

Towards equitable and secure access to land and natural resources for family farmers in the Mekong region



Capitalization Note

February 2017

Civil Society Participation in Land Policy Making: the innovative experience of Myanmar's pre-consultation on the National Land Use Policy

**Land Core Group & Loka Ahlinn
Mekong Region Land Governance**

Capitalization Note

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List of acronyms

CSO	Civil Society Organization
ERT	Expert-Round Table
GPI	Green Peasant Institute
IDI	In-depth Interview
IEC	Information, Education and Communication
LCG	Land Core Group, a network of NGOs and CSOs working in the land sector
LIOH	Land In Our Hands
LUASC	Land Use Allocation and Scrutinizing Committee (later it was expanded into the National Land Resources Management Central Committee that was abolished in March 16 before the NLD government took over the power NLMCC)
M-Law	Myanmar Legal Aid Association
MoAI	Ministry of Agriculture and Irrigation
MoECaF	Ministry of Environmental Conservation and Forestry
MP	Member of Parliament
MRLG	Mekong Region Land Governance
NLD	National League for Democracy
NLMCC	National Land Resources Management Central Committee
NLUP	National Land Use Policy
QDF	Quick Disbursement Fund
SDC	Swiss Agency for Development and Cooperation
TF	Task Force
TNI	Transnational Institute
TOR	Terms of Reference
ToT	Training of Trainers

Clarification of terms

“**Pre-consultation**” is an umbrella term that encompasses the 62 meetings with farmers and farmers’ representatives, organized by Land Core Group network members, supported by MRLG’s Quick Disbursement Fund (QDF) and other funding, as well as similar events organized by other civil society networks such as Land in Our Hands (LIOH).

“**Public consultation**” refers specifically to the 17 public consultation meetings held by the Ministry of Environmental Conservation and Forestry (MOECAF) on behalf of the National Land Resource Management Central Committee of the Government of the Republic of the Union of Myanmar in November, 2014, which was attended by farmers and farmers’ representatives.

Some of the pre-consultation events took place prior to the government’s public consultation meetings, and others after, but this report will show that all the events reached the ears of government in some form or another, in varying degrees. Importantly, a “**Consolidation Workshop**” held in January, 2015, compiled the recommendations of the pre-consultation events, both within and outside of the network of QDF sub-grantee organizations. The **Consolidation Workshop Report**¹ was presented to government in written form, and also served to guide civil society representatives that participated in the two **Expert Round Table (ERT)** meetings and the final **National Consultation Workshop**. These meetings took place after both the government-led public consultation and the civil society organized pre-consultation events had concluded, and were an important direct dialogue between civil society organizations representing farmers, and the government.

¹ The full document title is “The Data-Compiling Workshop on Public Feedback to the Draft National Land Use Policy”.

Executive summary

Background information

In October 2014, for the first time in recent history, the government of Myanmar decided to organize a public consultation to inform the development of a national policy. To support this consultation process, several organizations decided to organize civil society pre-consultation activities to listen and gather concerns from smallholder farmers to formulate relevant recommendations for the policy dialogue.

This capitalization report aims to share the experience of that remarkable mobilization by civil society and the impacts of this pre-consultation on the final National Land Use Policy (NLUP).

Drawing lessons from retrospective and critical analysis of the action is particularly important at this time because it is expected that similar (pre)consultation processes will follow in connection to other policies and laws in Myanmar.

Pre-consultation process

The initiative was implemented by a task force of 15 member organizations coordinated by The Land Core Group and supported by MRLG through a Quick Disbursement Fund and other funding. Loka Ahlinn, a CSO with national scope working on issues of local-level governance was tackling the funds management on behalf of LCG.

In order to prepare the task force members, Mercy Corps led a curriculum development process to ensure the same curriculum was used for the pre-consultations and carried out a two-day training of trainers (ToT). Pre-consultations activities consisted of 62 events conducted from 06 November 2014 to 6 January 2015 in 6 States and 4 Regions, covering 43 townships at which more than 2700 people attended (20% percent female participants). The meetings consisted of presentations by organizers, education of farmers about the NLUP and break-out group discussions for communities to raise their voice and give recommendations.

A Consolidation Workshop was conducted right after the pre-consultation events to compile the recommendations that came out and agree on priority policy recommendations. The Consolidation Workshop report was drafted and distributed to stakeholders, including government. Later in January, 2015, the Task Force organized a workshop for Members of Parliament in Nay Pyi Taw with the rationale that that Members of Parliament should be familiar with the NLUP, which is expected to be a basis for future legislation. Later, two Expert Round Table (ERT) meetings with civil society and government and a National Consultation Workshop attended by representatives from the government, CSOs, Farmer Groups and the private sector were organized by LCG and MoECaF to consolidate and discuss recommendations from the public consultations. In the ERTs and the National Consultation Workshop, seven members of the Task Force participated and used the pre-consultation recommendations to influence the discussion and ultimately the 6th draft of the NLUP.

Impacts of the pre-consultation process

Some sub-grantee organizations presented summaries of the recommendations that came out of their pre-consultation events, directly to the government at the public consultation meetings.

However, the Consolidation Workshop Report is considered by respondents to be the vehicle through which pre-consultation recommendations most effectively reached Government.

The analysis of results of the pre-consultation and their incorporation into the consultation revealed generally strong links from the pre-consultation to final NLUP in regard to decentralization of land governance bodies/councils. The weakest links between the pre-consultation and final NLUP were perceived to be around the controversies of land acquisition, particularly land confiscation by the military, which is not specifically addressed, even though this was perhaps the most vehement concern of farmers expressed at the meetings.

All respondents agreed that the pre-consultation and consultation processes together democratized the debate on the NLUP. However, opinions varied between those who were very satisfied with the government's response to civil society and those who felt that the final version did not change in basic principle from the original draft. From the government side, there is a sense that public consultations went smoothly and that limited time was used efficiently because farmers were prepared by their participation in the pre-consultation.

Reflection on implementation process: successes and challenges

The study also reveals the difficulties inherent to the organization of such a complex and ramified pre-consultation process. These include logistics and financial burdens in organizing meetings, the need for a consistent reporting system that allows for more systematic monitoring of activities.

More importantly, the study shows that a major challenge faced by the trainers/facilitators concerned communication with farmers. It takes skill and time to present complex issues in layman's terms so as to enable a dialogue that focuses on core issues. When language is not accessible to the farmers, they do not perceive the information as relevant to their needs and feel alienated by the content.

Lessons learned

A set of key lessons learned has emerged from the study:

- ⇒ Pre-consultation of directly concerned population prior to a public consultation process is vital for creating a two-way positive communication with government agencies.
- ⇒ A complementarity of approaches that work from inside and outside government agencies is often more effective to induce policy change than working through a single entry point.
- ⇒ The roles and tasks of all parties involved in preparing the pre-consultation need to be clearly assigned at the inception of the process.
- ⇒ Complementing public consultation events with smaller workshops and face to face meetings between government, experts and representatives of civil society increases the chances of integrating farmers' concerns and suggestions in the policy design.

Introduction

In October 2014, the government of Myanmar decided to organize a public consultation about the National Land Use Policy. To inform this consultation process, several organizations decided to organize civil society pre-consultation activities to listen and gather concerns from smallholder farmers to formulate relevant recommendations for the policy dialogue.

The Land Core Group (LCG) and Loka Ahlinn asked for support from the Mekong Region Land Governance (MRLG) in the form of the Quick Disbursement Fund (QDF). The pre-consultation activities they initiated took place from 6th November 2014 to 6th January, 2015. Through this capitalization report, MRLG aims to share the experience of that process with the concerned civil society organizations and formulate recommendations for future consultation processes.

This particular capitalization is important because of the historic nature of the subject of study: the first time in recent history that the government has consulted the people on a national policy, the remarkable mobilization by civil society of a pre-consultation process, and the impacts of this pre-consultation on the final National Land Use Policy (NLUP). Drawing lessons from retrospective and critical analysis of the action is particularly important at this time because it is expected that similar (pre)consultation processes will follow in connection to other policies and laws in Myanmar.

The overall objectives of this capitalization are to contribute to the internal learning cycle of the organizations involved in the pre-consultation, and to produce a publically available report. Specifically, it examines the contribution that pre-consultation has on a consultation process, reflects on the lessons learned from the implementation process and on the quick disbursement fund process itself. On that basis, the report makes recommendations for future activities of this type in Myanmar and other Greater Mekong countries.

Methodology

The production process of the capitalization note was overseen by a Steering Committee, an initiative of MRLG, that was formed with the key QDF stakeholders: MRLG, LCG and Loka Ahlinn. Its formation, and the writing of this report, were delayed until the final NLUP was adopted in early 2016.

The process culminating in this capitalization note has been comprised of three phases; preparation, data collection and analysis / report writing.

In the preparation phase, documents relevant to the pre-consultation were reviewed (see references), work-plans developed and submitted to the Steering Committee, and questionnaires were developed.

The data collection phase involved individual in-depth-interviews of key informants which were conducted to obtain relevant information on the process, intervention and QDF, from different angles and perspectives. Interviews were conducted with pre-set questionnaires customized for each target group (sub-grantees, Task Force members, and donors).

