, the Thein Sein government officially called on the leaders of the country's EAOs to join the government for peace negotiations. The quasi-civilian government's offer of an "olive branch"⁵ to EAOs came just months after the Tatmadaw initiated a series of major offensives against the Kachin Independence Organisation (KIO) and its armed wing the Kachin Independence Army (KIA). The Burma Army's coordinated, multi-battalion offensives began on June 9th, bringing an end to the 17-year old ceasefire with the KIO.⁶ By March 2012, 75,000 men, women and children had fled their homes, most seeking refuge in some 30 camps along the China border.⁷ While the Tatmadaw embarked upon a series of brutal military operations in Kachin and northern Shan State, between September 2011 and August 2012 the Myanmar government renewed and secured a series of ceasefire agreements with 13 EAOs, most notably with the Restoration Council of Shan State (RCSS) in December 2011 followed by the KNU in January 2012.⁸

The 1994 ceasefire between the Tatmadaw and the Kachin Independence Organisation (KIO) enabled the extension of the military state's control over resources and territory in the "post-conflict" areas of Kachin State.⁹ During the ceasefire period the Burma Army built up its military capacities, particularly in areas of economic interest.¹⁰ This facilitated the extraction of natural resources at an unprecedented pace and scale, particularly lucrative timber,

⁵ "Union Government offers olive branch to national race armed groups", *New Light of Myanmar*, 19 August 2011. In the following days, Thein Sein reiterated the "olive branch" call in a public address: "President U Thein Sein addresses first Pyidaungsu Hluttaw second regular session", *New Light Myanmar*, 23 August 2011; See Transnational Institute's Sept. 2017 Myanmar Policy Briefing Report Beyond Panglong.

⁶ The KIO's ceasefire with the Burmese government was the first written ceasefire, whereas all other ceasefires preceding this with based upon verbal agreements.

⁷ Human Rights Watch (2012) *Untold Miseries: Wartime Abuses and Forced Displacement in Burma's Kachin State*

⁸ *Burma News International* (2013) *Deciphering Myanmar's Peace Process*, p. 43

⁹ Kevin Woods (2011) "Ceasefire capitalism: military-private partnerships, resource concessions and military-state building in the Burma-China borderlands", *The Journal of Peasant Studies*, 38:4, 747-770

¹⁰ Kachin Development Networking Group (KDNG) *Lessons from the Kachin "development" experience*

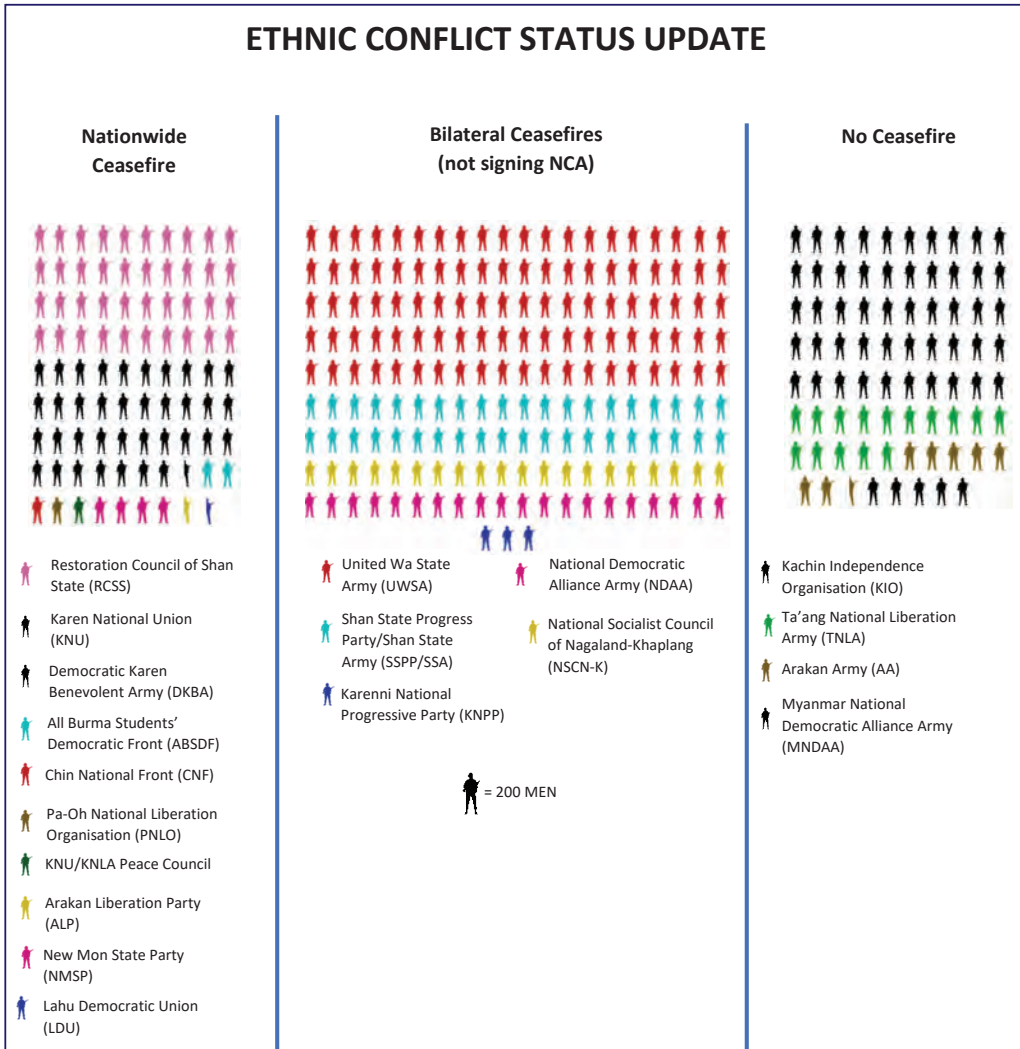
jade and gold. The vast majority of people in Kachin and northern Shan State did not see the economic benefits of the ceasefire or the Tatmadaw's so called developments, which were largely built around these extractive industries. In fact, much of the exploitation of land and resources took place at the expense of local communities who were, in many cases, driven further into poverty.

As in Kachin State, since the 2012 ceasefire significant areas of Karen State have come under growing pressure from large-scale extractive industries, hydropower projects, agribusiness and infrastructure development projects. As elsewhere in Burma, the exploitation of local natural resources and disrespect for land rights by central military authorities are two key causes of armed conflict in Karen State. Hence, while the January 2012 ceasefire and the 2015 NCA opened some space for Karen people to rebuild their lives during pauses in widespread armed conflict, the ceasefire period has also allowed controversial projects to be advanced, leading to new and renewed tensions, cycles armed conflict, land confiscation and the displacement of civilians.

In October 2015, eight out of the 21 EAOs usually recognised in the peace negotiation process became signatories to the NCA. The remaining EAO non-signatories were either prohibited from signing the NCA – the Kokang based Myanmar National Democratic Alliance Army (MNDAA), the Ta-nga National Liberation Army (TNLA) and the Arakan Army (AA) – or refused to sign the NCA due to ongoing distrust of Myanmar's authoritarian military and its quasi-civilian government.¹¹ In early 2018, the New Mon State Party (NMSP) and the Lahu Democratic Union (LDU) became NCA signatories, yet about 80 percent of the total rank and file of Burma's numerous EAO remain non-signatories to the NCA.

¹¹ Slodkowski, Antoni, "Myanmar signs ceasefire with eight armed groups", Reuters, 8 Oct 2015, <https://www.reuters.com/article/us-myanmar-politics/myanmar-signs-ceasefire-with-eight-armed-groups-idUSKCN0S82MR20151015> ; Maung Zarni and Saw Kapi, "Opinion: Divisive ceasefire won't bring peace", DVB, 8 Sept 2015, <http://w.dvb.no/news/opinion-divisive-ceasefire-wont-bring-peace/57093>

ETHNIC CONFLICT STATUS UPDATE



Graphic: The graphic is updated from Myanmar Peace Monitor 2016

The NCA was heralded as a “historic gift” by former President Thein Sein who proclaimed at the signing ceremony that “the road to future peace in Myanmar is now open.”¹² Leaders of EAO signatories have invested their hopes in the NCA as a pathway towards genuine and lasting peace in Burma. As the KNU Chairman, Mutu Say Poe expressed; “we who have signed the NCA, can play a role in facilitating a more effective dialogue and meaningful discourse between the government and the remaining ethnic armed groups.”¹³

Yet, while the signing ceremony was celebrated in Nay Pyi Taw, armed conflict intensified in Kachin State and northern Shan State, as the Burma Army expanded military operations against the KIA, TNLA, and MNDAA.

Representatives of the Myanmar government and the Tatmadaw have used the KNU’s engagement in the peace negotiation process to persuade other Ethnic Armed Organisations (EAOs) to sign the NCA. Indeed, as recently as December 2017, the State Counsellor, Aung San Suu Kyi, spoke of the “Karen model”¹⁴ towards peace and unity, with reference to the three Karen EAOs that signed the NCA in October 2015, most notably the KNU.

However, since the 2015 ceasefire was initiated more than 8,500 civilians have been forcibly displaced as a result of Tatmadaw military operations in Karen State.¹⁵ These military operations, authorised at the highest levels of the Burma Army command, have breached the NCA and led to renewed cycles of armed conflict in Hpa-an and Mutraw (Hpapun) districts.

Since it took up office, the NLD-led government has failed to speak out against or condemn the Burma Army for its ongoing offensives against both ceasefire and non-ceasefire EAOs and its widespread and systematic violation of the human rights of civilians in ethnic areas.

¹² Slodkowski, Antoni, “Myanmar signs ceasefire with eight armed groups”, Reuters, 8 Oct 2015

¹³ Jack Myint, “The Truth About Myanmar’s New Ceasefire Agreement”, The Diplomat, 30 Oct 2015, <https://thediplomat.com/2015/10/the-truth-about-myanmars-new-ceasefire-agreement/>

¹⁴ Pyae Thet Phyto, “Karen people urged to keep up the good work”, Myanmar Times, 19th December 2017; accessible <https://www.mmmtimes.com/news/karen-people-urged-keep-good-work.html>

¹⁵ KPSN (2018) The Nightmare Returns; accessible <https://karenwomen.files.wordpress.com/2018/04/kpsn-media-release-the-nightmare-returns.pdf>; See also Karen Human Rights Group (KHRG) (2018) Attacks on villagers, ongoing fighting and displacement in Hpapun and Toungoo districts from January to April 2018; accessible <http://khr.org/2018/05/18-1-nb1/attacks-villagers-ongoing-fighting-and-displacement-hpapun-and-toungoo-districts>

III. Governing the Peace negotiation process

III.I. Joint Implementation Coordination Meeting (JICM)

The JICM is the highest-level body mandated to oversee and guide the implementation of the NCA. The first meeting of the JICM was convened on 15-17th Oct. 2015, immediately after the NCA signing ceremony and resulted in the formation of the Joint Monitoring Committee (JMC) and the Union Peace Dialogue Joint Committee (UPDJC). The UPDJC and the JMC are required to report to the JICM. The JICM has a role to break deadlocks in the peace negotiation process when the UPDJC and the JMC are ineffective.

III.II. Joint Ceasefire Monitoring Committee (JMC)

Formed on the 18th October 2015, the JMC is responsible for implementing the military provisions of the NCA, preventing the recurrence of armed clashes, and resolving armed conflicts. According to the ToR for the JMC, the committee has a mandate to operate at the Union-, State- and local-levels¹⁶ and is chaired by a high-ranking general from the Tatmadaw, currently Lieutenant General Yar Pyay, while the Vice-Chair is held by a high-ranking general from one of the EAOs.

