



# NEGOTIATION FOR LIFE

Karen Customary Lands  
in Tanintharyi, Myanmar

May Oo Saung



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# Negotiation for Life: Karen Customary Lands in Tanintharyi, Myanmar

May Saung Oo



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## Foreword

The Understanding Myanmar's Development (UMD) Fellowship program, supported by the International Development and Research Centre (IDRC), Canada, is designed to enhance knowledge of Myanmar's development processes, strengthen the capacity of Burmese researchers, and encourage them to actively engage in the study of development policy and practice. The fellowship seeks to promote sustainable academic exchange and dialogue among researchers from Myanmar, Thailand, and other GMS countries. Under this program, 30 fellowships have been awarded to midcareer researchers in their respective areas of social and economic transformation, agricultural, environment and climate change, health and health care systems, and social media and innovations.

May Saung Oo has done valuable work with this research into the Karen community in Tanintharyi Region, who are negotiating to preserve their customary communal ownership of the lands where they have lived and farmed and fished for centuries, where their livelihoods depend on their conservation of the region's biodiversity.

The study examines two ongoing conflicts: with the Myanmar government who claim that in the absence of formal titles Karen lands are "unoccupied", and hence available for commercial development; and with the government and international environmental agencies, who believe against the evidence that preservation of Tanintharyi's biodiversity has to be taken out of experienced Karen hands and turned into a project run by international consultants lacking familiarity with the area and its community.

Similar conflicts are bound to occur elsewhere in Myanmar and this study will provide an invaluable source of information and analysis in such cases.

*Chayan Vaddhanaphuti, PhD*  
*Director, RCSD*



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Finally, I am grateful to my parents and relatives, all of whom keep me in their daily prayers

*May Saung Oo*





## Abstract

The Ridge to Reef (R2R) negotiation process is a struggle for international conservation in the resource-rich area of Tanintharyi, Myanmar. It has become a hot issue involving powerful and powerless actors. This study focuses on the opposition to the R2R project mounted by local communities and civil societies.

This case is of particular interest compared to other power struggles, as it pits civil society against international organizations rather than the state. I argue that the negotiations by local Karen communities are motivated by the desire to maintain their existing cultural identities in terms of customs, beliefs and heritage and to claim self-determination using their ancestral lands. This study employs the concepts of “Negotiation Process,” “Legitimacy,” and “Customary Land Management System.” Empirical data includes documentation, semi-structured interviews and observation. The study looked at six villages in Lenya-Bokepyin and Manoro areas of the southern Tanintharyi Region. It engaged with numerous community actors and recorded their reactions and various means of resisting the R2R negotiation process.

The communities constructed their negotiating power by collecting evidence emphasizing their ability for sustainable use of the land and resources. Throughout the process, there obtained a mix of distributive and integrative negotiations. Interestingly, third-party engagement occurred in the negotiation process; however, it was used as a mediation process. The Nationwide Ceasefire Accord was an external factor which cut across the process.

Each stakeholder has engaged in the negotiation process through a written statement, email conversation, community mobilization activity, workshops, training and meetings. The multi-level stakeholder engagement occurred without uprisings or internal conflicts and collective dilemmas. This lack of

conflict is one of the significant findings of this study, and it speaks to an underlying sense of belonging to communities and localities.

The local Karen communities resisted international conservation in large part by referencing the “Kaw.” The “Kaw” is the Karen people’s accumulated knowledge gained over generations and embedded in local Karen customs. The Karen actors, including local communities, CBOs, CSOs and KNU, mobilized local institutions and networks, as well as social and cultural capital to resist the conservation initiative. Their advocacy and lobbying to the authorities of the Myanmar government happened at the local, township, regional and union level. The Karen’s legitimation actions were launched with active public participation. Active consent within the community created a dynamic tightly linked to voluntariness, rather than fear.

This study shows that local power and authority is sufficiently robust to engage in a negotiation process with the state and other powerful actors. Also, it confirms that by cultivating public support, a bottom-up approach is likely to avert conflict. Accordingly, Myanmar’s struggle for a democratic federal union needs to adhere to the bottom-up approach for sustainable peace.