The interviews were conducted in Yangon, Nay Pyi Taw and Loikaw from 20th April 2016 to 17th August, 2016. During the field work, interviews were conducted with 5 representatives from donors, 1 process monitor, 1 fund manager, 7 task force members, 6 direct beneficiaries from four CSOs, one indirect beneficiary (farmer), 2 government officials, 1 member of parliament, and 2 key informants from Land In Our Hands (LIOH). It should be noted that not all the above were separate interviews as 3 of the CSO direct beneficiaries were also Task Force members, and 4 of the donor representatives were also Task Force members.

Emphasis was placed on collective learning instead of measurement of individuals or entities against a set of evaluative criteria. As such, the questionnaire responses have been kept confidentially by the researchers.

The time elapsed between the pre-consultation and this writing has resulted in some difficulty in obtaining all the original documents and notes, particularly records of the pre-consultation meetings.

There are significant differences between the English and Myanmar language versions of the NLUP drafts and final policy. The authors of this capitalization note compared the Myanmar versions of the 5th and 6th drafts as these are considered to be the definitive documents, and many changes were noticed. However, the non-Myanmar readers of this report may not recognize the changes observed and reported here if they have only seen the English versions of the draft NLUP.

Background

Introduction to land issues in Myanmar

After the accession of a quasi-civilian government in 2010 and the introduction of political reforms in 2011, the new government led by President Thein Sein had to grapple with addressing land issues which were one of the most difficult legacies left behind by decades of military rule. The most contentious issues have been land confiscation and concessions, landlessness, land conflicts, and the lack of recognition for customary tenure and shifting cultivation, and the disadvantaged position of women with respect to land titles. These issues have been complicated by the multitude of land-related laws. The resulting lack of uniformity in the legal framework has resulted not just in overlaps, but also grey areas ripe for misinterpretation or manipulation. Two new land laws passed in 2012, the Farmland Law and the Vacant, Fallow and Virgin Lands Management Law did little to address the grievances of the majority smallholder farmers, and in many cases created deeper divisions.

The National Land Use Policy and public consultation

In this context, the need for an overarching land use policy became more and more apparent. While the two new land laws were discussed in the parliamentary process, in June 2012, President Thein Sein established the Land Use Allocation and Scrutinizing Committee (LUASC), an inter-ministerial body chaired by MoECaF with vice chair from Ministry of Agriculture and Irrigation (MoAI) (see Figure 1). The LUASC was to be the committee to carry out the process of drafting the NLUP, which would set the stage for a future unifying land law. In a landmark conference in November 2012, Land Core Group (LCG) and the Ministry of Environmental Conservation and Forestry (MoECaF) agreed in recognizing that current legislation, including the new land laws, did not adequately protect the rights of smallholder farmers, indigenous peoples and women. At the conference, the need for a unifying land use policy and harmonization of existing land laws, was publically acknowledged.

The Swiss Agency for Development and Cooperation, (SDC) the European Union, and USAID approached the chair of LUASC with the offer of financially supporting a public consultation. The donors also brought in a consultant from Europe to advise the LUASC about good practices for public consultation.

The government, probably wishing a policy that would be accepted as legitimate by the Myanmar public, that would be well regarded by the international donor community (such as the bilateral donors that supported the public consultation) and by foreign investors, was amenable to organizing an inclusive process to design the new policy. The Chairman of the Land Core Group, a network of NGOs and CSOs that work on land-related matters, became the National Advisor for the LUASC. His appointment ensured some degree of cooperation between a major civil society/ NGO land network (Land Core Group) and the government during the policy formulation process. An intensive internal consultation process was then organized, resulting in the production of 5 successive drafts of the NLUP.

The government also agreed to organize a public consultation once the fifth draft of the NLUP was approved within the LUASC. The government's motives for opening a public consultation are not precisely known. Some may have wished to reach out to the electorate on the eve of a historic election. Others within government likely had a genuine desire for public consultation, at very least to increase the perceived legitimacy of the NLUP.

The government's initial intention was to convene 17 public consultation events in 14 states and regions, and in Nay Pyi Taw Territory within 3 weeks in November 2014 in order to finalize the policy as soon as it was revised with the feedback from those events. Then the government conducted a pre-consultation meeting in Yangon on 18th October, 2014 at which they heard the request of participants to expand the period and extend the public consultation. By this time, the Government may have also gained more confidence in public consultation due to a specific communication training provided by two international communication experts under the arrangement made with international donors, who coached government officials on good practices for facilitating public consultation. During the 17-event public consultation process, the government heard the public's demand to expand the period and extent of the public consultation. The Government then prolonged the period for public consultation from 3 weeks to nearly 8 months, allowing civil society to continue with "pre" consultation events, encouraging the individuals and groups to send the feedback and suggestions on the draft policy while planning to conduct the Expert Roundtables. This extension allowed interested organizations and individuals to provide their critical feedback and suggestions on the draft policy extensively. Then the government conducted 2 Expert Roundtable Meetings (ERT 1 on 31st January and ERT 2 on 1st February, 2015, and one Final National Consultation Workshop before finalizing the National Land Use Policy in January 2016 (see Figure 1). These events will be detailed below.

The 17 public consultation meetings were generally half-day events ending by early afternoon so that government facilitators could travel to the next meeting location. The first two or three hours were comprised of government presentations about the NLUP, after which farmers voiced their concerns.

The civil society pre-consultation process

First of all, it is worth noting there were early tensions between those groups that decided to work with government in the consultation process, such as Land Core Group, and those who were sceptical of the government's intentions and therefore decided not to collaborate. Sceptical groups, such as the Land In Our Hands network, organized its own pre-consultation meetings and sent its own set of recommendations to the government. More detail can be seen in the Findings and Analysis section below (see also Figure 1).

Origins of pre-consultation coordinated by LCG

The idea to organize this pre-consultation originated with partners of Land Core Group who were concerned about the quality of the public consultation and the ability of farmers and civil society to participate in it. On 1st October, 2014, at the regular monthly meeting of the LCG, the idea was developed further while being discussed among the LCG partners present. It was quite apparent that without a pre-consultation, farmers would not be able to effectively increase their voice and advocate for their interests or take advantage of this one-time opportunity offered by the public consultation. It was also clear that the job of preparing farmers would fall on civil society networks, such as LCG. The Task Force (TF) for LCG's civil society pre-consultation was formed at the same 1st October meeting. The Task Force was charged with the management and supervision of pre-consultation activities coordinated by LCG and with the formulation of recommendations that would feed into the consultation process. Part of this was the nomination of prospective sub-grantee organizations who would be in charge of organizing and conducting pre-consultation events across the country, after the QDF was approved.

Figure 1 below illustrates the processes of the consultation and pre-consultation and the actors involved therein, with particular emphasis on the pre-consultations events coordinated by the Land Core Group. The Task Force was comprised of 15 member organizations representing local NGOs (7 members), international NGOs (4 members), donor organizations (2 members) and national networks (2 members). The full list of members can be seen in Annex 1. Two of the national-level NGOs and one of the international NGOs joined as members in the beginning, but did not participate in the Task Force thereafter. But the remaining members participated more or less equally. Decisions were made by group consensus.

Objectives

The primary, or at least initial, objective of the pre-consultation was to prepare farmers and civil society actors to give effective feedback during the process of the Land Use Policy public consultation. But this was not the only objective. Some pre-consultation meetings took place after the period of consultation. One sub-grantee interviewed pointed out that while the immediate objective was for farmers and civil society groups to make an impact on the NLUP, a longer term goal was to educate farmers about changes in the policy and legal environment affecting them in terms of land.