III.III. Union Peace Dialogue Joint Committee (UPDJC)

The UPDJC was established on the 18th October 2015 and has a broad and influential mandate within the framework of the peace negotiation process. On the 16th December 2015, the JICM approved the Framework for Political Dialogue (FPD) drafted by the UPDJC. According to the FPD, the UPDJC is responsible for holding and overseeing the implementation of the political dialogue process and organising the 21CPC, renamed as the 21st Century Panglong by the NLD in August 2016.¹⁷

¹⁶ Joint Monitoring Committee makes 15 decisions on second day meeting, *New Light of Myanmar*, 10 May 2018, accessible: <http://www.globalnewlightofmyanmar.com/joint-monitoring-committee-makes-15-decisions-second-day-meeting/>

¹⁷ *Burma News International (BNI)* (2016) *Deciphering Myanmar's Peace Process: A Reference Guide 2016*, p. 45; See also, Sai Wansai, "Panglong Agreement still casts a long shadow on national reconciliation deliberation", *Shan Herald Agency for News*, 4 July 2016, accessible at: <http://english.panglong.org/2016/07/04/panglong-agreement-still-casts-a-long-shadow-on-national-reconciliation-deliberation/>

The UPDJC is represented by members of government, parliament, Tatmadaw, EAOs, and political parties. The committee is chaired by the State Counsellor, Daw Aung San Suu Kyi and has three vice chairs, including Vice Chair no.1, Minister for the Office of the State Counsellor, Vice Chair no.2, Union Peace Commission Chairman, and a vice chair representing EAOs.¹⁸

The UPDJC has a secretariat, the members are split between three blocks; the first block is represented by members of the Tatmadaw, government and Hluttaw; the second by EAOs; and the third by political parties.¹⁹

The UPDJC-secretariat is mandated to coordinate the efforts of the Thematic Working Group (TWCs) to submit policy paper and then to deliver those papers to the UPDJC for decision making and approval of a single draft text policy paper. It also has organizational responsibilities to carry out the work of implementing decisions by the UPDJC. The final responsibility of the UPDJC is to submit the Union Accord, resulting from the 21CPC, to the government for ratification in the Pyidaungsu Hluttaw.

IV. The “Five Gate” Framework for Political Dialogue

The NCA was ratified by the Pyidaungsu Hluttaw on 8th December, 2015. Chapter Five of the NCA establishes the political roadmap for the Myanmar government and EAOs to abide by, including: Signing of the NCA; drafting and adopting the Framework for Political Dialogue (FPD); holding national political dialogue based on the FPD; and holding the 21CPC.

The UPDJC drafted the FPD which consists of nine chapters and 17 articles.²⁰ The FPD provides further details for the political roadmap laid out under the NCA. The stated objective of the FPD is:

... [B]uilding a democratic federal union in line with the result of a political dialogue aiming at the non-disintegration of the union, the non-disintegration of national solidarity and the perpetuation of sovereignty based on liberty, equality and justice in conformity with the Panglong Spirit, fully ensuring the right to democracy, national equality and self-determination.²¹

¹⁸ BNI (2016) DECIPHERING MYANMAR'S PEACE PROCESS, P. 43

¹⁹ BNI (2016) DECIPHERING MYANMAR'S PEACE PROCESS, P. 46

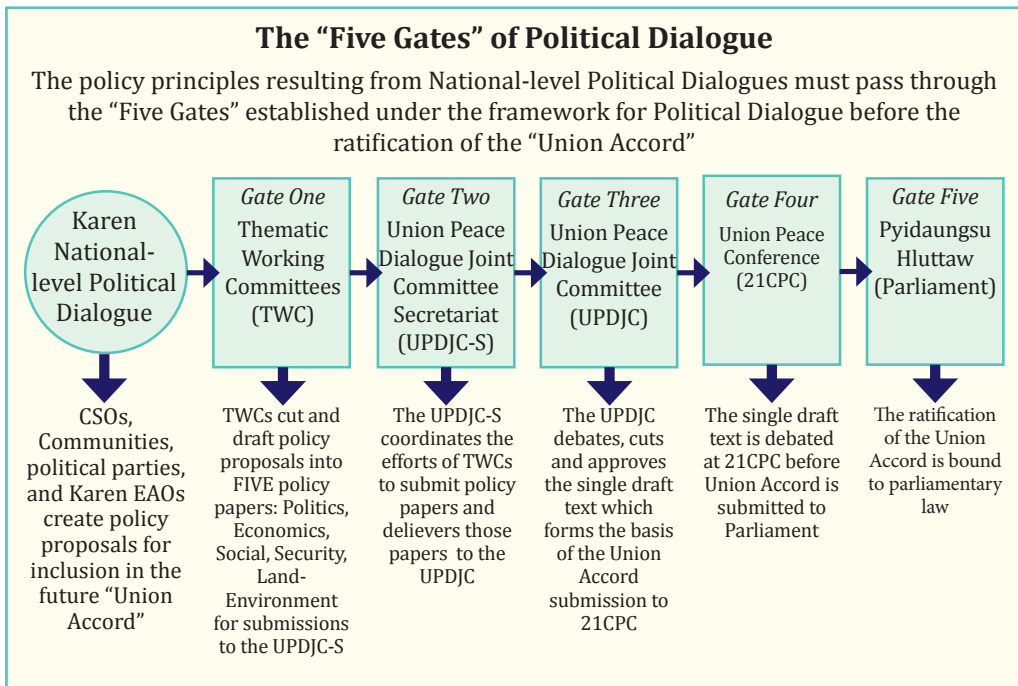
²⁰ BNI (2016) DECIPHERING MYANMAR'S PEACE PROCESS, P. 42

²¹ Framework for Political Dialogue (2015) Preamble (Unofficial English translation)

Chapter 3-4 of the FPD lays out the process for political dialogue, and Chapter 5 establishes the “Agendas for Political Dialogue”, which are broken down into five thematic areas of politics, economics, social, security, and land and the environment. Chapters 6-7-8 of the FPD lay out the mechanisms for the peace negotiation process and the establishment of a future “Union Accord”.

The FPD calls for representatives of the Myanmar government, Hluttaw, Tatmadaw, EAOs, registered political parties, ethnic representative, civil society organizations and others to participate in the national level national-level political dialogues. During these dialogues or consultations, participants negotiate and agree upon a series of sector specific principles with the aim that they may form part of a future Union Accord. However, in accordance with the FPD, the principles resulting from these dialogues face a series of reviews and revisions before the ratification of a future Union Accord. The review process passes five stages coordinated through the following platforms: The Technical Working Committees (TWCs); the Union Peace Dialogue Joint Committee Secretariat (UPDJC-S), the Union Peace Dialogue Joint Committee (UPDJC), the 21CPC, with the final ratification in the Pyidaungsu Hluttaw.

In this report, KPSN refers to these stages in the dialogue process as the “Five Gates” to draw attention the top-down and restrictive mechanisms established under the FPD, and their implications for the peace negotiation process.



National-level Political Dialogues

The national-level political dialogues represent the entry point for inputs into the dialogue process, especially from communities and civil society. Although these are referred to as “national-level” dialogues they are held at the sub-national level.

Participants in the national-level political dialogues include representatives from government, Burma Army, registered political parties, EAOs, ethnic representatives, civil society organisations (CSOs), and “other appropriate individuals”. These dialogues are divided into three categories:

1. Ethnic based – EAO-led multi-stakeholder conferences
2. State/Region based – State and Region government-led multi-stakeholder conferences
3. Issue based – CSO-led multi-stakeholder conferences

The objective of the national-level political dialogues is to set down policies covering five thematic areas of politics, economics, social, land and environment, and security. The policies developed during these dialogues are then delivered to the “five thematic working committees”, positioned under the UPDJC secretariat.

IV.I. 1st GATE: The Five Thematic Working Committees

The five Thematic Working Committees (TWC) are organised according to the five thematic areas. Each TWC consists of 15 representatives, five from each of the main groupings: government/Hluttaw/Tatmadaw; EAOs; and political parties.²²

The role of the TWCs is to debate and draft five separate sets of policy recommendations based on the results of the national-level political dialogues. During the debate review, cutting and drafting process of the thematic policy recommendations, Tatmadaw representatives have used the 2008 Constitution and existing national legislation to block and cut out recommendations that are not in line with existing legislation, including the 2008 Constitution.

²² Sai Latt, “Burma’s National Dialogue: Where Now?”, *The Irrawaddy*, 21 March 2017, accessible at: <https://www.irrawaddy.com/opinion/guest-column/burmas-national-dialogue-now.html>

Issues that the TWCs are unable to resolve are submitted to the UPDJC secretariat, along with the policy papers covering the five thematic areas.

IV.II 2nd GATE: The Union Peace Dialogue Joint Committee Secretariat

The 15-member UPDJC Secretariat is mandated to coordinate the efforts of the TWCs to submit policy papers and then to deliver those papers to the UPDJC for decision making and approval of a single text policy paper.

IV.III. 3rd GATE: The Union Peace Dialogue Joint Committee

The 48-member UPDJC is mandated to debate, cut, re-draft and approve the five thematic policy recommendation papers into a single text policy submitted by the TWCs through the UPDJC secretariat. The UPDJC holds a powerful mandate within the peace negotiation process, particularly in relation to its control over the single draft text presented to the 21CPC.

The FPD, drafted by the UPDJC, provides no opportunity for stakeholders from the national-level political dialogues to review the single draft text produced by the UPDJC. So far, this top-down structure has worked in favour of Tatmadaw and Myanmar government representatives on the UPDJC who used the 2008 Constitution and other existing legislation to block and reduce policy proposals produced at the national-level political dialogues, effectively rendering the proposals from these dialogues redundant.

The results of national-level political dialogues, which are supposed to be at the core of discussions at the 21CPC, are vetted by the UPDJC. Thus, the UPDJC acts as the gatekeeper between the national- and union-level dialogues.

IV.IV. 4th GATE: The Union Peace Conference (21CPC)

The 21CPC is the highest-level platform within the FPD. The objective of the 21CPC is to provide a platform for the debate and approval of the Union Accord.

The 21CPC is supposed to be attended by 700 participants: 75 from government, 75 from parliament, 150 from the Tatmadaw, 150 representatives from EAOs, 150 from registered political parties, 50 ethnic representatives, and 50 relevant stakeholders.

According to the FPD, the 21CPC will negotiate and approve the single text draft submitted by the UPDJC. The approval of resolution during the 21CPC related to land and environment, social or economics require a “vote of at least above 50% of each group and the vote of at least above 65% of all those who attended the conference.”²³ However, Chapter 6, Article 6.2 of the FPD states that agreements on matters related to federal, security reform, and national security require a yes vote from over 75% of “each group attending the 21CPC”.

IV.V. 5th GATE: Pyidaungsu Hluttaw

Following debate, negotiation, and agreement at the 21CPC, the Union Accord is submitted to the Pyidaungsu Hluttaw for approval and ratification.

According to the FPD, the parts or whole of the Union Accord shall be submitted to the Pyidaungsu Hluttaw for approval.²⁴ The final approval of the Union Accord is therefore bound by parliamentary law, established under the framework of the 2008 Constitution.

²³ Framework for Political Dialogue, Chapter 6, Article 6.3 (Unofficial translation)

²⁴ Framework for Political Dialogue, Chapter 8, Article 13 (Unofficial translation)

V. Land in the Peace Negotiation Process

Since 2012, a series of new land laws have been passed which further entrench centralised ownership, management, and control over land. These laws contradict the longstanding calls of ethnic organisations for the decentralisation of land governance. This continues to have a profoundly negative and restrictive impact on the country's peace negotiation process.

The land related legal reform process currently taking place in parliament has actively ignored the opportunity to resolve the deep-rooted land conflicts across the country, that could lay the foundations for long lasting peace in the country. Ethnic communities have sought to address this crucial issue through the peace negotiation process, however, parliamentary reforms on land related legal frameworks continue to jeopardise the peace negotiations process, and opportunities towards equitable and just solutions to the land issue, by further entrenching centralised control of land.