## Glossary

DAZ	Dual Administration Zone. In this case where the Union Government and the KNU both have authority
Engagement officer	A public relations person, responsible for the success of communications channels and points of contact between an organisation and the world outside.
Ethnic Community Development Forum	The ECDF is an independent focal point for social and community development organizations from various ethnic nationality regions of Burma, founded in 2004. It has eight member organizations working independently in Kachin, Karen, Karenni, Shan, Mon, Arakan, and Chin States to forward their respective visions and solve their particular problems.
Kamoethway and Kaw	Karen traditional systems of communal land management
Kawthoolei	a proposed state that Karen insurgents in Myanmar have sought to establish since the beginning of the Karen conflict late 1940s.
kyat	Myanmar kyat (MMK). Myanmar currency – 1000MMK= 7¢ US
Tatmadaw	the Burmese military
Union government	The Myanmar central government, of the Union of Myanmar

## Abbreviations

AC	Accountability Counsel
AT	Alin Thitsa
CAT	Conservation Alliance for Tanawthari
CBO	Community Based Organization
CF	Community Forest
CSO	Civil Society Organization
DAZ	Dual Administration Zone
EAGs	Ethnic Armed Groups
ECDF	Ethnic Community Development Forum
FD	Forestry Department
FFI	Fauna and Flora International
GEF	Global Environmental Facility
ICCA	Local Community Conserved Territories and Areas
INGO	International Non-Governmental Organization
IO	International Organization, Governmental (eg UNDP) or Non-Governmental (eg FFI)
IUCN	International Union for Conservation of Nature
KAD	Kawthoolei Agricultural Department
KESAN	Karen Environment and Social Action Network
KFD	Kawthoolei Forestry Department
KNLA	Karen National Liberation Army
KNU	Karen National Union

KNU (MTD)	Karen National Union (Mergui Tavoy District)
MoECAF	Ministry of Environmental Conservation and Forestry
MoNREC	Ministry of Natural Resources and Environmental Conservation
MTAA	Manoro Tract Anagut Alin
MTD	Mergui Tavoy District
NCA	Nationwide Ceasefire Agreement
NGO	Non-Governmental Organization
R2R	Ridge to Reef
RKIPN	Rays of Kamoethway Indigenous People and Nature
SECU	Social and Environmental Compliance Unit
SPP	Salween Peace Park
SY	Southern Youth
TRIP-NET	Tenasserim River and Indigenous People - Network
UNDP	United Nations Development Program
WWWS	Wahpalaw Wildlife Watch Society

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## Note on Terminology

Prior to 1989, the largest country in mainland Southeast Asia was exclusively known internationally as “Burma,” the name that British colonizers used after they consolidated the central plains and previously autonomous mountainous regions in the mid-1800s in reference to the country’s largest ethnic group, the Burman. The international use of “Myanmar” to refer to the country dates only to 1989, when the country’s unelected military rulers of the time announced the change of the nation’s name to *Myanmar naing-Ngan*.

In addition, the official names of many ethnic groups, regions, cities, and villages were also changed, including that of the former capital from “Rangoon” to “Yangon.”

The name changes were purportedly an effort on the part of the military regime to remake Burma into a more inclusive, multiethnic country, and to cast off vestiges of the colonial era. However, many critics pointed out that these changes failed to address the root causes of problematic Burman/ethnic minority relations, and historians have shown that both “Burma” and “Myanmar” were used prior to British administration. In addition, the use of “Myanmar” in English presents a grammatical challenge, as there is no conventional adjective form.

While international organizations such as the United Nations and Amnesty International have adopted the use of “Myanmar,” journalistic, activist, and academic convention in much of the world continues to favor the use of “Burma,” although usage patterns continue to evolve. For this series, the decision of whether to use pre- or post-1989 “official” names has been left entirely to the author of each work, and in most instances the names are used interchangeably with no intended political implications.



# 1

## INTRODUCTION

### **Background and rationale**

#### **The Karen**

The Karen are the third-largest ethnic group in Myanmar, after the Burmese and the Shan. Although Karen-related people have distinct political and religious identities and speak mutually unintelligible languages, they are connected through customs, traditions, and a long history of shared communities, and thus have a sense of unity in diversity. The Karen community in Myanmar numbers around 7 million. The Karen have been entangled in one of the world's longest ethnic conflicts, the insurgency beginning in 1881 with the formation of the Karen National Association (KNA).