The civil society pre-consultation process

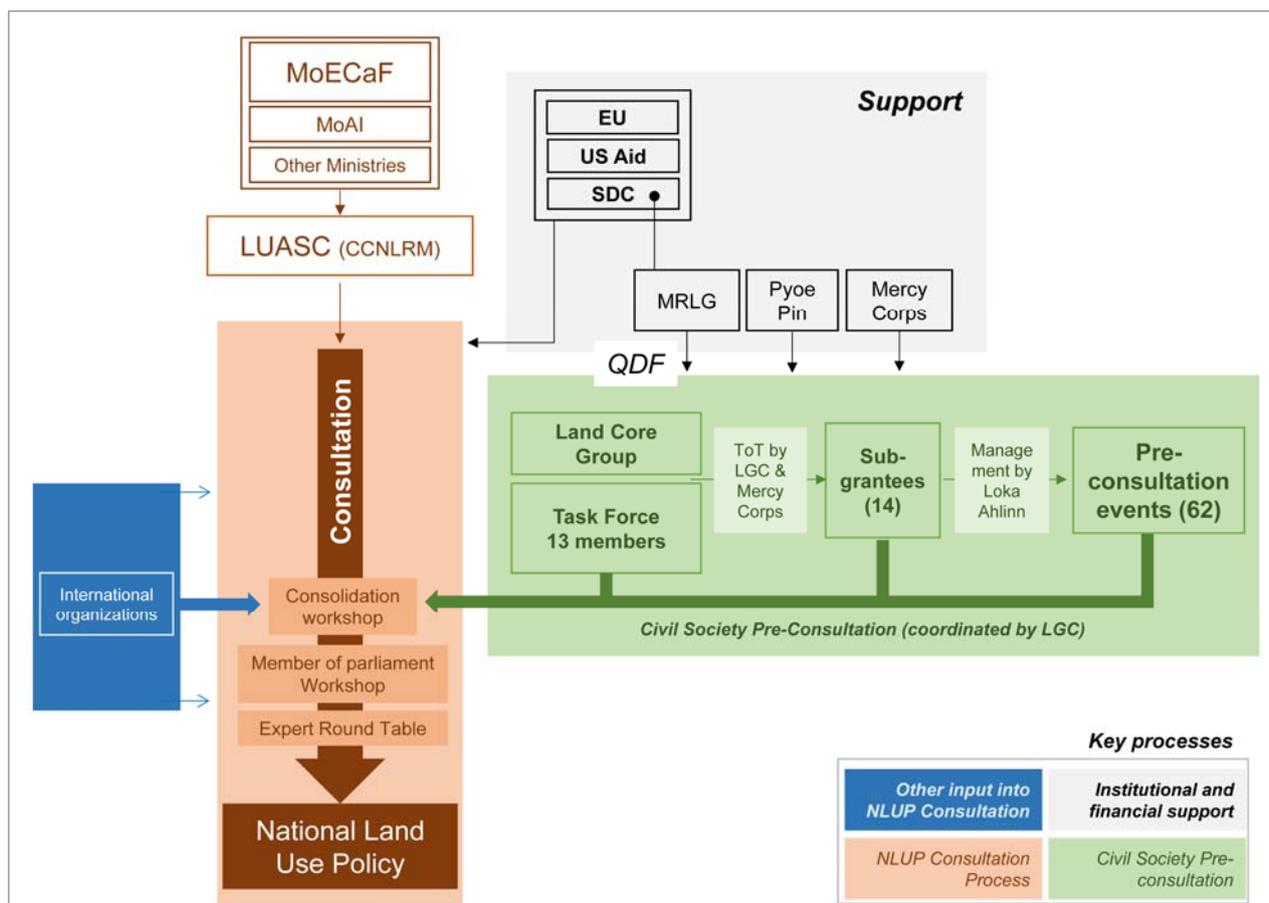


Figure 1. Actors and institutional bodies in all processes related to the Consultation and Pre-Consultation

Quick Disbursement Fund (QDF)

The QDF is a funding mechanism administered by MRLG, awarding grants of up to up to 50,000 US\$ which can be used for urgent activities intended to finish within six months. LCG had already been discussing the consultation through its members and it approached MRLG for financial support through the QDF.

Land Core Group considered it did not have the administrative capacity to handle the QDF disbursement process as its hands were already full with the responsibility of organizing the pre-consultation. As MRLG could not substitute them in capacity of national coordination, LCG looked for CSOs within its network that would be willing and able to manage the funds. LCG chose Mercy Corps initially, but Mercy Corps' internal financial management system was not compatible. Instead, Loka Ahlinn, a CSO with national scope working on issues of local-level governance (and also a Task Force member), was approached. It agreed to manage the funds on behalf of LCG.

Loka Ahlinn submitted its concept note to MRLG with inputs from the Land Core Group but had difficulty finalizing it, in part because it encountered challenges putting together all the proposed activities from the 13 sub-grantees in a few indicators. In view of this, MRLG hired a consultant to assist in the finalization of this note. The consultant's task was both to get LCG and Loka Ahlinn on the same page, and also to produce a proposal of sufficient quality to be acceptable to MRLG's Steering Committee (composed of its donors).

The civil society pre-consultation process

Due to the delays resulting from the application process, and further from the difficulty of transmitting funds from Australia to Myanmar under the regimen of economic sanctions, it took one and half months from application to the disbursement of the QDF. And because funds were needed urgently, the Pyopin Program provided interim funding through its CSO support programme, which was available within 3 days.

To implement this pre-consultation process, 13 CSOs were selected as sub-grantees based on a few selection criteria of the task force such as to be a locally based organization, a farmer or pro-farmer organization, and to be either a member of the LCG network, or recommended by a member of the network. Loka Ahlinn requested prospective sub-grantees to submit an application with their budget to the Task Force. LCG office staff and finance staff worked in concert with Loka Ahlinn to review the applications. One was rejected which did not meet the criteria.

This project funding was managed by Loka Ahlinn, which disbursed 80 percent of the total budget to 13 implementers within 3 months for pre-consultation activities. Some came to Loka Ahlinn's office directly to collect the money. Some organizations needed bank transfers to their project area.

There was no formal monitoring of the process so Loka Ahlinn was not able to perform any on-site monitoring of sub-grantees, nor did other Task Force members do so in any systematic way. Instead, Loka Ahlinn kept abreast of activities through telephone contact with sub-grantees.

After completion of the activities, financial reports with financial documents and narrative reports from the sub-grantees were submitted to Loka Ahlinn and a final report was prepared by Loka Ahlinn for MRLG.

Time-line of the civil society pre-consultation

As indicated earlier, the pre-consultation activities were mostly conducted in anticipation of the consultation process so that recommendations could be formulated and fed into it. However, the time span of the whole process was long enough to allow for several other interactions between the stakeholders involved in both process, as described in the following section and succinctly in figure 2.

The civil society pre-consultation process

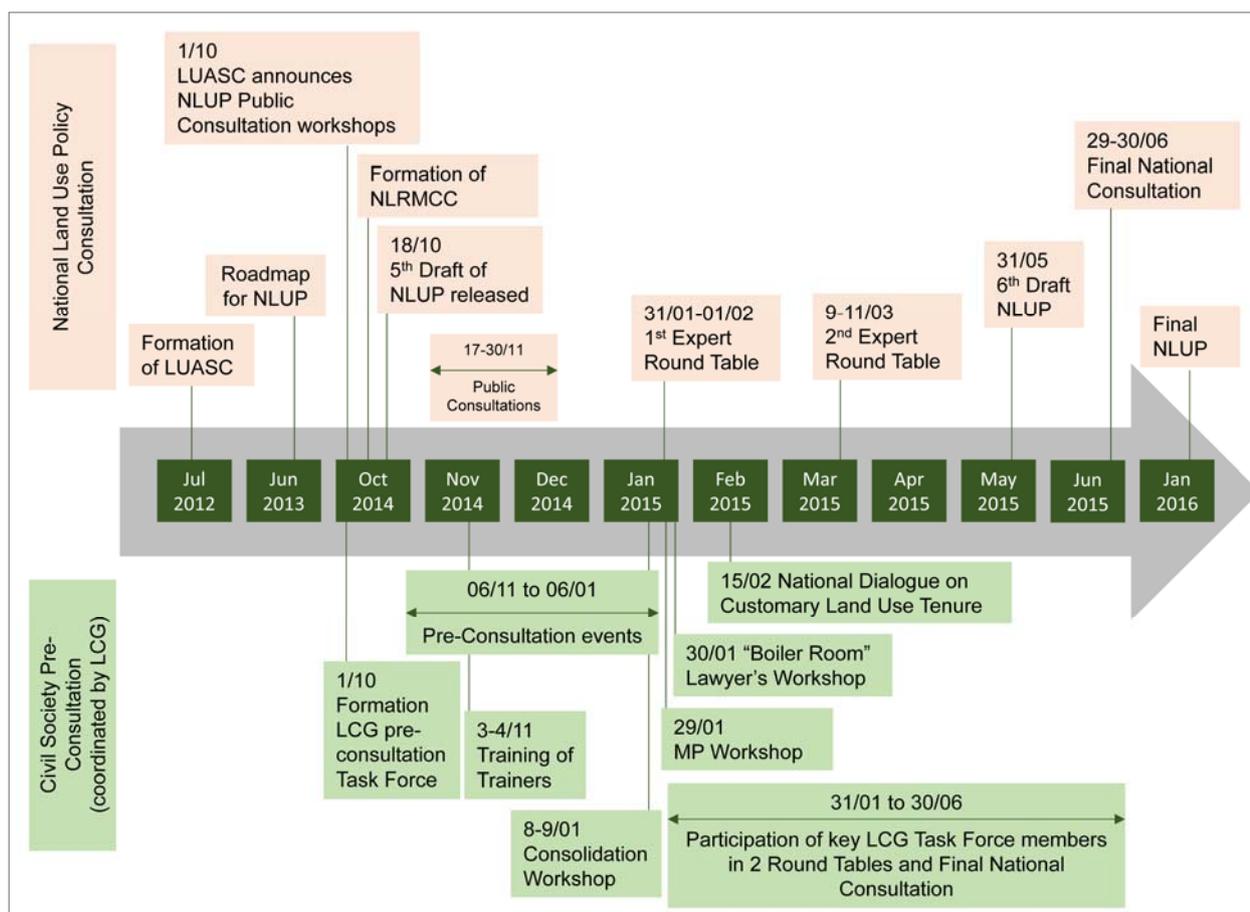


Figure 2. Milestones of Myanmar National Land use Policy Dialogue

- **Formation and role of Task Force**

The Task Force was formed so that LCG could share the responsibility of organizing the pre-consultation more broadly with partner organizations. At that time, even within the network, there was some debate about whether to push ahead with the pre-consultation or whether to oppose the NLUP altogether. So LCG formed the task force based on those organizations willing to organize the pre-consultation. Some organizations were nominated by sister organizations and were not very active members throughout the whole process. Half of the members, around 7 members, of Task Force were deeply involved. The Task Force was a grouping of like-minded people and organizations (no official application, etc.). The Task Force was formed during the regular monthly meeting of LCG on 1st October, 2014. It met thereafter on an as-needed basis, averaging weekly. Some members volunteered to serve on the Task Force, other members had to be nominated or encouraged by others. LCG provided meeting space, covered meeting costs and provided meeting facilitation service on request.