Burma's central government, be it military or quasi-civilian, has long pursued monopoly power over the ownership and management of land and natural resources. Successive Burmese military junta's have attempted to bolster this totalitarian project, using a mixture of armed force and legislation. Today, the state has extensive powers over land in the country, enshrined within Article 37 of the 2008 Constitution and other land related legal frameworks, such as the 2012 Vacant, Fallow and Virgin Land Law. The latter was promulgated just months after the KNU and the government signed the 2012 ceasefire, and contravened important clauses of the agreement.

The centralization of power with the military-state has facilitated widespread dispossession and displacement of the country's small-holder farmers from their ancestral lands. A 2015 study by the Land In Our Hands network²⁵ indicates that the Burma Army is the leading entity responsible for land confiscations, accounting for 47.7% of all land confiscations surveyed, while government departments were involved in 18.8%, and companies in 13.9%.²⁶

²⁵ Land In Our Hands (LIOH) is a network of Civil Society Organisations, farmers unions and local communities working of land issues across the country.

²⁶ LIOH (2015) Destroying People's Lives, p. 29; accessible https://www.tni.org/files/article-downloads/lioh_research_report_eng_0.pdf

The Burma Army has relied heavily upon force of arms to confiscate land and resources. Beginning in the 1990s, the Tatmadaw military campaign also known as the “Four Cuts”, forced hundreds of thousands of people in Karen State from their land and homes. Tens of thousands of Karen people fled across the border into Thailand, while tens of thousands more hid in the forests of Karen State. During this period, the Burma Army established a network of military facilities deep in KNU territory, consolidating control over large areas of land and resources. In Karen State, 71.8% of all surveyed land confiscations began in the 1990-99 period, and 86.6% of all land confiscated was inherited customary lands.²⁷

In the context of widespread land insecurity, EAOs, CSOs and local communities have called for the establishment of devolved federal systems of land and natural resource management.²⁸ For example, during the last four decades, the KNU has been practicing land management and governance systems, operating outside of the administrative control of central government. The first KNU Land Policy was adopted in 1974 and has been adapted with input from civil society organizations (CSOs) and local communities. The current KNU Land Policy focuses on community-based decision making over land use and management, founded upon recognition of the customary tenure rights of all ethnic peoples.

This policy opens a pathway to devolved, federal governance of land, forestry, fisheries, water, and related natural resources, where ultimate ownership of these resources is held by the ethnic nationalities, not the Union government. The key principles of the KNU Land Policy offer a stark contrast to the land related principles outlined in the 2008 Constitution, and the Union government’s existing land related legal frameworks. The 2008 Constitution, drafted by the Tatmadaw, concentrates decision making, management power and ownership over land and related natural resources within the Union government. The existing legislation drafted under the 2008 Constitution, governing land are highly centralized, and exclude possibilities for the formal recognition of existing devolved systems of land and natural resource management.

²⁷ LIOH (2015) *Destroying People’s Lives*, p. 29

²⁸ Burma Environmental Working Group (BEWG) (2017) *Resource Federalism: A Roadmap for Decentralised Governance of Burma’s Natural Heritage*; accessible http://www.bewg.org/sites/default/files/pdf_report_file/ResourceFederalismWEB_0.pdf

Restitution of land to the many tens of thousands of people who have suffered housing, land and property losses as a result of displacement and land confiscation is an essential element of the peace negotiation process. However, according to a recent report by Displacement Solutions, “there is no distinct ‘right to housing and property restitution’ as yet in Myanmar law”;²⁹ while the 2015 NCA “does not address restitution directly, nor develop proposals in this regard.”³⁰ The ongoing corruption within Burma’s bureaucracy and the central government’s refusal to negotiate an equitable and just resolution to systemic and widespread land insecurity continues to represent an insurmountable obstacle to genuine political dialogue in the peace negotiation process.

Below, KPSN provides an analysis of the land policy recommendations resulting from the Karen National-level Political Dialogue, and its journey to the 21CPC under the peace negotiation process structure.

VI. Karen National-level Political Dialogue on Land and Environment

As outlined above, “Land and environment” is one of the five thematic issues identified as key to political dialogue in the peace negotiation process.

In 2017, at the national-level political dialogue³¹ in Hpa-an, local stakeholders, including CSOs, local communities, political parties and Karen EAOs delivered their land policy recommendations for inclusion in the future “Union Accord”. However, according to the mechanisms and structure of the peace negotiation process, these land policy recommendations must pass a five-stage screening process, which KPSN has termed the “five gates” [See “Five Gates” Chart on p. 12]. This process has allowed the Tatmadaw to censor the policy recommendations made by local stakeholders.

²⁹ Leckie, Scott (2017) “Restitution in Myanmar”, Displacement Solutions, p. 41

³⁰ Leckie, Scott (2017) “Restitution in Myanmar”, Displacement Solutions, p.51

³¹ The Karen land policies were presented and accepted in the Karen State National Dialogue (ND) which took place in Hpa-an, Karen state from January 17 to 20, 2017. This Karen state ND was attended by approx. 300 persons and draft policy papers were finalized by representatives from the Karen National Union (KNU), Democratic Karen Benevolent Army (DKBA), KNU/KNLA Peace Council, Karen political parties, Karen religious leaders, Karen delegates from upper Burma, Mon State, Karenni State, Bago, Yangon and Ayeyarwaddy Regions, Karen CSOs, Karen Women, Karen youth, Karen scholars and special invited Karen guests.

The 69 land policy recommendations delivered during the 2017 Karen National-level Political Dialogue included the following key articles:

[Article 2] *The people of the country are the rightful owners of land in the country.*

[Article 11] *States within the Union have the right to draft and adopt land related policies and laws that are in line with its own State and with the participation of its own people.*

[Article 12] *State Governments of the Union shall have the right to land governance that allows the registration, problem solving, and decision making over land management in its own State.*

See Annex 1 *for the land policy recommendations delivered during the 2017 Karen National-level Political Dialogue (Burmese language origin)*

These key principles highlight the vision of the Karen people and the foundations of any future devolved federal system of land governance. Yet, the recommendations negotiated and agreed during the Karen national political dialogues were censored and cut before reaching the 2nd 21CPC, first under the Land and Environment Working Committee, and second under the UPDJC-S, and the UPDJC.

VI.I. 1st GATE: Land and Environment Working Committee

Following the submission of the land policy recommendations to the Land and Environment working committee in the lead up to the 21CPC, Burma Army representatives blocked and rejected the core land related proposals resulting from the Karen national political dialogues, invoking the 2008 Constitution and existing laws.

The extreme limitations placed on meaningful political dialogue over important issues related to land ownership, management and governance are exposed by the uncompromising position adopted by Burma Army representatives during Land and Environment Working Committee negotiations.

The below excerpts are taken from a meeting that took place in Nay Pyi Taw, at the National Reconciliation and Peace Centre (NRPC), from May 7-9, 2017, at the “2nd Land and Environmental Sector Negotiation Meeting”. We have highlighted the land policy positions of the Karen and other ethnic national political dialogues versus the Burma Army positions that were recorded as official notes from this meeting. *See Annex 2 for the Burmese language origin*

Ethnic National Dialogues Position	Burma Army Position
<p><i>The legal framework of land ownership and management must be decentralized and in line with the traditional customs and culture of the people in the state and shall include land and natural resources under and above the ground.</i></p>	<p><i>According to Union Parliament procedure – 1/ section (5); Union government is mandated to manage land for agriculture and poultry. Therefore, according to policy and law, the Shan customary land practices cannot be applied. (We [Burma Army] do not agree).</i></p>
<p><i>Local indigenous people have the right to collectively use and manage their communal land and the lands surrounding their villages, such as pasture land, forest, lake, seasonal islands and sacred land</i></p>	<p><i>The Union is the owner of all the land and sea, resources under and above the land, water, and space. (We [Burma Army] do not agree).</i></p>
<p><i>Policies and mechanisms must be established to solve the problem of managing transboundary land and natural resources between states and countries.</i></p>	<p><i>It is not in the constitution, so we [Burma Army] do not agree.</i></p>
<p><i>States of a Federal Union must have rights to adopt and implement land and environment policies that are suitable to their state.</i></p>	<p><i>The Union is mandated to protect the environment. The Union[central] government is the only authority with a mandate to manage land. (We [Burma Army] do not agree.</i></p>

The positions of the Tatmadaw have clearly demonstrated that it will block policy recommendations proposed during the peace negotiation process that it claims are not consistent with the 2008 constitution and existing laws.

VI.II. 2nd GATE: The Union Peace Dialogue Joint Committee Secretariat

The heavily censored principles resulting from the first round of cuts under the Land and Environment Working Committee were then submitted to the UPDJC-S.

The mechanisms established under FPD have been designed to protect the current framework and the results of political dialogues from effective civilian or independent third-party oversight. All five gates of peace negotiation process have operated as a “black box”, and while it has been possible to see the proposals that have “gone in” and the proposals that have “come out”, there has been no substantive transparency regarding the negotiations taking place within each gate rendering the process unaccountable.

VI.III. 3rd GATE: The Union Peace Dialogue Joint Committee

The approval of any policy proposal for submission to the 21CPC requires the agreement of all members of the UPDJC. Although the original Karen ND Land and Environment policy recommendations contained 69 points, the single text document covering the entire national dialogue process, presented to the 21CPC, contained just 41 points, with just 11 focusing on the land sector.³² However, none of the 11 land principles submitted to the 21CPC by the UPDJC reflected the original policy proposals received from the National level political dialogue.

VI.IV. 4th GATE: The Second 21st Century Panglong

The 2nd 21CPC took place in Nay Pyi Taw from May 24–29, 2017. During the conference, participants were only allowed to discuss the officially recognized land principles contained within the single draft text submitted by the UPDJC.

³² “Basic principles regarding federal system Economy Policy suggested by Secretaries of UPDJC to UPDJC”, Ratified at the 10th UPDJC meeting of May 12, 2017

The 2nd 21CPC concluded with a 37-point paper³³ that was signed by only one representative from each of the five groupings – government, parliament, military, political parties and EAOs – and six witnesses.

The 37 principles “agreed” during the 2nd 21CPC remain illegitimate as the process for reaching agreements on these principles was not transparent and no vote was taken to approve the resolutions, as required under Chapter Six of the FPD.

VI.V. 5th GATE: Parliament

The 37-point agreement resulting from the 2nd 21CPC were submitted to parliament, and, subject to parliamentary law, has now been ratified and become the first part of the basis for a future “Union Accord”.

VI.VI. The Ten Principles of the Land Sector Vs. Existing Myanmar Legislation

The purpose of the 21CPC is to establish agreements that will form the basis of a future federal democratic country. However, the ten-point agreement for the land sector, resulting from the 2nd 21CPC failed to integrate any of the federal policy recommendations submitted via the Karen National-level Political Dialogues.

In fact, each of the ten points concerning the land sector agreed during the 2nd 21CPC directly refer to controversial articles from existing land related legal frameworks (See Table, page 23).

³³ State Counsellor’s Office, “37 Points Signed as Part of Pyidaungsu Accord”, 30th May 2017; accessible <http://www.statecounsellor.gov.mm/en/node/904>

Point no.	2nd 21CPC: Ten Point Agreement for Land Sector	Existing National Legislation and Policy of Myanmar
1	A countrywide land policy that is balanced and support people centred long-term durable development.	National Land Use Policy: Chapter 1, Article 6 (d,e,f)
2	Based on justice and appropriateness	National Land Use Policy: Chapter 3, Article 8 (b,g,o)
3	A policy that reduces central control	National Land Use Policy: Chapter 3, Article 8 (n)
4	Include human rights, international, democracy and federal system norms in drawing up land policy	National Land Use Policy: Chapter 2, Article 7e; Chapter 3, Article 8 (d)
5	Policy on land matter should be transparent and clear	National Land Use Policy: Chapter 2, Article 7 (b)
6	In setting up policy for land development, the desire of the local people is a priority and the main requirements of the farmers must be facilitated.	National Land Use Policy: Introduction, Article 3
7	All nationals have a right to own and manage a land in accordance with the land law. Women and men have equal rights	(right to private property and inheritance) 2008 Constitution: Chapter 1, Article 37 (c) (use rights) 2012 Farmland Law: Chapter 2, Article 6 (a[v]); Chapter 3, Article 9 (a,b) (men and women equal) National Land Use Policy: Chapter 2, Part 10, Article 75 (a,b,c,d,e,f,g,h)
8	Both women and men have equal rights to manage the land ownership matters in accordance with the land law	National Land Use Policy: Chapter 2, Part 10, Article 75 (a,b,c,d,e,f,g,h)
9	If the land right granted for an original reason is not worked on in a specified period, the nation can withdraw the granted right and concede it to a person who will actually do the work	Vacant Fallow and Virgin Lands Management Law: Chapter 6, Article 16 (b); Vacant Fallow and Virgin Lands Management Law – By Laws: Chapter 6, Article 51 (b)
10	To aim toward protecting and maintaining the natural environment and preventing damage and destruction of lands that were social, cultural, historical heritages and treasured by ethnic nationals	National Land Use Policy: Chapter 2, Article 6 (a)

See Annex 3 for the agreed ten land principles at 21CPC, the Burmese language origin

NOTE: The translation of the “2nd 21CPC Ten Point agreement for Land Sector” is sourced from the President’s Office.

These “agreed” principles on land, clearly indicate the extensive and systemic constraints on the current peace negotiation process and the debilitating lack of political will on the part of the central government and the Burma Army to engage in genuine political dialogue.

The land related principles “agreed” at the 2nd 21CPC contradict the core principles developed through Karen national-level political dialogues, which called for local ownership and state land management powers. The results of the land and environment policy process provide evidence that, despite many meetings, discussions and debates, and an enormous amount of time and money spent, the Burma Army is committed to blocking all policy proposals by invoking the 2008 Constitution and existing laws.

VI.VII. EAO leaders outline the limits of current peace negotiation process

EAO leaders taking part in discussions over the five thematic issues under the FPD have expressed frustration with the restrictions and limitations imposed during the process. According to KNU leaders involved in the dialogue process, a common obstruction across all five sectors is the Tatmadaw’s invocation of the 2008 Constitution and existing laws to mark the red lines, beyond which no negotiation or meaningful political dialogue can take place.

Padoh Nay Tha Blay, Head of Karen Agriculture Department and a member of the Land and Environment Working Committee of UPDJC, provided KPSN with the following insights:

“

During our political dialogue regarding the land sector, we put forward key issues based on policy recommendations from the Karen ND, covering ownership, management, and protection of land, but these key articles were blocked.

The government and military representatives to the UPDJC have colluded in using the Tatmadaw’s 2008 constitution to block our policy recommendations.

”

“

The NCA is now deadlocked because of uneven power relations during political dialogue, and no sufficient time for meaningful discussion.

”

Padoh Eh Kalu Say, Head of KNU Justice Department, and member of the Political Affairs Working Committee explained that:

“

During the political dialogue, the Tatmadaw will only discuss issues based on the 2008 constitution.

Now, the government and Tatmadaw have different positions on the path of the NCA. For the Tatmadaw, their main position is to protect 2008 constitution - though they agree that it can be amended but only in line with their political interest - whereas for the government, their main interest is national reconciliation, peace, and rule of law.

”

“

Concerning the security issue, Tatmadaw proposed only Disarmament, Demobilization, and Reintegration and didn't include Security Sector Reform.

”

Saw Weldone a member of the Economic Working Committee of UPDJC explained that:

“

From our Economic Working Committee, we submitted our proposed economic principles received from the Karen National Dialogue through our public consultation but all of our proposed principles were not passed and accepted. The principles that were agreed during the negotiation did not reflect and inline our proposed federal principles but all were under the 2008 constitution framework

”

“

Tatmadaw always dominated the whole debate and discussion. If they don't agree, we can not move forward with the discussion and they only agree to the principles and points that are in line with the 2008 constitution. This has become a great concern for the whole peace process.

”

Pa Doh Saw Hser Pwe, Joint General Secretary of the KNU and a member of the Social Sector Working Committee of UPDJC explained that:

“

EAOs representatives were weak in negotiating their proposed principles and political party representatives were not able to negotiate effectively. From military side, they only discussed from the same position. They would only discuss if they were advantageous, if not, they wouldn't. It was also appeared that the government and parliament were on the same side with the military during the negotiation.

”

Criticisms of the current political dialogue process are not limited to the KNU. In an interview given after the 2nd 21CPC, Col. Sai Nguen, Secretary 3 of the Restoration Council of Shan State/Shan State Army (RCSS/SSA), stated that:

“

The general EAO opinion is that some of the outcomes of this conference regarding federal principles are incomplete. They merely represent a minority view. That is why we proposed that the basic principles of federalism, debated and agreed at the 21st Century Panglong Conference, should only be included in a Union agreement, as a collection of opinion for the time-being, but not as a signal of a final agreement.

On the other hand, our negation counterparts [Burma Army and NLD] will not accept our proposal, but rather they insist that the NCA's 'pathway to peace' is the only way; They argue that the entire peace process cannot proceed if we don't sign.

”

“

“We don't mind if the peace process collapses,” was one uncultured statement [by the Burma Army] used during the talks. At that point, we called for a break, then discussed among ourselves [EAO representatives] as to what the next move should be. Although some of the EAOs, including RCSS, did not agree with signing, we respect the majority opinion and the Terms of Reference. That's why we signed the documents – out of necessity.³⁴

”

³⁴ Sai Aw, “Who is navigating the peace process ship?”, Shan Herald Agency for News, 2nd June 2017, Interview with Col. Sai Nguen, Secretary 3 of the Restoration Council of Shan State (RCSS); accessible <http://english.panglong.org/2017/06/02/who-is-navigating-the-peace-process-ship/>

VII. Postponement of 3rd 21CPC

The 2nd 21CPC was the first of the country's "peace conferences" to open space for discussions on the five key topics - political, social, land and environment, economy and security - and negotiations on the principles of the Union Peace Accord. The 37 principles, signed by one representative from government, parliament, military, political parties, EAOs, and six witnesses, remain highly controversial, most notably as the agreement failed to adhere to the voting protocol established under the FPD.³⁵ Other major obstacles within the conference centred around fundamental political issues including the "non-secession" clause.³⁶ However, in the lead up to the 2nd 21CPC and following its conclusion major restrictions have marred the peace negotiation process, including the Tatmadaw's blocking and censoring of national political dialogues.

On 17th December 2017, in Panglong Town, Shan national political dialogues were subjected to serious restrictions by the Tatmadaw forces and political dialogue meetings were shut down by central government troops.³⁷ Due to the Tatmadaw's continual blocking of Shan national political dialogues, the RCSS issued a statement on 8th January 2018 declaring its decision to temporarily postpone its plans for national political dialogue with Shan communities. On 12th January, the Peace Process Steering Team (PPST), a bloc represented by eight EAO NCA signatories, released a statement arguing the 21CPC should proceed only after the political dialogue process had taken place at all levels.³⁸

The Tatmadaw's obstruction of the national political dialogue process and unwillingness to engage in meaningful negotiations towards the establishment of a genuine democratic federal union has caused multiple postponements to multiple the 3rd 21 CPC.³⁹ Currently, no date has been set for the 3rd 21CPC. It remains unclear whether the conference will in fact take place, as it has yet to be seen if genuine commitment to "inclusive political dialogue" exists amongst key stakeholders in the peace negotiation process.

³⁵ Framework for Political Dialogue, Chapter 6, Article 6.3 (Unofficial translation)

³⁶ Constitution of the Republic of the Union of Myanmar (2008) Article 10: No part of the territory constituted in the Union such as Regions, States, Union Territories and Self-Administered Areas shall ever secede from the Union. It is argued this basic principle is not compatible with federalism.

³⁷ Restoration Council of Shan State Statement on the National Political Dialogue of Shan Nationalities, 8th January 2018; accessible <https://www.burmalink.org/restoration-council-shan-state-statement-national-political-dialogue-shan-nationalities/>

³⁸ 21st Century Panglong Conference to be held only after holding public consultations – PPST, Burma News International, 16th January 2018, <https://www.bnionline.net/en/news/21st-century-panglong-conference-be-held-only-after-holding-public-consultations-ppst>

³⁹ Nyein Nyein, "Third Session of Panglong Peace Conference Pushed Back to May", Irrawaddy, 1st March 2018; <https://www.irrawaddy.com/news/burma/third-session-panglong-peace-conference-pushed-back-may.html>

VIII. Burma Army Breaching the 2015 NCA

Since the 2015 ceasefire was initiated more than 8,500 civilians have been forcibly displaced as a result of Tatmadaw military operations in Karen State.⁴⁰ These military operations, authorised at the highest levels of the Burma Army command, have breached the NCA and led to renewed cycles of armed conflict in Hpa-an and Mutraw (Hpapun) districts.

Beginning in September 2016, armed clashes between the Tatmadaw Border Guard Force (BGF) and a faction of the Democratic Karen Buddhist Army (DKBA)⁴¹ forced more than 6,000 villagers from their homes in northern Hpa-an.⁴² Some 5,500 people are currently living in basic shelters at two Internally Displaced Persons (IDP) camps in Myaing Gyi Ngu, a large village in northern Hpa-an District, located on the eastern bank of the Salween River.

Coordinated Burma Army operations in the KNU-controlled Ler Mu Plaw area of Mutraw's Luthaw township have forced more than 2,400 civilians to flee their land and homes and seek refuge in the surrounding forests.⁴³ These operations are clearly in breach of the NCA and have provoked multiple armed clashes with the KNLA.

⁴⁰ KPSN (2018) *The Nightmare Returns*; accessible <https://karenwomen.files.wordpress.com/2018/04/kpsn-media-release-the-nightmare-returns.pdf>; See also Karen Human Rights Group (KHRG) (2018) *Attacks on villagers, ongoing fighting and displacement in Hpapun and Toungoo districts from January to April 2018*; accessible <http://khr.org/2018/05/18-1-nb1/attacks-villagers-ongoing-fighting-and-displacement-hpapun-and-toungoo-districts>

⁴¹ The current Democratic Karen Buddhist Army (DKBA) was part of the original DKBA which split from the KNU/KNLA in 1994 and allied itself with the Burma Army. A further split took place in 2010 when the larger DKBA force agreed to government demands for the force to come under the command of the Tatmadaw as a Border Guard Forces (BGFs). "The larger faction, led by commanders based in Myawaddy and Myaing Gyi Ngu, formed 12 BGFs (#1011-#1022), while numerous other commanders refused to do so, realigned with the KNU, and reverted to fighting the Tatmadaw. The latter faction signed a ceasefire with the government in September 2011 and renamed itself the Khlohtoobaw Karen Organization/Democratic Karen Benevolent Army (KKO/DKBA), in April 2012." (Joliffe, Kim (2017), "Ceasefires, Governance and Development: The Karen National Union in Times of Change", The Asia Foundation, p.7) Renewed fighting broke out in 2015 between the KKO/DKBA and the Tatmadaw and BGFs due to rising tensions spurred by the Asia Highway project. The fighting faction within the KKO/DKBA was dismissed in mid-2015 and in 2016 resurrected the army's original name, the Democratic Karen Buddhist Army.

⁴² Karen Rivers Watch (KRW) (2016) *Karen State September 2016 Conflict: The Real Motivations Behind Renewed War*; See also, "Fighting in Mae Tha Waw continues to displace villagers making it a daily struggle to feed the 6,000 homeless", Karen News, 4th September 2017, accessible at <http://karennews.org/2017/09/fighting-in-mae-tha-waw-continues-to-displace-villagers-making-it-a-daily-struggle-to-feed-the-6000-homeless/>

⁴³ KPSN (2018) *The Nightmare Returns*

A KNU statement released on 16th March 2018 ⁴⁴ called on the Tatmadaw “to withdraw the Military Operations Commands (MOCs) and the battalions under them ...and to guarantee the security of Internally Displaced Karen people.” The statement also read: “Whilst efforts are being made for the conclusion of the NCA, this is breaching the terms of the NCA.” On 5th April, 2018, Saw O Moo, an indigenous Karen land rights defender and peace advocate, was gunned down by Tatmadaw troops on his way home from a community meeting in the Ler Mu Plaw area. Saw O Moo had attended the meeting to help mobilise humanitarian relief and assistance for internally displaced Karen people, including his own family.