- **Selection of sub-grantees based on short sub-proposals**

Most sub-grantee organizations were invited to apply for funding by Task Force members. Short sub-proposals were submitted to the Task Force by each prospective sub-grantee, for review and decision. Only one applicant organization was not accepted as sub-grantee.

- **Training of trainers (ToT)**

With the objective to ensure the consistency and effectiveness of all pre-consultation workshops to be conducted by LCG network and non-network member organizations, the Task Force, with facilitation by LCG and support from U Myint Thwin (a lawyer in the network), developed a curriculum.

The civil society pre-consultation process

The curriculum focused on the recognition and protection of tenure rights of farmers and other relevant themes. One of the land expert lawyers in LCG network took the role of TOT trainer. The curriculum provided farmers and local communities with the tools and methodologies to be able to analyze the 5th draft. For example, 6 specific parameters were suggested that are strongly related to farmers' land tenure security for the policy analysis, including:

- Tenure security of all citizens including ethnic tenure rights
- Land dispute resolution with ethnic traditional practices
- Allow legal and judicial decision for any land dispute
- Land tenure without threat of arbitrary acquisition
- Compensation for land acquisition
- Tenure security of shifting cultivation in the forest estates

The key highlights of the 5th draft particularly related to tenure security were emphasized, such as paragraph (11) promoting rule of law, fairness related principles, and principles related to land concession, compensation, resettlement and rehabilitation; paragraphs (34) and (35) which address the methods of prior informed, advanced notification and rights of the affected population and local community to appeal in the case of land use change through individual applications, ESIA, and paragraph (38) on the desires of local community such as:

- Don't relocate the local community if they are not willing to do so
- Instead change the project design
- Use consultation process if unavoidably need to do concession
- Sufficient support not only for resettlement but also for rehabilitation
- Relocate the local community only when land and housing of the same or better value is readily available.

Mercy Corps took the responsibility of organizing and managing the TOT training. It was carried out over two days, during which 60 members of the selected CSOs were trained. LCG and Mercy Corps together shared the cost of the ToT.

• Pre-consultation meetings

After the Training of Trainers conducted in Yangon, the 13 sub-grantee organizations successfully organized about 63 pre-consultation events in 6 States and 4 Regions, covering 43 townships and 1 for all ethnic Ministers from the states and regions, at which nearly 2800 people (20% percent female participants) had the chance to raise their voices across the country (see detail in Annex 2). The majority of pre-consultation events took place from 10th to 30th November 2014. Sub-grantees conducted the pre-consultation workshops for the rural communities in their operational areas and used their networks to invite farmers to the pre-consultation meetings. The meetings generally convened for a full day. Morning was reserved for presentations by organizers, and education of farmers about the NLUP. In the afternoon sessions, break-out groups were formed so that all participants could have a chance to voice their concerns and give recommendations.

One sub-grantee reported that farmers had difficulty understanding the difference between policy and law. By the end of the meetings this was clarified, "but it took a very long time and until late in the evening". More than one sub-grantee reported that meetings were sometimes interrupted by individual farmers angrily demanding redress for specific land confiscations.

However it was stated that meetings were not derailed by this and were generally productive by the end of the day. Nearly all sub-grantees also sent representatives to attend the government supported public consultations on the draft land use policy. In one region, for example, three participants from each pre-consultation event were “elected” to attend the public consultation. Some sub-grantee organizations such as Rakhita conducted additional pre-consultations in other townships with their own budget.

Nonetheless, the author undertook an analysis of the matrix (in Excel spreadsheet) produced by government after its public consultation meetings, showing 909 recommendations made by civil society at the government-led public consultation meetings. The analysis of 909 key points document shared by the government during the Expert Roundtable process indicated that some individual sub-grantee organizations presented summaries of the recommendations that came out of their pre-consultation events, directly to the government at the public consultation meetings (See Annex 3). The document states who made the recommendations, though not always the individual's organizational affiliation. The researchers conducted analysis of this matrix to see which recommendations were made by individuals known to be affiliated with sub-grantee organizations. The results show that 96 of the 909 recommendations were made by 19 individuals belonging to 5 sub-grantee organizations (see Annex 3). However, it should be stressed that there may be many other recommendations made by persons who identified themselves only by name and geographical origin, not by sub-grantee organizational affiliation.

- **Consolidation workshop**

This workshop was organized by LCG and facilitated by an external firm, on 8th and 9th January, 2015 in Yangon. Participating in the workshop were not only QDF sub-grantees but also other members of civil society who had carried out pre-consultation events and meetings using funding of their own. The purpose of this workshop was to re-connect all the key actors who were involved in the actions, to compile the recommendations that came out of the pre-consultation events, and to agree on priority policy recommendations. The pre-consultation recommendations were reviewed, overlapping points were eliminated, and similar ones consolidated. Ultimately, a Consolidation Workshop report was drafted and distributed to stakeholders, including government. After the report was finalized the Task Force collectively reviewed the report to agree on the most important key policy messages to use them as headlines in upcoming workshop with the Parliamentary Members as well as in the Expert Roundtables. A PowerPoint was developed using all those key policy messages.

- **Workshop for Members of Parliament (MPs)**

On 27th January, 2015, an MPs workshop was held in Nay Pyi Taw. It was paid for with QDF and LCG funds, and organized by MLAW. A Task Force member from ActionAid made a presentation on behalf of the Task Force. In spite of scheduling conflicts, about 40 or 50 attended from both houses of parliament, mostly National League for Democracy (NLD). That MPs already had a copy of the NLUP draft was a positive sign that they were already engaged in the policy dialogue, even though no information had been officially passed to MPs at the Union level. It showed they had been present (or at least aware) of the consultations that had taken place in the states and regions that they represent. Although the NLUP would not have to be approved by Parliament, the Task Force considered that it was important in the long run for MPs to be informed, given the expectation that the NLUP would form the basis for future legislation. It turned out that the Workshop also had short term value, as the MPs were soon consulted by LUASC.

- **Expert Round Tables**

The two Expert Round Table (ERT) meetings were joint meetings of civil society and government organized by LCG and MoECaF, on behalf of the LUASC. The first took place in Nay Pyi Taw, and the second in Yangon. The formal purpose was to work out specific changes to the language and organizational structure of the draft policy.

One of the main inputs to the ERTs was a matrix consolidating the concerns gathered from the 17 public consultation meetings, prepared by MoECaF. This matrix lists 909 concerns (comments, recommendations, etc.) in a table that shows the name of the recommender, the article/section of the policy the comment pertains to, and questions arising from the comment needing to be followed up in the ERT forum.

Seven members of the Task Force participated in the ERTs, including representatives of LCG, Spectrum, Pyoe Pin, Action Aid, MLAW, Tampadipa and GPI (the latter three were also QDF sub-grantees). The first ERT had a minority of civil society represented, compared with government representation, but this evened out at the second ERT where the ratio of civil society to government participants was roughly even (about sixty participants from each). Information from the Roundtable meetings was used to develop the 6th draft of the NLUP.

Although the ERTs were focused on the public consultation matrix as the main input or source of civil society recommendations, the fact that seven members of the Task Force participated in the ERTs strongly indicates that the pre-consultation recommendations had influence (though indirect) on the ERTs and ultimately the 6th draft of the NLUP.

- **Final National consultation workshop**

The final consultation was the National Consultation Workshop organized by the government in Nay Pyi Taw on 29 and 30 June 2015. It was attended by over 300 participants from the government, civil society, farmers representatives, private sector and international organizations. The participants were divided into 5 groups. Each group reviewed a different part of the 6th draft policy and proposed changes for the final draft. The Task Force members attended the final consultation workshop in order to ensure that their final inputs were used in the final policy revision.

- **Dialogue on customary communal tenure**

This national dialogue on customary communal land tenure and rotational fallow farming systems held in Nay Pyi Taw in February 2015, which included international participation, influenced the inclusion of customary and communal tenure in the final NLUP. It was organized by LCG and Transnational Institute (TNI). Even if this dialogue was not part of the NLUP consultation process strictly speaking, it was instrumental to prepare key stakeholders, especially the ethnic CSO representatives and government actors such as Union Attorney General Office, by opening a space for them to interact with each other on their understanding of customary tenure in Myanmar.