Although the JMC has a mandate to prevent the recurrence of armed clashes, the Tatmadaw’s most recent military advances across the ceasefire lines have not been addressed according to agreements reached under the NCA. The KNU has attempted to resolve the incident by calling on the JMC to fulfil its mandate and mediate a solution to the current breach of the NCA, to avoid an escalation of armed clashes and displacement of civilians in the ceasefire area. However, the Tatmadaw refused to attend a meeting hosted by the JMC to settle the ongoing territorial dispute.



⁴⁴ KNU Supreme Headquarters Kawthoolei, “Karen National Union Position Statement on Tatmadaw military activities in sending military forces into Mutraw District (Papun) to build a road base for military use, during the implementation of the ceasefire” 16th March 2018

IX. Conclusion

To date, all aspects of the peace negotiation process, from the national political dialogues to the 21CPC, have been dictated by the Tatmadaw. The Tatmadaw's stranglehold on political dialogue smothers opportunities for reaching negotiated resolutions to the root causes of conflict, foreclosing chances for genuine and sustainable peace in Burma. The dead end reached under the current peace negotiation process is not merely the result of technical limitations, its roots are political.

The Tatmadaw's coordinated, multi-battalion military operations in KNU-controlled areas of Karen State serves as a grave indictment of the "Karen model" for peace. All signatories to the NCA, including the Tatmadaw, are bound by a common agreement to pursue peaceful resolutions to "political conflicts through political dialogue instead of force of arms."⁴⁵ The Tatmadaw has repeatedly breached this principle, along with numerous other articles of the NCA, while mechanisms supposedly designed to provide a pathway to sustainable peace and the establishment of a democratic federal union have so far failed.

The Burma Army is using the NCA and the peace negotiation process as an instrument to support the extension of centralised control over ethnic areas of the country. As long as the Burma Army's predominance within central government remains unchallenged, peaceful, equitable and sustainable resolutions to land tenure issues will remain beyond reach of any peace negotiation process.

⁴⁵ NCA (2015) Chapter 1, Basic Principles, Article 1 (b)

X. KPSN Recommendations

To the Government and Tatmadaw:

1. A new framework must be set up where political dialogue, negotiations and resolutions are not constrained by the 2008 constitution
2. The Tatmadaw should halt all military offensives and implement a unilateral nationwide ceasefire, followed by inclusive political dialogue with all ethnic stakeholders including the Federal Political Negotiation and Consultative Committee (FNPCC) and the United Nationalities Federal Council (UNFC)
3. There must be a moratorium on large scale development projects during the peace negotiation process, until a new federal constitution is operationalized
4. There must be no restrictions on EAOs holding consultations with communities, and on EAOs holding meetings among themselves
5. The NLD government must return to its original goals and begin fighting for its election manifesto that the 2008 constitution will be amended “to guarantee ethnic rights and establish a federal democratic union”

To International donors, the Myanmar government, and the Tatmadaw:

1. All existing ethnic managed governance structures such as those implementing health, education, land and natural resources management, and judicial matters shall be recognized and acknowledged by the Myanmar government, UN agencies, and any other donors to Burma
2. International support for refugees and IDPs that was cut off should be immediately reinstated, and provided according to international standards
3. Donors should ensure funding provided to the peace negotiation process will eventually lead to genuine and meaningful political change, rather than reinforcing the status quo
4. Financial and/or technical support shall be provided carefully to the land reform process under the Parliament/Hluttaw to ensure that the support in any way does not contradict and undermine opportunities for democratic federal reform of the country’s land sector.

Annex 1 for the land policy recommendations delivered during the 2017 Karen National-level Political Dialogue (Burmese language origin)



ပြည်ထောင်စုငြိမ်းချမ်းရေးညီလာခံ - (၂၁) ရာစု ပင်လုံ
ဒုတိယအကြိမ်အစည်းအဝေးသို့ တင်သွင်းသော

အမျိုးသားအဆင့် နိုင်ငံရေးဆွေးနွေးပွဲဆိုင်ရာ
လူမျိုးအလိုက်ကျင်းပသော ပထမအကြိမ် ကရင်အမျိုးသားနိုင်ငံရေးဆွေးနွေးပွဲမှ ရရှိသည့်

မြေယာနှင့်သဘာဝပတ်ဝန်းကျင်ကာဏ္ဍ

မြေယာနှင့်သဘာဝသယံဇာတ စီမံခန့်ခွဲရေးနှင့် ခွဲဝေခြင်းဆိုင်ရာကိစ္စရပ်များမှ
ဖက်ဒရယ်စနစ်ကို အခြေခံသော မြေယာမူဝါဒ
အဆိုပြုစာတမ်း

အခြေခံမူများ

- ၁။ မြေယာဆိုသည်မှာ မြေ၊ သစ်တော၊ ရေ၊ ရေလုပ်ငန်းနှင့် သဘာဝသယံဇာတများ အားလုံး ပါဝင်သည်။
- ၂။ တိုင်းရင်းသား ပြည်သူလူထုသည် နိုင်ငံအတွင်းရှိ မြေယာ၏ မှုရင်းပိုင်ရှင်များ ဖြစ်သည်။
- ၃။ ဒေသခံ ဌာနေတိုင်းရင်းသား ပြည်သူလူထုနှင့် ရပ်ရွာအဖွဲ့အစည်းများ၏ မိရိုးဖလာအရ မြေယာလုပ်ပိုင်ခွင့်၊ ပိုင်ဆိုင်ခွင့်ကို တရားဝင် အသိအမှတ် ပြုရမည်။
- ၄။ တိုင်းရင်းသား ပြည်သူလူထုတိုင်းသည် မြေယာပိုင်ဆိုင်ခွင့်ရှိပြီး ယင်းအား အကန့်အသတ်ဖြင့် ပိုင်ဆိုင်မှု ရှိစေရမည်။ မီးမဦးချ၊ ရိုးရာဓလေ့အရ မြေယာထွန်ယက်စိုက်ပျိုးလုပ်ကိုင်သူသည် အဆိုပါ လယ်ယာမြေနှင့် ခြံမြေကို ပိုင်ဆိုင်ခွင့်ရှိသည်။
- ၅။ ဘိုးစဉ်ဘောင်ဆက် နေထိုင်လာခဲ့သည့် ဌာနေတိုင်းရင်းသား ပြည်သူလူထုသည် ယင်းတို့ သက်ရှင်နေထိုင်သည့် နယ်မြေ၊ ကျေးရွာတိုက်ရှိ သဘာဝမြေ၊ တောရိုင်းမြေ၊ သစ်တောမြေ၊ စားကျက်မြေ၊ အင်းအိုင်၊ မြေနုကျွန်းနှင့် အထွဋ်အမြတ်ထားသော မြေတို့ကို စုပေါင်းပိုင်ဆိုင် စီမံခန့်ခွဲ အသုံးချခွင့် ရှိသည်။
- ၆။ တိုင်းရင်းသား ပြည်သူလူထုက ယင်းတို့ ပိုင်ဆိုင်ထားသည့် မြေယာကို ရောင်းချခွင့်၊ ပေါင်နှံခွင့်၊ လှူလှယ်ခွင့်၊ ငှားရမ်းခွင့်၊ အမွေဆက်ခံပိုင်ခွင့်နှင့် အခြားနည်းဖြင့် အသုံးပြုပိုင်ခွင့် ရှိသည်။
- ၇။ ဖွံ့ဖြိုးရေးနှင့် စီးပွားရေးစီမံကိန်းများ ဆောင်ရွက်ရာတွင် မြေယာအသုံးပြုမှုအတွက် သိမ်းဆည်းရန် လိုအပ်ပါက ပွင့်လင်းမြင်သာမှုနှင့် တာဝန်ယူမှု၊ တာဝန်ခံမှုရှိစွာဖြင့် ဒေသခံပြည်သူလူထုများနှင့် အသိပေး ညှိနှိုင်းပြီး သဘောတူညီချက် ရယူရမည်။ ဆုံးရှုံးသည့် မြေနေရာနှင့် အခြားဆုံးရှုံးမှုများ အတွက် တန်ဖိုးတူညီသည့် မြေအစားထိုးပေးခြင်း၊ ဒေသကာလပေါက်ဈေးနှင့်အညီ နှစ်နာကြေးပေးခြင်း၊ လျော်ကြေးပေးခြင်းများအပြင် နှစ်နာဆုံးရှုံးသောသူတို့အား အာမခံချက်ရှိသည့် ဘဝပြန်လည်ထူထောင်ပေးခြင်းတို့ကို ဆောင်ရွက်ပေးရမည်။
- ၈။ ဖွံ့ဖြိုးရေးနှင့် စီးပွားရေးစီမံကိန်းများ ဆောင်ရွက်ရာတွင် ရေ၊ မြေ၊ သစ်တော၊ သဘာဝပတ်ဝန်းကျင် ဂေဟစနစ်နှင့် ယဉ်ကျေးမှု အမွေအနှစ်များ ပျက်စီးမှုမရှိအောင် အကောင်အထည်ဖော်ဆောင်ရွက် ရမည်။
- ၉။ မြေယာပိုင်ဆိုင်ခြင်းဆိုင်ရာ စီမံခန့်ခွဲမှု ပြုရာတွင် အမျိုးသမီးနှင့် အမျိုးသားအခွင့်အရေး တန်းတူညီမျှမှု ရှိရမည်။
- ၁၀။ တိုင်းရင်းသား ပြည်သူလူထု၏ မြေယာပိုင်ဆိုင်မှုဆိုင်ရာ အခွင့်အရေး ရပိုင်ခွင့်ရှိသူများအား အသိအမှတ်ပြုပြီး ယင်းတို့အား အခြားသူများမှ ပိုင်နက်ကျူးကျော်ခြင်း၊ တရားမဝင် ဝင်ရောက်နေထိုင်ခြင်း၊ အသုံးချခြင်း၊ အမွေသိမ်းယူခြင်းတို့ကို အစိုးရမှ အကာအကွယ်ပေးရမည်။
- ၁၁။ ပြည်ထောင်စုအဖွဲ့ဝင် ပြည်နယ်များသည် မိမိပြည်နယ်နှင့် ကိုက်ညီသည့် ပြည်သူလူထု ပူးပေါင်းပါဝင်မှုရှိသော မြေယာမူဝါဒ ဥပဒေနှင့် နည်းဥပဒေကို ရေးဆွဲပြဌာန်းခွင့် ရှိရမည်။
- ၁၂။ ပြည်နယ်အစိုးရသည် မိမိပြည်နယ်အတွင်း မြေယာ မှတ်ပုံတင်ခြင်း၊ မြေယာပြဿနာ ဖြေရှင်းခြင်း အပါအဝင် မြေယာစီမံခန့်ခွဲပိုင်ခွင့်နှင့် ဆုံးဖြတ်ပိုင်ခွင့် ရှိရမည်။
- ၁၃။ သက်ဆိုင်ရာ ပြည်နယ်ဒေသအလိုက် မြေယာပိုင်ဆိုင်မှုကို အသိအမှတ်ပြု မှတ်တမ်းတင် ဆောင်ရွက်ပေးသည့် မြေယာမှတ်ပုံတင်စနစ်၊ မြေယာစီမံခန့်ခွဲမှုစနစ်နှင့် မြေယာဖြေရှင်းမှုစနစ်တို့ကို ဖော်ဆောင်သည့် ယန္တရားများ ရှိရမည်။ ယင်းနှင့် စပ်လျဉ်းသည့် ယန္တရားများကို တည်ဆောက် ဖွဲ့စည်းရာတွင် အစိုးရအဖွဲ့အစည်းများသာမက လူထု၏ ပါဝင်မှုကို အခြေခံ၍ တောင်သူလယ်သမား သမဂ္ဂ၊ အမျိုးသမီးအဖွဲ့အစည်း၊ လူငယ်အဖွဲ့အစည်းနှင့် ဥပဒေပညာရှင်များမှ ကိုယ်စားလှယ်များဖြင့် ပါဝင်ဖွဲ့စည်းကြရမည်။
- ၁၄။ မြေယာနှင့်သဘာဝသယံဇာတ စီမံခန့်ခွဲရာတွင် နိုင်ငံတကာ နယ်စပ်ဖြတ်ကျော်မှု၊ ပြည်နယ် တစ်ခုနှင့်တစ်ခု ဖြတ်ကျော် စီမံခန့်ခွဲခြင်း၊ ပြဿနာ အငြင်းပွားမှုများ ဖြေရှင်းသည့် မူဝါဒများနှင့် ယန္တရားများ ချမှတ်ဆောင်ရွက်ရမည်။

Annex 2 see below for the Burmese language origin of the May 7-9, 2017 Land and Environmental Sector negotiation meeting note

ဒုတိယအကြိမ် မြေယာ၊ သယံဇာတနှင့် သဘာဝပတ်ဝန်းကျင်ကာကွယ်ရေး လုပ်ငန်းကော်မတီ အစည်းအဝေး

ဒုတိယအကြိမ် မြေယာ၊ သယံဇာတနှင့် သဘာဝပတ်ဝန်းကျင်ကာကွယ်ရေး လုပ်ငန်းကော်မတီ
ညှိနှိုင်းအစည်းအဝေး

ရက်စွဲ ။ ။ ၂၀၁၇ ခုနှစ်၊ မေလ (၇-၉) ရက်နေ့။

နေရာ ။ ။ အမျိုးသား ပြန်လည်သင့်မြတ်ရေးနှင့် ငြိမ်းချမ်းရေး ဗဟိုဌာန၊ နေပြည်တော်။

ကျင်းပပြီးစီးခဲ့သော ဒေသအလိုက်နှင့် လူမျိုးအလိုက် အမျိုးသားအစည်း နိုင်ငံရေး ဓမ္မရေးပွဲများ (ရှမ်း၊ တနင်္သာရီ၊ ပဲခူး၊ ကရင်၊ ပအိုဝ်း) နှင့် တပ်မတော်မှ တင်သွင်းသည့် စာတမ်းများကို အခြေခံ စုစည်းသည့် မြေယာမူဝါဒများ

လာမည့် တတိယအကြိမ် မြေယာ၊ သယံဇာတနှင့် သဘာဝပတ်ဝန်းကျင်ကာကွယ်ရေး လုပ်ငန်းကော်မတီ ညှိနှိုင်းအစည်းအဝေးတွင် ဆက်လက်ဓမ္မရေးရန် အတွက် ဒုတိယအကြိမ်မှ ကျန်ရှိသည့် ဝက်ခရယ်စနစ်ကို အခြေခံသော မြေယာမူဝါဒ၏ အခြေခံမူများ

(က) အဓိပ္ပာယ်ခွင့်ဆိုချက်
မရှိပါ။

(ခ) ပိုင်ဆိုင်ခွင့်

၃။(က) ပြည်နယ်အတွင်း မြေယာပိုင်ဆိုင်မှုနှင့် မြေယာစီမံခန့်ခွဲမှုတွင် ဗဟိုချုပ်ကိုင်မှု မရှိမသော တရားဝင် မူဘောင်အဖြစ် ပြည်နယ်သားများ၏ ရိုးရာဓလေ့ထုံးတမ်းနှင့် လိုက်လျောညီထွေ သည့် မူဝါဒများ၊ ဥပဒေများ ဖြစ်စေပြီး ရိုးရာဓလေ့ထုံးတမ်းအရ မြေယာပိုင်ဆိုင်သည့် စာရွက်စာတမ်းများသည် မြေပေါ်မြေအောက် အရင်းအမြစ်များ အပါအဝင်ဖြစ်စေရန်။

၃။(ခ) ပြည်ထောင်စုလွှတ်တော်သည် ဇယား-၁၊ အပိုဒ်(၅)၊ စိုက်ပျိုးရေးနှင့် မွေးမြူရေးကာကွယ်ရေး ပြည်ထောင်စုအစိုးရ မှသာ မြေယာစီမံခန့်ခွဲပိုင်ခွင့် ရှိ၍ ရှမ်းပြည် ရိုးရာဓလေ့ထုံးတမ်း အရ မူဝါဒများ၊ ဥပဒေများ ချမှတ်၍ မရသောကြောင့် သဘောမတူနိုင်ပါ။
(တပ်မတော်၏အဆိုပြုချက်)

(ဂ) စီမံခန့်ခွဲခွင့်

၁။(က) ဘိုးစဉ်ဘောင်ဆက် နေထိုင်လာခဲ့သည့် ဌာနေတိုင်းရင်းသား ပြည်သူလူထုသည် ယင်းတို့ သက်ရှင်နေထိုင်သည့် နယ်မြေ၊ ကျေးရွာတိုက်ရှိ သဘာဝမြေ၊ တောတိုင်းမြေ၊ သစ်တောမြေ၊ စားကျက်မြေ၊ အင်းအိုင်၊ မြေနက္ခန်းနှင့် အထွေထွေအမြတ်ထားသော မြေတို့ကို စုပေါင်းပိုင်ဆိုင် စီမံခန့်ခွဲ အသုံးချခွင့် ရှိသည်။

၂၀၁၇ ခုနှစ် မေလ (၇-၉) ရက်နေ့ တွင် ဒုတိယအကြိမ် မြေယာ၊ သယံဇာတနှင့် သဘာဝပတ်ဝန်းကျင်ကာကွယ်ရေး လုပ်ငန်းကော်မတီ အစည်းအဝေးမှ တတိယအကြိမ် တွင် ဆက်လက်ဓမ္မရေးရန် အတွက် ကျန်ရှိသည့် ဝက်ခရယ်စနစ်ကို အခြေခံသော မြေယာမူဝါဒ၏ အခြေခံမူများ Page 1

ဥပဒေရေးရာ နှင့် ဖွဲ့စည်းပုံအခြေခံဥပဒေရေးရာ ဝန်ထမ်းများနှင့် အခြားအဖွဲ့အစည်းများ

- ၁၁(ခ) နိုင်ငံတော်သည် နိုင်ငံတော်ရှိ မြေအားလုံး၊ မြေပေါ်မြေအောက်၊ ရေပေါ်ရေအောက်နှင့် လေထုအတွင်းရှိ သယံဇာတပစ္စည်း အားလုံး၏ ပင်ရင်းပိုင်ရှင် ဖြစ်သည်။(တပ်မတော်၏ အဆိုပြုချက်)
- ၂၂(က) မြေယာနှင့် သဘာဝသယံဇာတ စီမံခန့်ခွဲရာတွင် နိုင်ငံတော်က နယ်စပ်မြတ်ကျော်မှု၊ ပြည်နယ်တစ်ခုနှင့် တစ်ခု ဖြတ်ကျော်စီမံခန့်ခွဲခြင်း၊ ပြဿနာအခြင်းပွားမှုများ ဖြေရှင်းသည့် မှုပါဒ်များနှင့် ယန္တရားများ ချမှတ်ဆောင်ရွက်ရမည်။
- ၂၂(ခ) ဖွဲ့စည်းပုံ အခြေခံဥပဒေတွင် ပြဌာန်းထားခြင်း မရှိ၍ သဘောမတူနိုင်ပါ။(တပ်မတော်၏ အဆိုပြုချက်)
- ၃၁(က) ဒီမိုကရေစီ ဖက်ဒရယ်ပြည်ထောင်စု၏ အဖွဲ့ဝင်ပြည်နယ်များသည် မိမိပြည်နယ်နှင့် ကိုက်ညီမည့် မြေယာနှင့် သဘာဝပတ်ဝန်းကျင်ကဏ္ဍဆိုင်ရာ အခြေခံမူများကို ရေးဆွဲပြဌာန်း ကျင့်သုံးပိုင်ခွင့် ရှိရမည်။
- ၃၁(ခ) နိုင်ငံတော်သည် သဘာဝပတ်ဝန်းကျင်ကို ကာကွယ်ထိန်းသိမ်း စောင့်ရှောက်ရမည်။ မြေနှင့်ပတ်သက်၍ ပြည်ထောင်စုအစိုးရမှသာ စီမံခန့်ခွဲပိုင်ခွင့် ရှိသောကြောင့် သဘောမတူနိုင်ပါ။(တပ်မတော်၏ အဆိုပြုချက်)
- ၄၁(က) မြေယာနှင့် သဘာဝသယံဇာတများ စီမံခန့်ခွဲခြင်းကို ပြည်ထောင်စုအစိုးရ ပြည်နယ်အစိုးရ နှင့် ဒေသန္တရအစိုးရတို့က ညှိနှိုင်းပေါင်းစပ်ဆောင်ရွက်ရမည်။
- ၄၁(ခ) ပြည်ထောင်စုအစိုးရမှသာ မြေယာနှင့် သယံဇာတစီမံခန့်ခွဲပိုင်ခွင့်ရှိပြီး ပြည်နယ်အစိုးရ အနေဖြင့် ပြည်ထောင်စုအစိုးရမှ ခွင့်ပြုထားသည့် အသေးစား လက်လုပ်လက်စား လုပ်ငန်းများသာ လုပ်ပိုင်ခွင့်ရှိပြီး ဒေသန္တရအစိုးရမှ မြေယာနှင့် သဘာဝသယံဇာတ စီမံခန့်ခွဲပိုင်ခွင့်အား အကောင်အထည်ဖော် ဆောင်ရွက်နိုင်ခြင်း မရှိသောကြောင့် သဘောမတူနိုင်ပါ။(တပ်မတော်၏ အဆိုပြုချက်)
- ၅၂(က) ပြည်ထောင်စု ဖွဲ့ပြီးတိုးတက်ရေး အတွက် အသုံးပြုရန် လိုအပ်သော မြေဓနိယာများအား ပြည်နယ်/ တိုင်းဒေသကြီး အစိုးရအဖွဲ့ကတစ်ဆင့် ရယူနိုင်စေရန်။
- ၅၂(ခ) ပြည်ထောင်စုမှသာ မြေယာစီမံခန့်ခွဲပိုင်ခွင့်နှင့် ဥပဒေပြုခွင့်ရှိပြီး တိုင်းဒေသကြီး/ ပြည်နယ်အစိုးရ အနေဖြင့် ပြည်ထောင်စုမှ ပြဌာန်းထားသည့် အသေးစား လက်လုပ်လက်စား လုပ်ငန်းများကိုသာ စီမံခန့်ခွဲပိုင်ခွင့်ရှိသောကြောင့် သဘောမတူနိုင်ပါ။ (တပ်မတော်၏ အဆိုပြုချက်)
- ၆၁(က) မြေယာ၊ မြေခွန်တော်၊ မြေယာ တိုးတက် ကောင်းမွန်ရေးအတွက် လိုအပ်သော ဥပဒေများကို ပြည်နယ်အဆင့်တွင် ပြဌာန်းခွင့် ရရှိရန်။
- ၆၁(ခ) ပြည်နယ်များက ကောက်ခံရမည့် အခွန်အမျိုးမျိုးတွင် မြေယာခွန်နှင့် ပတ်သက်၍ စီမံခန့်ခွဲပိုင်ခွင့် ရှိသော်လည်း မြေယာစီမံခန့်ခွဲပိုင်ခွင့်နှင့် မြေယာ

၂၀၁၇ ခုနှစ် မေလ (၇-၉) ရက်နေ့ တွင် ဥပဒေရေးရာ နှင့် ဖွဲ့စည်းပုံအခြေခံဥပဒေရေးရာ ဝန်ထမ်းများနှင့် အခြားအဖွဲ့အစည်းများ တွင် ဆက်လက်ဆွေးနွေးရန် အတွက် ကျန်ရှိသည့် ဇက်ဇက်များကို အခြေခံသော မြေယာပိုင်ဆိုင်မှု အခြေခံမူများ