Findings and analysis

Impacts of the pre-consultation

Analysis of results and their incorporation into consultation

The Consolidation Workshop Report provided overall and detailed recommendations. The overall recommendations include the following:

- The National Land Use Policy should ensure the participation of true representatives of local communities including farmers and all other land users in decision making in land and natural resource management.
- The 5th draft of the National Land Use Policy seems to give more priorities to national economic development and increasing investment. Therefore, the National Land Use Policy should sufficiently stress the priority of recognizing and protecting the tenure rights, economic and all-round development of smallholders and all citizens including ethnic nationalities.
- One of the main collective concerns of farmers and all land users is the lack of consolidation and harmonization of laws and policies related to land, and the lack of the transparency, accountability, impartiality and indiscrimination of current land administration and judicial actions. This needs to be seriously addressed in the National Land Use Policy.
- The National Land Use Policy should provide mechanisms to effectively address and resolve current land disputes and to prevent them from happening in the future.
- In order for the voices of the farmers and all citizens including ethnic nationalities to be heard in the development of policies and laws, it is recommended to the government to allocate sufficient time to consultation and allow for the participation of representatives of all stakeholders to share updates and progress on a regular basis.

Recommendation 5 stresses the need to develop the NLUP in a transparent and inclusive manner. This includes allowing sufficient time for the consultation. This has been a common demand of the public since the beginning of the public consultation and LCG added its voice. The impact was significant since the NLRMCC expanded the consultation from 3 weeks to more than 8 months (Oct 14 to June 15).

The other recommendations are related to the improvement of the content. In many places, the 6th draft produced after public consultation was clearly improved as to the clarity and meaning of the text, as showed in three examples given in Annex 4).

Both the 6th and final draft revealed stronger recognition of customary tenure and practices in their objectives, principles and across individual thematic chapters. The meaning of customary tenure and practices was expanded to include both individual and communal. However, territorial claims can only be included if/when the 2008 constitution is revised. This depends on the outcome of the currently ongoing 21 Pinlone Peace Reconciliation Process.

Additionally, comparison of the 5th and 6th drafts reveals that the 6th draft is more specific about the implementation of the National Land Use Policy through subsequent legislation. Indeed, one of the objectives of the National Land Use Policy (6th draft, paragraph 6-f) is to develop a National Land Law in order to implement the objectives of National Land Use Policy.

In summary, each example indicates the obvious improvement of the framework as well as content of the policy from the 5th to the 6th version. The effort made through extended consultation process by both internal and external stakeholders to improve the policy document was effective.

Perception of civil society on the NLUP

Opinions varied across the pool of respondents, from those who were very satisfied with the government's response to civil society, to those who felt that the final version did not change in basic principle from the original draft, except to pay some lip service to international norms such as the Voluntary Guidelines. Interviewees variously responded that between 60 to 90 percent of civil society recommendations were reflected in the final NLUP.

All respondents agreed that the pre-consultation and consultation processes together democratized the debate on the NLUP. This was all the more apparent, as it was the first time that the government engaged in public consultation on a policy.

Every activist or advocate, whether individual or in a group, must decide when to work with government to achieve a goal and when not to work with government or even protest against the government. In the end, these different strategies are often complementary. Land in Our Hands is a network of farmers and farmers' advocates founded in 2012. LIOH argued vigorously against the short time given between public consultations and adoption of NLUP. LIOH network perceived that this short time frame did not allow farmers sufficient preparation time to give recommendations, and therefore the network decided not to participate in the government public consultations. Instead, the network arranged its own pre-consultation meetings and sent its own set of recommendations to the government. In reference to Land Core Group, the respondent said "they did their work and we did ours". However, in the end, perhaps in recognition of the positive outcomes that were resulting from LCG working with the government, LIOH joined the ERT meetings after the conclusion of the consultation period.

In interviewing representatives of both LCG and LIOH, it was clear that each group has a healthy respect of the other, and that the initial flare of tensions between groups had no lasting effect on their relationship and they continue to invite each other's participation in certain events and activities.

LIOH noted that as a young organization, the NLUP pre-consultation process was an opportunity for the network to strengthen as members united in a common cause. Although LCG is an older network, no doubt the same is true for its members.

Perception of government on the role of civil society

One of the central government officials interviewed, believed that the public consultation went more smoothly, and that the limited time was used more efficiently, because farmers were prepared for the public consultation by their participation in the pre-consultation. Sub-grantee Mercy Corps, one of the few organizations to write a report about its pre-consultation activities, quoted two township-level government officials who echoed similar sentiments. One of them noted that he was pleasantly surprised with the level of sophistication of questions asked by farmers at the public consultation, and that some were able to make clear recommendations for the NLUP. They credited the pre-consultation for the preparedness of these farmers.

Reflection on implementation process: successes and challenges

Difficulties in organizing pre-consultations

Time constraint: Time for planning, preparation, and organization of the pre-consultation project was extremely limited since the Land Core Group only had about 40 days prior notice that the government would organize the public consultation. Within 40 days the Task Force was formed, two funding sources were mobilized, a curriculum was prepared, a TOT was organized, and grants to 15 organizations were provided. Within 60 days the 15 organizations conducted 63 pre-consultations in 43 townships of 6 States and 4 Regions.

Permission for pre-consultation: There were challenges in securing permission to organize the pre-consultation in certain geographic areas. For example, Mercy Corps did not get the permission to conduct the meeting in Pa-O Autonomous Region so they had to conduct the workshop in Taungyi. Similarly, when planning to organize the pre-consultation in the Naga Self-administered Zone, the local authority required a permit from the organizers. They strictly said that without permission for the pre-consultation, the meeting would not be allowed. After having lengthy discussion with the local authorities, the local authorities finally agreed to provide permission. In general, the ability of sub-grantees to quickly organize pre-consultation meetings depended largely on their relationship with local government. After all, local government did not always understand the purpose of the pre-consultation, this being the first time such a process had been carried out.

Quality of TOT: TOT content was very targeted towards local communities and smallholder farmers. The content of the curriculum included the key policy statements that are most relevant to them, in particular those related to tenure rights, conflict resolution, land use change, concession, compensation, resettlement, rehabilitation and restitution. It was done this way in order to increase effectiveness within the short timeframe made available for the consultation by the government.

Language for pre-consultation: Certain pre-consultation was conducted in ethnic local communities. Facilitators faced difficulty in explaining the policy content to the participants due to the fact that some ethnic rural participants did not understand Myanmar language very well and that certain terminologies and concepts such as tenure, legitimacy, differences between policy and law, etc. used in the policy document is difficult to explain in non-Myanmar language.

Skills of facilitators: Different levels of learning amongst the individuals participating in the TOT training resulted in pre-consultation sessions of varying quality. A major challenge faced by the trainers/facilitators concerned communication with farmers: How do you summarize a large policy document to a room full of farmers in terms that are meaningful to them, and elicit their views and concerns about it, in a single meeting?

It takes skill to create effective Information-Education-Communication (IEC) materials, but also adequate time is needed.

Respondents were concerned that pre-consultation presentations and explanations by facilitators/trainers were not always given in layman's terms. One respondent described a meeting during which most farmers left early, leaving only lawyers in the room. Because linguistic terms were used that were not accessible to the farmers, they didn't perceive the information as relevant to their needs.

They felt alienated by the content and left the meeting. Of course here again time constraints were an impediment to the development of farmer-friendly IEC materials to be handed out prior to meetings.

Another issue that presented itself in the pre-consultation meetings was that farmers who were victims of land grabbing tended to be very vocal and took up a lot of time in the meetings. Land confiscation is a very important issue and needed to be addressed by the NLUP. But of course it is only one of many issues, and affects a relative minority of farmers.

Another challenge was the language barrier, especially in Chin State. Mercy Corps, for instance, had to hire a translator in order to translate the land use policy and communicate with the local participants. Unfortunately, the hired translator was not familiar with technical and policy terms.

Interestingly, one respondent reported that in the pre-consultation meetings there was disagreement between farmers advocating customary tenure vs. those advocating for statutory tenure. It will not be surprising if this disagreement becomes more of an issue in the future as the government begins roll out the Farmland Law in ethnic areas.

Other challenges: More than one sub-grantee reported that meetings were sometimes interrupted by individual farmers angrily demanding redress for specific land confiscations. However it was stated that meetings were not derailed by this and were generally productive by the end of the day.

Effectiveness of Task Force in preparing and implementing the pre-consultation

The individual representing a sub-grantee organization at the ToT, was not always the same person who later led the pre-consultation meeting. The ToT was announced only a week or two before it began (by email which is not frequently checked by remote sub-grantees), so some sub-grantees sent whomever happened to be available even if that person was not the same one to lead the pre-consultation event.

The Task Force was meant to help select the sub-grantees. However one Task Force member complained that because members were distracted by other aspects of the pre-consultation (on top of their regular work responsibilities), only one criteria was in fact enforced: that the sub-grantee be endorsed by a Task Force member. There was no time to check legal status, financial capacity, etc.

Attendance at Task Force meetings dwindled to only 4-5 persons, and eventually email took over from face to face meetings.