Page 2

ဒုတိယအကြိမ် မြေယာ၊ သယံဇာတနှင့် သဘာဝပတ်ဝန်းကျင်ကာဏ္ဍဆိုင်ရာ လုပ်ငန်းကော်မတီ အစည်းအဝေး။

တိုးတက်ကောင်းမွန်ရေးအား ပြည်ထောင်စုအစိုးရမှ သတ်မှတ်ထားသည့် အသေးစား လက်လုပ်လက်စား လုပ်ငန်းများကိုသာ ဆောင်ရွက်ခွင့်ရှိ သောကြောင့် ပြည်နယ်အဆင့်တွင် မြေယာ တိုးတက်ကောင်းမွန်စေရေး အတွက် ဥပဒေများ ပြဋ္ဌာန်းချက် မရှိသောကြောင့် သဘောမတူနိုင်ပါ။ (တပ်မတော်၏ အဆိုပြုချက်)

၇၂(က) စားကျက်မြေ ထိန်းသိမ်းရေး၊ သစ်တောများ ကာကွယ်ထိန်းသိမ်းရေး တို့ကို ပြည်နယ်အဆင့်တွင် ဆောင်ရွက်ခွင့် ရရှိရန်။

၇၂(ခ) ပြည်ထောင်စုမှသာ မြေယာစီမံခန့်ခွဲပိုင်ခွင့်နှင့် ဥပဒေပြုခွင့်ရှိပြီး ပြည်နယ်အစိုးရအနေဖြင့် ပြည်ထောင်စုမှ ပြဋ္ဌာန်းထားသည့် အသေးစား လက်လုပ်လက်စား လုပ်ငန်းများကိုသာ စီမံခန့်ခွဲပိုင်ခွင့် ရှိသောကြောင့် သဘောမတူနိုင်ပါ။ ဇူလိုင် ၂၀၁၂

၈၁(က) မြေလွတ်၊ မြေလပ်နှင့် မြေရိုင်းများလုပ်ပိုင်ခွင့်/ အသုံးပြုခွင့်နှင့် ပတ်သက်၍ ခွင့်ပြုမိန့်များ သတ်မှတ်ရာတွင် တိုင်းဒေသကြီး/ ပြည်နယ်အဆင့်ဖြင့်သာ ခွင့်ပြုချထားပေးရန်။

၈၁(ခ) ဧက ၅၀ ထက် မပိုသော မြေလွတ်၊ မြေလပ်နှင့် မြေရိုင်းများ လုပ်ကိုင်ခွင့် ပြုခြင်းအား နေပြည်တော်ကောင်စီ သို့မဟုတ် တိုင်းဒေသကြီး သို့မဟုတ် ပြည်နယ်အစိုးရအဖွဲ့၏ သဘောထားမှတ်ချက် နှင့်အညီ ခွင့်ပြုနိုင်ပြီး၊ ဧက ၅၀ ထက် မပိုသော မြေလွတ်၊ မြေလပ်၊ မြေရိုင်းများ အတွက် လျှောက်ထားသည့် ကိစ္စမှ အပ ကျန်မြေလွတ်၊ မြေလပ်နှင့် မြေရိုင်းများ လုပ်ပိုင်ခွင့်၊ အသုံးပြုခွင့် လျှောက်ထားသည့် လုပ်ငန်းစာတွဲကို နေပြည်တော်ကောင်စီ သို့မဟုတ် တိုင်းဒေသကြီး သို့မဟုတ် ပြည်နယ်အစိုးရအဖွဲ့၏ သဘောထား မှတ်ချက် နှင့်အတူ ဗဟိုကော်မတီသို့ တင်ပြ၍ ခွင့်ပြုချက် ရယူရမည်ဖြစ်၍ သဘောမတူနိုင်ပါ။ (တပ်မတော်၏ အဆိုပြုချက်)

၉၂(က) ဂေဟစနစ်ကို မပျက်ဆီးစေဘဲ ကိုယ်ပိုင်ဆိုင်သည့် လယ်မြေ၊ တောင်ယာမြေ တို့တွင် ဖွဲ့လှူသည့် အစားအစာ ရရှိရန် လွတ်လပ်စွာ သီးနှံစိုက်ပျိုးခွင့် ရရှိစေရန်။

၉၂(ခ) နိုင်ငံတော်၏ အဓိက စားသုံးသီးနှံဖြစ်သည့် ဆန်စပါး စိုက်ပျိုးမှုကို မထိခိုက်စေဘဲ မိမိတို့ လယ်ယာမြေပေါ်တွင် မိမိတို့ ကြိုက်နှစ်သက်သည့် သီးနှံကို လွတ်လပ်စွာ ရွေးချယ် စိုက်ပျိုးခွင့် ရှိသည်။ ဇူလိုင် ၂၀၁၂

(ဃ) ထုတ်ယူသုံးစွဲခွင့် မရှိပါ။

(င) အကျိုးအမြတ် ခံစားခွင့် မရှိပါ။

၂၀၁၇ ခုနှစ် မေလ (၇-၉) ရက်နေ့ တွင် ဒုတိယအကြိမ် မြေယာ၊ သယံဇာတနှင့် သဘာဝပတ်ဝန်းကျင် ကာဏ္ဍဆိုင်ရာ လုပ်ငန်းကော်မတီ အစည်းအဝေးမှ တတိယအကြိမ် တွင် ဆက်လက်ဆွေးနွေးရန် အတွက် ကျန်ရှိသည့် ဖက်ဒရယ်စနစ်ကို အခြေခံသော မြေယာပုဒ်မ၏ အခြေခံများ။ Page 3

(စ) အကာအကွယ်ပြုရေးဆိုင်ရာ အစီအမံများ

၁၁(က) မြေယာပေါ်တွင် ဖွံ့ဖြိုးရေးစီမံကိန်းများ၊ ရင်းနှီးမြှုပ်နှံမှုစီမံကိန်းများ ပြုလုပ်ပါက ဒေသခံပြည်သူလူထုအား စိအားပေးမှုမပါဘဲ လွတ်လပ်စွာ ကြိုတင်အသိပေးခြင်း၊ ချပြည့်နှိုင်း သဘောတူညီချက် ရယူခြင်း (Free, Prior Informed Consent- FPIC) ပြုလုပ်ရမည်။

၁၁(ခ) မြန်မာနိုင်ငံသည် EITI အဖွဲ့ဝင်လောင်းနိုင်ငံစာရင်းတွင် ပါရှိပြီး တင်းပြည့်အဖွဲ့ဝင်အဖြစ် EITI ဒုတိယအကြိမ် အစီရင်ခံစာကို ရေးဆွဲပြုစု ဆောင်ရွက်လျက် ရှိပါသည်။ ယခု လက်ရှိအချိန်သည် EITI အဖွဲ့ဝင် မဖြစ်သေး၍ စံနှုန်းများ နှင့်အညီ ဆောင်ရွက်၍မရဘဲ အဖွဲ့ဝင်နိုင်ငံဖြစ်မှသာ ဥပဒေ လုပ်ထုံးလုပ်နည်းများ နှင့်အညီ အဆင့်ဆင့်တွင် လွတ်လပ်စွာ ပါဝင်ဆုံးဖြတ်ပိုင်ခွင့်ရှိမည် ဖြစ်သောကြောင့် သဘောမတူနိုင်ပါ။

၂၂(က) ဒေသခံတိုင်းရင်းသားများ ပိုင်ဆိုင်သော မြေယာများကို ၎င်းတို့၏ သဘောတူညီမှုမပါဘဲ သိမ်းဆည်းခြင်း မပြုလုပ်ရ။

၂၂(ခ) လူမှုရေးနှင့် စီးပွားရေး ဖွံ့ဖြိုးတိုးတက်မှု အတွက် မြေသိမ်းဆည်းခြင်း ပြုရာတွင် နောင်မျိုးဆက်များ အသုံးပြုနိုင်ရေးအတွက် ရေရှည်တည်တံ့သော မြေအသုံးချမှုများကို ထည့်သွင်းစဉ်းစား ဆောင်ရွက်ရမည်။ မြေယာများ၏ မူရင်းပိုင်ရှင်သည် နိုင်ငံတော်သာ ဖြစ်သောကြောင့် နိုင်ငံတော်နှင့် နိုင်ငံသားများ၏ လူမှုရေးနှင့် စီးပွားဖွံ့ဖြိုး တိုးတက်စေရေး အကျိုးအတွက် မြေယာများကို သိမ်းဆည်းနိုင်သည်။

၃၂(က) မြေယာနှင့် သဘာဝသစ်တောသယံဇာတ၏ မူလပိုင်ရှင်သည် တိုင်းရင်းသား ပြည်သူများ ဖြစ်သဖြင့် ဒေသခံတိုင်းရင်းသားပြည်သူ၏ သဘောထားတူညီချက်မရရှိဘဲ နိုင်ငံခြားသား၊ ဧည့်နိုင်ငံသားနှင့် တရားမဝင် နေထိုင်သူများအား ပိုင်ဆိုင်ခွင့် မရှိစေရေး ဥပဒေ ပြဌာန်းပေးရန်။

၃၂(ခ) ဖွဲ့စည်းပုံ အခြေခံဥပဒေတွင် နိုင်ငံတော်သည် နိုင်ငံတော်ရှိ မြေအားလုံးနှင့် သဘာဝသယံဇာတများ၏ ပင်ရင်းပိုင်ရှင်ဖြစ်သည်ဟု ပြဌာန်းထားပါသည်။ နိုင်ငံခြားသားများ၊ ဧည့်နိုင်ငံသားနှင့် တရားမဝင် နေထိုင်သူများအား ပိုင်ဆိုင်ခွင့် မရှိစေရေးအတွက် ၁၉၈၇ခုနှစ် မေလပြောင်းနိုင်သော ပစ္စည်းများလွှဲပြောင်းခြင်းကို ကန့်သတ်သည့် ဥပဒေတွင် ပြဌာန်းပြီး ဖြစ်သောကြောင့် သဘောမတူနိုင်ပါ။ (တပ်မတော်၏ အဆိုပြုချက်)

၄၂(က) စားနပ်ရိက္ခာ လုံလောက်ရေး အတွက် လယ်ယာမြေများကို အခြားနည်း ပြောင်းလဲအသုံးချခွင့်အား တတ်နိုင်သမျှ ခွင့်မပြုရန်။

၄၂(ခ) သက်ဆိုင်ရာ တိုင်းဒေသကြီး သို့မဟုတ် ပြည်နယ် လယ်ယာမြေ စီမံခန့်ခွဲမှု အဖွဲ့သည် လယ်မြေမှတစ်ပါး လယ်ယာမြေတွင် သီးနှံပြောင်းလဲ စိုက်ပျိုးရန် ဖြစ်ပါက

ခုတ်ယအကြိမ် မြေယာ၊ သယံဇာတနှင့် သဘာဝပတ်ဝန်းကျင်ကာကွယ်ရေး လုပ်ငန်းကော်မတီ အစည်းအဝေး၊

သတ်မှတ်ချက်များ နှင့်အညီ စိစစ်ပြီး ခွင့်ပြုနိုင်သည်။ စားနပ်ရိက္ခာ လုံလောက်ရေး အတွက် လယ်ယာမြေများကို အခြားနည်း ပြောင်းလဲ အသုံးချခွင့်အား သတ်မှတ်ချက်များ နှင့်အညီ စိစစ်ပြီး ခွင့်ပြုနိုင်သည်။ (တပ်မတော်၏ အဆိုပြုချက်)

(ဆ) ဧရာနည်တည်တံ့ရေးဆိုင်ရာ အစီအမံများ မရှိပါ။



ပြည်ထောင်စုသဘောတူစာချုပ်

အစိတ်အပိုင်း(၁)