There was a potential conflict of interest in the fact that three Task Force members were also sub-grantees, although no incidents occurred. Task Force member Mercy Corps excluded itself from the sub-grantee selection process due to this conflict of interest.

On the positive side, the QDF was able to reach far beyond just the LCG network because Task Force members recommended prospective sub-grantees from remote ethnic areas. If all sub-grantee eligibility criteria had been imposed and enforced, some of these far flung sub-grantees might have been excluded from the QDF due to lack of this or that capacity. Of course the remoteness of these sub-grantees increased the challenge of monitoring activities.

Positive changes

Strengthened networks: The pre-consultation initiative led to increased collaboration among individuals and organizations that engaged in the process. For example, it was reported that the Plan Myanmar Legal Network was founded as a result of a one week long workshop organized with the support of this initiative.

Special role of the Expert Round Tables

Although a detailed analysis of the content of the ERTs is beyond the scope of this report, from a process point of view, the ERTs deserve mention here, especially as many Task Force members participated in them. Some respondents felt it was really the ERT meetings that brought the civil society recommendations (from the pre-consultation meetings), to the attention of the government. In the words of one interviewee “this is where the real consultation happened....whereas the pre-consultations and public consultations were more like information sessions”.

While respondents viewed the pre-consultation meetings as genuinely productive in generating concrete recommendations, it may have required the ERT meetings for these recommendations to really “sink in”. In other words, the ERTs provided a forum where Government could absorb civil society messages, beyond just going through the motions of consultation because it was mandated. LCG, having conducted workshops regularly throughout its organizational lifetime, knew well which workshops formats are best for processing new information, and for reaching consensus. Reading a list of recommendations or listening to farmers’ complaints one after another was probably not enough. It was necessary for Government and civil society to interact through the various formats of a workshop (plenary sessions with PowerPoint presentations given by both government and civil society, small group sessions, and even one-on-one interactions during tea breaks), in order for civil society messages on the NLUP to be transferred.

Channelling funding for the QDF

The funding was sufficient but, receipt of the money was very much delayed due to sanctions and the banking system. Without the interim funding of Pyoe Pin, the pre-consultation process might have been derailed.

MRLG explained that whenever “Myanmar” is mentioned, bank transfers from Australia are channelled through the Sanctions Department, resulting in long delays. The alternative route is through Western Union which charges a large fee and the money would have had to be named to an individual which would be inherently risky. Instead the QDF money was sent from Australia to Vientiane, and a transfer to Loka Ahlinn was arranged through a local partner of MRLG. But again sanctions caused a problem, and it took about 10 days just to make the local arrangements in Vientiane and another 3 days on the Myanmar end. This is an ongoing issue. Even though the political landscape has shifted, banks are conservative and slow to embrace the change.

The role of Loka Ahlinn

The financial management of Loka Ahlinn seems to have been quite good. None of the Task Force respondents expressed displeasure with the performance of Loka Ahlinn, and the organization was dealt a very challenging task, having to work with some sub-grantees that lacked capacity especially in financial management. However, it must be noted that monitoring of activities and reporting was weak. Some sub-grantees didn’t have a computer or good access to email. Many had an email address but used it infrequently, such as when a staff member travelled to the nearest town/city.

Often sub-grantees gave only one contact person, so when that person was unavailable for any reason, no contact was possible. This made it difficult for Loka Ahlinn to communicate with these organizations. The process would have required establishing a standard reporting template for sub-grantees.. Notably, it should have been reported how many individuals attending sub-grantee pre-consultation events went on to participate in the public consultations. There was only one reporting requirement for Loka Ahlinn, a completion report with financial report.

As the quality of these were not sufficient, MRLG had to travel to Yangon to assist with report revision. The completion report narrative was a problem. Since Loka Ahlinn was doing only fund management, and in the absence of a proper monitoring of sub-grantees, they had difficulty writing any narrative for the report.

Lessons learned

By increasing awareness among different stakeholders, including farmers, local authorities, civil society organizations and government, the (pre-)consultation process has been an important innovation not only in Myanmar, but it also set an example for the neighbouring countries of the Mekong region. The (pre)consultation contributed to an improved National Land Use Policy, and one that was more acceptable to a broader constituency than would otherwise have been the case. It also enabled stronger consensus building with a wider range of stakeholders. The consultation of civil society is an essential step in public consultation for policy formulation and should be reiterated in future policy/law formulation processes in Myanmar. It should also be tested in other countries.

What lessons have we learned from this initiative, with the view to improve future consultation processes?

First, policy makers need to plan sufficient time to roll out the consultation and for proper preparation. This experience has shown that the very limited time that was initially allocated by government for the consultation created suspicions of “cosmetic” consultation among some civil society actors. As such, if the government wishes to demonstrate its genuine will for public consultation and get stronger buy-in from the start, consultation should be planned with sufficient time in the roadmap of the policy/law formulation.

Second, donors and funding organisations need to be pro-active in preparing and setting up proper funding mechanism for the civil society (pre-) consultation process and all the necessary preparatory activities. The funding mechanism needs to be flexible enough to channel funds effectively down to grassroot level organisations which are not necessarily registered. The fund application and disbursement processes should also be relatively simple and quick. There should be transparent criteria for the selection of grantees and sub-grantees. It should also include additional capacity building actions and some technical assistance to improve accountability and reporting by the stakeholders involved.

Third, preparation for the civil society consultation is crucial. Interested civil society organizations and networks need to have good planning to implement the necessary preparatory activities. As per the lessons learned from this NLUP consultation, the following items need to be taken into consideration :

- Mobilizing civil society organizations down to the grass-roots level via network representatives at the different levels (national, regional, township, etc.).
- Coordination of the different interested organizations (i.e. Task Force) should not rely on the energy and dedication of individual members alone. The roles and tasks of all parties involved in preparing the pre-consultation need to be clearly assigned at the inception of the process.
- Obtaining authorizations from local authorities for the consultation events (on this, government should also pitch in to facilitate such requests).
- Developing farmer-friendly IEC materials tailored to the policy or law that is subject to consultation. Special attention should be given to the language used so that it is not too technical and remains accessible to rural people. It should also include sufficient information on the key legal concepts (e.g. difference between a law and a policy etc.).

This material should be translated in local languages, and would be quite useful to conduct grass-root level awareness raising activities with rural people and farmers prior to the pre-consultation/consultation meetings.

- Identifying the most suitable persons for facilitating the pre-consultation and consultation events/workshops at local level and securing their commitment in time.
- Training of facilitators: Once their commitment is secured, it is essential to provide specific training to the persons who will be responsible for facilitating the pre-consultation and/or consultation events. This training must not only be focused on the contents of the policy. It also needs to provide basic tools and skills to support facilitators in communication, the use of accessible language, and facilitation under difficult circumstances (e.g.: conflict management during an event...).
- Identification of qualified interpreters for workshops and meetings and supporting them with the translation of key terminology.

Fourth, civil society does not need a unified approach or strategy to effect change. A complementarity of approaches that work from inside and outside government agencies is often more effective to induce policy change than working through a single entry point. Also, the experience of the NLUP shows that the involvement of local authorities and members of the parliament is very useful.

Fifth, complementing public consultation events with smaller workshops and face-to-face meetings between government, experts and representatives of civil society increases the chances of integrating farmers' concerns and suggestions in the policy design. The setting of the Expert Roundtable meetings gave government and civil society representatives a chance to interact more closely and in a variety of formats.

Finally, for the civil society (pre-)consultation to effectively influence the policy formulation, the recommendations that have emerged from the different consultations need to be well consolidated and conveyed to policy makers. This means that the reporting system from all the consultations should be thoroughly discussed and agreed in advance.

Conclusion

The consultation process leading up to the 6th draft of the NLUP was a success for civil society in Myanmar. The pre-consultation deserves a large part of the credit for propelling civil society recommendations towards the final NLUP. However, as this report shows, the pre-consultation meetings were only one part of civil society's engagement with government, and there is no way to prove definitively which changes between drafts of the NLUP are the result of the pre-consultation. Instead, we can take a larger view and say with confidence that the pre-consultation for the NLUP was very valuable for educating farmers, for strengthening civil society, and increasing government's respect for civil society as well as for building the legitimacy of the proposed NLUP. All these attributes will be very valuable going forward, and can be built upon the next time there is a consultation process.

It can be concluded that the pre-consultation recommendations reached government in at least three ways:

- Directly from sub-grantees to government at the public consultation meetings, which is corroborated by the identification of 96 recommendations coming from 19 individuals belonging to 5 sub-grantee organizations, in the government's matrix of civil society recommendations (see Annex 3). In addition to the recommendations collected by government during the public consultation meetings themselves, 76 recommendations were received in writing, after the public consultation meetings were finished. Of these 9 were submitted by sub-grantee organisations (this figure is included in the 96).
- From sub-grantees and other civil society organizations by means of the Consolidation Workshop Report, which was presented to government. This is corroborated by the analysis of changes between Drafts 5 and 6 of the NLUP, and the similarity of those changes to Consolidation Workshop Report recommendations.
- In face-to-face interaction of Task Force members with Government at the two ERT meetings.