- ၁။ ပြည်ထောင်စုမပြိုကွဲရေး၊ တိုင်းရင်းသားစည်းလုံးညီညွတ်မှုမပြိုကွဲရေးနှင့် အချုပ်အခြာအာဏာ တည်တံ့ခိုင်မြဲရေးတို့ကို ရှေ့ရှု၍ လွတ်လပ်မှု၊ တန်းတူညီမျှမှုနှင့် တရားမျှတမှုတို့ကို အခြေခံပြီး ပင်လုံစိတ်ဓာတ်နှင့်အညီ ဒီမိုကရေစီအရေး၊ အမျိုးသားတန်းတူရေးနှင့် ကိုယ်ပိုင်ပြဌာန်းခွင့် အခွင့်အရေးများ၊ အာမခံချက်များ အပြည့်အဝရှိသော ဒီမိုကရေစီနှင့် ဖက်ဒရယ်စနစ်တို့ကို အခြေခံသည့် ပြည်ထောင်စုကို နိုင်ငံရေးဆွေးနွေးပွဲ ရလဒ်များနှင့်အညီ တည်ဆောက် နိုင်ရေးအတွက် ပြည်ထောင်စုငြိမ်းချမ်းရေးညီလာခံ- (၂၁)ရာစုပင်လုံ ဒုတိယအစည်းအဝေးအား နေပြည်တော်၌ ၂၀၁၇ ခုနှစ် မေလ (၂၄) မှ (၂၉) ရက်နေ့အထိ ကျင်းပပြုလုပ်ခဲ့ပါသည်။
- ၂။ ဤညီလာခံကြီးတွင် ပြည်ထောင်စု ငြိမ်းချမ်းရေးဆွေးနွေးမှုပွဲကော်မတီ (UPDJC) က အဆိုပြု တင်သွင်းလာသော မူဝါဒ အဆိုပြုချက်များအပေါ် ကဏ္ဍအလိုက်၊ အစုအဖွဲ့အလိုက် ဆွေးနွေးပွဲများကို အဆင့်ဆင့်ကျင်းပပြုလုပ်ပြီး ရရှိလာသော အဆိုပြုချက်များကို ပြည်ထောင်စု သဘောတူစာချုပ် အစိတ်အပိုင်းများအဖြစ် သဘောတူညီမှု ရရှိခဲ့ပါသည်။
- ၃။ ဤညီလာခံကြီးတွင် သဘောတူလက်မှတ်ရေးထိုးသော ပြည်ထောင်စုသဘောတူစာချုပ် အစိတ် အပိုင်း(၁)နှင့် ဆက်လက်ဆွေးနွေးပြီး အဆင့်ဆင့်ရရှိလာမည့် သဘောတူညီချက် အစိတ်အပိုင်း အားလုံးကို စုစည်း၍ ပြည်ထောင်စုသဘောတူစာချုပ်အဖြစ် လက်မှတ်ရေးထိုးကြမည် ဖြစ်သည်။
- ၄။ ဤညီလာခံကြီးတွင် ချုပ်ဆိုသော ပြည်ထောင်စုသဘောတူစာချုပ် အစိတ်အပိုင်း(၁)မှာ-
 - (က) နိုင်ငံရေးကဏ္ဍ မူဝါဒသဘောတူညီချက် (၁၂) ချက်၊
 - (ခ) စီးပွားရေးကဏ္ဍ မူဝါဒသဘောတူညီချက် (၁၁) ချက်၊
 - (ဂ) လူမှုရေးကဏ္ဍ မူဝါဒသဘောတူညီချက် (၄) ချက်၊
 - (ဃ) မြေယာနှင့်သဘာဝပတ်ဝန်းကျင်ကဏ္ဍ မူဝါဒသဘောတူညီချက် (၁၀) ချက်၊ စုစုပေါင်း (၃၇) ချက်ဖြစ်ပြီး နောက်ဆက်တွဲ-(က)(ခ)(ဂ)(ဃ) ဖြင့် ဖော်ပြပါသည်။
- ၅။ အထက်ပါ သဘောတူညီချက်များကို တစ်နိုင်ငံလုံးပစ်ခတ်တိုက်ခိုက်မှု ရပ်စဲရေးသဘောတူစာချုပ် အပိုင်း ၂၀ (င) အရ ပြည်ထောင်စုသဘောတူစာချုပ် အစိတ်အပိုင်း(၁)အဖြစ် ဤပြည်ထောင်စု ငြိမ်းချမ်းရေးညီလာခံ- (၂၁)ရာစုပင်လုံ ဒုတိယအစည်းအဝေးတွင် အစုအဖွဲ့အသီးသီး၏ ခေါင်းဆောင်များနှင့် အသိသက်သေများက လက်မှတ်ရေးထိုးကြပါသည်။

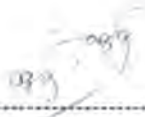


ပြည်ထောင်စုသဘောတူစာချုပ်အစိတ်အပိုင်း(၁)၏စာမျက်နှာ(၂)

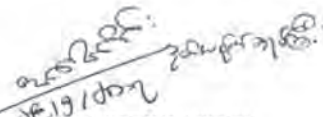
၁။ ဒေါက်တာတင်မျိုးဝင်း
အစိုးရအစုအဖွဲ့ကိုယ်စားလှယ်



၂။ ဦးထွန်းထွန်းဟိန်
လွှတ်တော်အစုအဖွဲ့ကိုယ်စားလှယ်



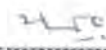
၃။ ဒုတိယဗိုလ်ချုပ်ကြီးတင်မောင်ဝင်း
တပ်မတော်အစုအဖွဲ့ကိုယ်စားလှယ်



၄။ ပဒိုဇောကွယ်ထူးဝင်း
တိုင်းရင်းသားလက်နက်ကိုင်အဖွဲ့အစည်းများ
အစုအဖွဲ့ကိုယ်စားလှယ်



၅။ ဦးသုဇေ
နိုင်ငံရေးပါတီများအစုအဖွဲ့ကိုယ်စားလှယ်





ပြည်ထောင်စုသဘောတူစာချုပ်အစိတ်အပိုင်း(၁)၏စာမျက်နှာ(၃)

အသိသက်ဝေများ

(ဦးထွန်းအောင်)

တိုင်းရင်းသားကိုယ်စားလှယ်
အစိုးရအစုအဖွဲ့

(ဦးကျော်ဝင်း)

ပါဝင်သင့်ပါဝင်ထိုက်သူများကိုယ်စားလှယ်
အစိုးရအစုအဖွဲ့

(သီက္ခာတော်ရစာတော်တလွန်ကဲ့အို)

ပါဝင်သင့်ပါဝင်ထိုက်သူများကိုယ်စားလှယ်
တိုင်းရင်းသားလက်နက်ကိုင်အဖွဲ့အစည်းများ
အစုအဖွဲ့

(ခွန်သန်းမြင့်)

ပါဝင်သင့်ပါဝင်ထိုက်သူများကိုယ်စားလှယ်
တိုင်းရင်းသားလက်နက်ကိုင်အဖွဲ့အစည်းများ
အစုအဖွဲ့

(ဦးထွန်းအောင်ကျော်)

တိုင်းရင်းသားကိုယ်စားလှယ်
နိုင်ငံရေးပါတီများအစုအဖွဲ့

(ပိုင်ထွန်းမြင့်)

ပါဝင်သင့်ပါဝင်ထိုက်သူများကိုယ်စားလှယ်
နိုင်ငံရေးပါတီများအစုအဖွဲ့



နောက်ဆက်တွဲ(ဃ)

မြေယာနှင့်သဘာဝပတ်ဝန်းကျင်ကဏ္ဍမှဝါဒ သဘောတူညီချက်

(၂၀၁၇ ခုနှစ်၊ မေလ ၂၉ ရက်)

- ၁။ နိုင်ငံလုံးဆိုင်ရာ ဘက်ညီမျှတသည့် ရေရှည်တည်တံ့သော ဖွံ့ဖြိုးမှုကို အထောက်အကူ ဖြစ်စေသည့် ပြည်သူ့ဗဟိုပြု ဖွံ့ဖြိုးတိုးတက်မှု မြေယာမူဝါဒ ဖြစ်စေရန်။
- ၂။ သင့်တော်မျှတ၍ တရားနည်းလမ်းကျမှုကို အခြေခံစေရန်။
- ၃။ ဗဟိုထိန်းချုပ်မှု လျော့ချသည့် မူဝါဒများဖြစ်စေရန်။
- ၄။ မြေယာမူဝါဒရေးဆွဲရာတွင် လူ့အခွင့်အရေး စံနှုန်းများ၊ နိုင်ငံတကာစံနှုန်းများ၊ ဒီမိုကရေစီနှင့် ဖက်ဒရယ်စံနှုန်းများကို ထည့်သွင်း စဉ်းစားရေးဆွဲရန်။
- ၅။ မြေယာကိစ္စရပ်များနှင့်စပ်လျဉ်း၍ ပွင့်လင်းမြင်သာမှုနှင့်ရှင်းလင်းသည့်မူဝါဒများဖြစ်စေရန်။
- ၆။ လယ်ယာကဏ္ဍ ဖွံ့ဖြိုးတိုးတက်လာစေရန်အတွက် မူဝါဒများ ချမှတ်ဆောင်ရွက်ရာတွင် ဒေသခံများ၏ လိုလားချက်များကို ဦးစားပေး၍ တောင်သူလယ်သမားများ၏ အဓိက လိုအပ်ချက်များကို ဖြည့်ဆည်းပေးရန်။

ပိုင်ဆိုင်ခွင့်

၇။ နိုင်ငံသားတိုင်းသည် မြေယာဥပဒေနှင့်အညီ မြေယာပိုင်ဆိုင်ခွင့်နှင့် စီမံခန့်ခွဲပိုင်ခွင့်ရှိသည်။ အမျိုးသမီးနှင့် အမျိုးသား တန်းတူညီမျှမှု ရှိရမည်။

စီမံခန့်ခွဲခွင့်

- ၈။ မြေယာပိုင်ဆိုင်ခြင်းဆိုင်ရာ စီမံခန့်ခွဲမှုပြုရာတွင် ဥပဒေနှင့်အညီ အမျိုးသမီးနှင့် အမျိုးသား အခွင့်အရေး တန်းတူညီမျှမှု ရှိစေရန်။
- ၉။ လုပ်ပိုင်ခွင့် ချထားပေးသော မြေယာကို မူလရည်ရွယ်ချက်အတိုင်း သတ်မှတ်ကာလအတွင်း လုပ်ကိုင်နိုင်ခြင်း မရှိလျှင် နိုင်ငံတော်က ပြန်လည်ရယူရန်နှင့် အမှန်တကယ် လုပ်ကိုင်လိုသူ များအား ပြန်လည်ချထားပေးရေးဆောင်ရွက်စေရန်။

အကာအကွယ်ပြုရေးဆိုင်ရာ အစီအမံများ

၁၀။ လူမှုရေး၊ ယဉ်ကျေးမှု၊ သမိုင်းဝင်အမွေအနှစ်နှင့် တိုင်းရင်းသားလူမျိုးများ အတွက်အမြတ် ထားသော မြေများ ထိခိုက်ပျက်စီးမှုများ မရှိစေရေးနှင့် သဘာဝပတ်ဝန်းကျင်ထိန်းသိမ်း ကာကွယ်စောင့်ရှောက်ရေးကို ဦးတည်ကြိုးပမ်း ဆောင်ရွက်ရန်။

ABOUT KPSN

Karen Peace Support Network (KPSN) is the largest network of Karen civil society organizations in Burma/Myanmar. KPSN member organizations have facilitated humanitarian support for vulnerable conflict-affected Karen communities, internally displaced persons (IDPs), and refugees for decades. KPSN works to empower local Karen communities, raise awareness of the peace process, document human rights issues, and facilitate advocacy for a sustainable and equitable peace in Karen areas of Burma.

For more information, please contact:

kpsn14@gmail.com