The pre-consultation, as the public consultation, was not without flaws. The short time window initially provided by government made it very difficult to mobilize and organize civil society with its multiple layers of networks and organisations. Getting funding in time was also a challenge. However, Myanmar civil society has shown a remarkable capacity to react collectively to this challenge. The initiative of organizing a pre-consultation, initiated by LCG, not only was a success by itself in mobilizing a large network of locally based CSOs but also triggered other initiatives from other civil society networks, initially hostile to the consultation process.

Taken together, the pre- and public consultation processes could set an important precedent for future amendments and drafting of new laws, in Myanmar as well as for other countries in the region. What the government's initial motives were in including a public consultation in the NLUP drafting process is difficult to assess. It could be that the government included it initially to placate international donors and investors, to appeal to the electorate on the eve of a historic election, or there may have been a genuine desire to have a consultative process. The short time initially allocated by government for the consultations gave led some observers to cynical speculations on the motive. But the Government is not a uniform entity. There were many departments of many ministries involved. Whatever the motive, what started out as mostly a perfunctory box-ticking exercise became a protracted engagement with civil society. The end result was a successful, if imperfect, process of consultation with civil society.

Conclusion

The creation of a policy-making environment that enables a variety of actors to raise their voice and contribute is a learning process, particularly for countries without a firm legacy of public consultation. Myanmar is now at a political crossroads. As we look forward, the lessons drawn from this experience on the National Land Use Policy can help inform the government of the real benefits of building a broad-based constituency through meaningful consultation of civil society and communities in the formulation of policy.

Consulted documents

1. Proposal of LCG/ Loka Ahlinn
2. Completion report of Loka Ahlinn
3. Achievement report from Mercy Corps
4. Achievement report from M-Law
5. Report from LIOH
6. Powerpoints from 1st and 2nd ERTs
7. Consolidation Workshop report

Annexes

Annex 1. Task Force members of CSOs

Task force members of CSO for Myanmar National Land Use Policy

Sr. No	Name	Organisation
1	ThynZarOo	M-Law
2	HsiHsi	Spectrum
3	U KhinMaungLatt	Metta
4	Su PhyoLwin	Mercy Corps
5	Aung AungNaing	Pyoe Phin
6	Seng Nu Pan	American Jewish World Service
7	Yadana	Mekong Region Land Governance
8	Alex	Kesan
9	Tin Lin Aung	Green Peasant Institute
10	Dr.Kyaw Thu	Paung Ku
11	MeePhyaw	Land Core Group
12	Tun Lin Oo	Loka Ahlinn
13	Swe Set	Action Aid
14	U KhinZaw Win	Tampadipa
15	MyoKoKo	Point

Annex 2. Number of pre-consultation events done by CSO

Sr. No	Name of Organisation	No. of events	Location of event	Direct Beneficiaries
1	Myanmar Legal Aid Network	1	Mandalay	55
2	Tampadipa Institute	3	Pokaku, Shwebo, PyinOoLwin, Moemeik	195
3	Green Peasant Institute	11	11 Townships in Ayeyarwaddy Region	610
4	Ayeyarwaddy Social Development Organisation	15	5 Townships	165
5	Rakkhita	7	3 Townships in Rakhine	400
6	Mercy Corps	7	5 Townships in Southern Shan and Chin State	350
7	Farmer Rights Development Organization	5	5 Townships in Magway region	222
8	Peace Law Firm	1	Mon State	75
9	Local Development Network	1	2 Townships of Kayah State	46
10	Our future Initiative	1	1 Township in Tanintharyi Region	85
11	Dragon Youth Network	4	2 Townships in Kayin State	111
12	Kachin Youth Organisation	1	Northern Shan State	102
13	Doe Taung Thu	2	2 Townships in Bago Region	86
14	Resource Rights for Indigenous people	3	3 Townships in Naga self-administered area	280
15	Brave Heart Foundation	1	Ethnic ministers from all states, regions and Nay Pyi Taw Territory	14
Total		14 organisations conducted 62 pre-consultation events, covered 43 Townships. An organization targeted all ethnic ministers for their awareness and understanding of the 5 th draft.		2,796

Annex 3. Analysis of Government matrix showing each comment known to be made by a sub-grantee (summary)

Analysis of Government Public Consultation Recommendations Matrix "the 909 Recommendations". The analysis reveals 5 sub grantees who made recommendations at the public consultations.

Organization Name	Sr. No. of Recommendations	Total Numbers	No. of persons
Green Peasant Institute (GPI)	50-51, 63-77, 79-84, 100-101, 112-121, 126-130	42	13
Ayeyawaddy Social Development Organization (ASDO)	78, 85-95	12	2
Resource Rights for The Indigenous People (RRTIP)	710-724	15	2
Dragon Youth Network	195-209	15	1
Farmer Rights and Development Organization (FRDO)	673-675, 815-823	12	1
		96	19

NB: The above table shows recommendations made by individuals KNOWN to belong to sub grantee organizations. There may be many others who identified themselves only by name and geographical origin, not by organizational affiliation.

Annex 4. Examples of improvements made in 6th Draft of NLUP, as compared to 5th draft

Example 1: Increase measure to recognize and protect tenure rights, economic and all round development of smallholders including ethnic nationalities (Main recommendation 2):

Comparison of the policy statement related to protection and recognition of tenure rights in the 5th draft (Oct, 14) and the 6th draft (June, 15)

5 th draft (Oct, 14)	6 th draft (June, 15)
<p>Part 1, Chapter 1 (Basic principles)</p> <p>8(b). It shall enact the National Land Law which harmonize the existing laws relating to use of land resources and land tenures in the whole country including rural and urban areas and which may be implemented systematically</p> <p>10(m). In carrying out the land acquisition, compensation, resettlement and rehabilitation matters, it shall be consistent and have precise and correct manners and stipulations</p>	<p>Part 1, Chapter 1 (Objectives)</p> <p>(6b). To strengthen land tenure security for the livelihoods improvement and food security of all people in both urban and rural areas of the country,</p> <p>6(c). To recognize and protect customary land tenure rights and procedures of the ethnic nationalities</p> <p>6(f). To develop a National Land Law in order to implement the above objectives of National Land Use Policy</p>
<p>Part 1, Chapter 5 (Information management)</p> <p>21. The land tenure security shall be the basic foundation for the systematic management of land use and rural and urban economic development by investment</p>	<p>Part 1, Chapter 2 (Basic principles)</p> <p>7(a) To recognize and protect legitimate land tenure rights of people, as recognized by the local community, with particular attention to vulnerable groups such as smallholder farmers, the poor, ethnic nationalities and women</p> <p>7(h) To develop and implement fair procedures relating to land acquisition, compensation, relocation, rehabilitation, restitution, and reclaiming land tenure and housing rights of internal displaced persons and returning refugees caused by civil war, land grabbing and natural disasters</p> <p>Part 1, Chapter 3 (Land Information Management)</p> <p>14 Systematically maintaining correct and accurate land cover maps, land records and other land information is fundamental for systematic land use management, land tenure security and urban-rural economic development.</p>

Example 2: Recognition and protection of tenure rights of ethnic nationality

5 th draft (Oct, 14)	6 th draft (June, 15)
<p>Part 7, Land Use Rights of the Ethnic Nationalities</p> <p>68. The traditional land use system shall be provided in the land law for the awareness and compliance of the traditional land use practices of the ethnic nationalities, for acquiring complete traditional land use right, for enabling protection of such right, and for enabling use of impartial dispute settlement mechanism readily.</p> <p>69. It shall assign duty to the ward or village administrators, under the supervision of the township administrator, to prepare land use maps and records for enabling to know correctly the information relating to land possession, use, land existence and carrying out in division, in the areas resided or used by ethnic nationalities; to make ready in implementing socio- economic land use plans, in making other decisions on aggression and land matters.</p> <p>70. In carrying out preparation work of traditional land use maps and records of the ethnic nationalities, the relevant responsible persons:</p> <p>(a) shall consult with the ethnic persons who are skilled in traditional land use practices and ethnic nationality leaders and cause them to participate;</p> <p>(b) shall recognize and protect the traditional rights, land use and land tenure right of the ethnic nationalities who are using land whether or not the existing land use is mentioned in records and maps, and registered;</p> <p>(c) shall recognize the rights of men and women who are members of the ethnic nationality or organization and provide to register their land use according to existing laws.</p> <p>71. The leaders of the ethnic nationalities and local leaders shall be included in the decision making relating to land tenure of individual men, women and communities that grows ancestral land by traditional methods,</p>	<p>Part 1, Chapter 1 (Objectives)</p> <p>6(c). To recognize and protect customary land tenure rights and procedures of the ethnic nationalities</p> <p>Part 1, Chapter 2 (Basic principles)</p> <p>7(a) To recognize and protect legitimate land tenure rights of people, as recognized by the local community, with particular attention to vulnerable groups such as smallholder farmers, the poor, ethnic nationalities and women</p> <p>Part 8, Land Use Rights of the Ethnic Nationalities</p> <p>62. Customary land use tenure systems shall be recognized in the National Land Law in order to ensure awareness, compliance and application of traditional land use practices of ethnic nationalities, formal recognition of customary land use rights, protection of these rights and application of readily available impartial dispute resolution mechanisms.</p> <p>63. Duties shall be assigned for the preparation and revision of land use maps and records through public consultation processes by the ward or village tract land use committees under the supervision of the township land use committee, in order to:</p> <p>(a) Have accurate understanding of information related to land possession, land use, land availability and allocation in the area where ethnic nationalities live or traditionally use land resources for their livelihoods;</p> <p>(b) Be prepared to conduct socioeconomic land use planning;</p> <p>(c) Make correct decisions related to land use and encroachment.</p> <p>64. When preparing and revising customary land use maps and records of</p>

<p>in monitoring and in the dispute settlement mechanisms.</p> <p>72. Relating to the ancestral lands which fall under the category of forest land, farm land and the land determined as the vacant, virgin and fallow land, they shall be reclassified in accord with the new national land law, and it shall suspend temporarily from granting concession of such lands to any other land users before having been registered for the land use by the relevant ethnic nationalities.</p> <p>73. The provisions relating to the secure land tenure rights of the ethnic nationalities contained in the new land law shall be the protection not to loose the lands and land tenure rights of ethnic nationalities because of the granting of long-term concession or lease to the investors under the Foreign Investment Law, the Citizens' Investment Law; the Vacant, Virgin and Fallow Land Management Law, or land management orders of the State Governments.</p> <p>74. It shall provide in the new national land law for the registration of land use relating to the rural lands which are determined as agricultural land or forest land and which applied alternative farming method.</p> <p>75. It shall carry out to enable to recognize and to have the right to register the traditional land tenure rights of the ethnic nationalities, to enable to protect and conserve the forest lands and environment, and to enable to reclassify the traditional alternative taungya system as the permanent taungya.</p> <p>76. It shall cooperate with the non-governmental organizations effectively to increase the interest by obtaining land use right and knowledge relating to agricultural technology; fertilizer, machinery, seed, and relevant technology; soft loans and other suitable agricultural supports.</p>	<p>ethnic nationalities, the responsible personnel shall do the following:</p> <p>(a) Consult with, and allow participation of, representatives and leaders of ethnic groups with knowledge of customary land use practices;</p> <p>(b) Formally recognize and protect the customary land tenure, land use and rights of ethnic groups, whether or not existing land use is <input type="checkbox"/> registered, recorded or mapped;</p> <p>(c) Recognize the rights of stakeholders who are members of ethnic nationality organizations, and recognize in existing laws in order to register their land use.</p> <p>65. Ethnic leaders and elders shall be involved in decision making processes</p> <p>related to land tenure rights of individual stakeholders or groups practicing traditional cultivation methods on customary lands, monitoring, and dispute resolution mechanisms.</p> <p>66. The customary lands of ethnic groups that fall under current forest land, farmland or vacant, fallow and virgin land classifications shall be reclassified in accordance with new National Land Law, and land allocation to any land user shall be temporarily suspended until existing ethnic land users register these customary lands.</p> <p>67. Provision in the new National Land Law relating to formal recognition and registration of customary land and land tenure right of ethnic groups shall be the protection against grants or leasing of land at the disposal of government allowed under any existing law.</p> <p>68. Registration of land use rights relating to rotating and shifting cultivation that exists in farmland or forestland shall be recognized in the new National Land Law.</p>
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<p>77. It shall contain, in the new national land law, the traditional ethnic nationalities' dispute settlement practices to enable to settle the land disputes relating to ethnic nationalities' land use rights, and shall have the right to participate by men and women who are respected by many people and have influence in the ethnic nationality community.</p>	<p>69. Support shall be made available to improve the land tenure security and agricultural practices of ethnic nationalities, in order to protect the environment, increase climate change resilience and improve their food security.</p> <p>70. Civil society and other organizations shall be encouraged to provide support indicated in paragraph 69.</p> <p>71. In order to resolve disputes related to land use of ethnic groups, ethnic customary land dispute procedures currently used shall be defined in the new National Land Law, and the respected influential representatives from the ethnic groups shall be included when resolving disputes.</p> <p>72. For ethnic nationals who lost their land resources where they lived or worked due to civil war, land grabbing or natural disasters, that desire to resettle to their original lands, adequate land use rights and housing rights shall be systematically provided in accordance with international best practices.</p>
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Example 3: Law harmonization

5th draft (Oct, 14)	6th draft (June, 15)
<p>Part 1, Chapter 1 (Basic principles)</p> <p>8(b). It shall enact the National Land Law which harmonize the existing laws relating to use of land resources and land tenures in the whole country including rural and urban areas and which may be implemented systematically</p> <p>Part 9, Harmonization of Laws and Enactment of New Law</p> <p>79. (a) For the harmonization of all existing land laws in Myanmar, a new National Land Law shall be drafted and enacted based on this land use policy;</p> <p>(b) In drafting the national land law, the participatory consultation process contained in this land use policy as the procedural method;</p>	<p>Part 1, Chapter 1 (Objectives)</p> <p>6(f). To develop a National Land Law in order to implement the above objectives of National Land Use Policy</p> <p>Part 10, Harmonization of Laws and Enacting New Law</p> <p>64. (a) A new National Land Law shall be drafted and enacted, using this National Land Use Policy as a guide for the harmonization of all existing laws relating to land in the country. (b) When drafting the National Land Law, the public participation and consultation process contained in this Land Use Policy shall be used. (c) When drafting the National Land Law, the consultation process and key procedural steps shall be implemented as follows:</p>

<p>(c) In drafting the national land law, consultation process and major processes shall be carried out as follows:</p> <p>(i) informing the purpose and process of drafting the national land law to the public, relevant government departments and organizations and the stakeholders by suitable manners;</p> <p>(ii) carrying out comprehensively to scrutinize and give advice by the relevant stakeholders including the media and the public after drafting the draft national land law on which comments would be sought by studying the experiences of international countries and other regional countries and based on the salient situations of Myanmar, problems encountered, interests of the users of land and other natural resources in the country;</p> <p>(iii) holding the national level workshop relating to the draft land law;</p> <p>(iv) submission to the Pyidaungsu Hluttaw after finalizing the draft national land law.</p>	<p>(i) In order to inform the public, government departments, civil society, farmers and other stakeholders, down to the grassroots level across the country, about the purpose and process of drafting and implementing the National Land Law, public consultation events and other appropriate methods shall be used;</p> <p>(ii) When drafting National Land Law, take into consideration experiences of countries in the region and around the world, the unique characteristics of the country, issues being faced, and the interest of those using land and natural resources in the country, then inform the stakeholders and public, including media, through consultation events and other means, so that they may provide feedback;</p> <p>(iii) Allow participation of all stakeholders when conducting the national level workshop on the draft National Land Law;</p> <p>(iv) Finalize the draft National Land Law and submit to the Pyi Htuang Su Hluttaw (Upper House).</p>
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Other annexes available on request

- Interviewees List
- Blank Questionnaire Format : Donors
- Blank Questionnaire Format : Task Force
- Blank Questionnaire Format : Sub-grantees
- Comparison of 5th and 6th Drafts with notes on Pre-consultation Consolidation Workshop
- ToT Facilitation Package (in Myanmar only)
- Dates and Locations of Government-led Public Consultation Meetings
- Sub-grantee Proposal Template

The **Mekong Region Land Governance** Project aims to contribute to the design of appropriate land policies and practices in the Mekong Region. It responds to national priorities in terms of reducing poverty, improving tenure security, increasing economic development, and supporting family farmers, so that they can be secure and make good decisions on land use and land management. MRLG is operating in Cambodia, Laos, Myanmar and Viet Nam since April 2014, with the support of SDC and the German cooperation. For more information on MRLG, please visit www.mrlg.org.

The **MRLG Capitalization Note series** highlights key lessons emerging from the actions and engagements of a range of individuals, groups and institutions seeking to better understand and address land insecurity of smallholder farmers in the Mekong Region. It aims to contribute to the learning process of partner organizations and sharing of lessons with other interested parties. As such, it consists of a rigorous description of issues and activities as well as critical analysis of results and impacts achieved. The production of a Capitalization Note is coordinated by an editorial steering committee composed of representatives of MRLG, partner organizations and invited experts.

Land Core Group is a Myanmar network organization working on land governance policy and practice related issues in Myanmar. It aims to support the most vulnerable people of Myanmar on land and related natural resource tenure rights, in particular smallholder farmers, ethnic minorities, women, and the poor. The LCG network exists of national and international CSOs and other stakeholders working on land and forest tenure and use issues and the promotion of land and forest rights of vulnerable people in Myanmar. LCG works together with them for achieving of collective goal, objectives and outcomes or changes related to policy and practices, improved tenure security and responsible investment that are collectively expected from the collaboration.

Loka Ahlinn is a social development organization that works with civil society, government and businesses to bring about a society of active citizens supported by effective and democratic governance. It was established in 2006 and expanded operations in the wake of Cyclone Nargis in 2008. Loka Ahlinn work is grouped into two thematic programme areas that aim to build a society of active citizens that can exercise their rights, and to improve the effectiveness of and participation in local governance.

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