#### **The Karen National Union**

The Karen National Union (KNU) – successor to the KNA - was established in 1947. It has operated as a de facto government in large areas of Karen State where the Tatmadaw does not exert control. Its armed branch, the Karen National Liberation Army (KNLA), one of numerous ethnic armed groups, has been engaged in a long war against the Tatmadaw. The KNU is not fully representative of the Karen people – in fact it draws most of its support from the Christian minority. And other armed Karen groups, notably the Democratic Karen Buddhist Army (DKBA), have also participated in the war.

## **Ethnic autonomy movements in modern Myanmar**

The ethnic minorities in northern Burma lost autonomy when Burma was taken into the British Empire. After independence they looked forward to a genuine Federal Union, with autonomy for ethnic minorities. In February 1947, prior to independence, Aung San (father of Aung San Suu Kyi and head of the interim Burmese government) called a conference held at Panglong in the Shan States, with Shan, Kachin and Chin ethnic minority leaders. The leaders unanimously decided to join the Union of Burma in order to secure independence from Britain. Promises of future autonomy were made, but later broken, which led to widespread armed conflict.

A Nationwide Cease Fire Agreement (NCA) was signed in 2015, including by the Karen National Union (KNU). Most but not all ethnic armed groups signed. Discussions about a permanent peace continue, sluggishly.

## **The project: Ridge to Reef (R2R)**

This \$21 million environmental conservation project is funded by the Global Environmental Facility in Washington D.C. Under their Memorandum of Understanding with the Myanmar Government work was due to start in July 2019, with UNDP overseeing implementation. The project was to transform 1.4 million hectares of community lands in Tanintharyi Region in southern Burma into Environmentally Protected Areas. But the project had been developed without the consent of the mainly Karen indigenous communities, in contravention of international treaties and of the terms of the Nationwide Ceasefire Agreement. The local communities registered formal complaints, and the project is currently suspended and under compliance review. The case is of particular interest as it pits civil society against international organizations rather than against the local state.

## **The negotiation**

The negotiation is between the project supporters – the international organisations and the Myanmar Government - and the local project opponents – the Karen communities and their backers. The project opponents maintain that the project is unnecessary as the local populations have managed and conserved their environment for centuries and can be relied upon to continue to do so - their lives and their children's depend on it.

## The region

Tanintharyi Region is an administrative region of Myanmar, covering the long narrow southern part of the country on the Kra Isthmus. It borders the Andaman Sea to the west and to the east the Tenasserim Hills, beyond which lies Thailand.

Parts of the region are Dual Administration Zones (DAZs). That is to say both the KNU and the Myanmar Government have administrative and legislative authority, under terms decided by a bi-lateral ceasefire agreement signed in 2012.

## Land tenure in Tanintharyi Region

Karen ethnic communities apply customary techniques of land and resource management in two models: the “Kaw” and the “Kamoethway.” The “Kaw” model is a form of community tenure; a particular village or community uses and governs its land under communal stewardship and tenure arrangements. “A community’s Kaw territories include lands, waters and natural resources of the ancestral and spiritual domain. It could be one village or multiple villages depending on size. It comprises different types of land and forest for various purposes” (KESAN, 2018). The Kamoethway model is somewhat similar.

KNU land policy recognizes the “Kaw” model, which applies in most of the areas they control. Article 3.3.1 of the KNU land policy reads: “Land, forests, fisheries, water and other related natural resources have social, cultural, spiritual, economic, environmental and political value to indigenous peoples and other communities with Kaw (customary tenure) systems. KNU Authorities must recognize, respect and always take into account these non-monetized values for peoples and village communities with Kaw tenure systems” (Kawthoolei Agricultural Department (KAD), 2015, 28). KNU Land Policy also recognizes other ethnic customary models obtaining in Karen areas.

The laws of the Myanmar Government - the 2012 Land Law, the 2012 Environmental Conservation Law, and the 2018 Forest Law - do not recognize customary tenure (Hilden et al. 2016, 28). However, ethnic armed groups, which include the KNU, have the authority to operate their own administrative and social services under their own policies and regulations in the areas they control or where they share control in a DAZ.

In a DAZ the KNU and Union government both have legitimacy, despite their different policies. According to Andersen (2016), the 2008 Myanmar constitution, and the passing of the Farmland Law and the Vacant, Fallow

and Virgin Land Management Law, in 2012, negatively affected the land tenure security of ethnic peoples (p.vi). With no acknowledgment of customary tenure, land in upland areas where ethnic minorities live has been confiscated by the regime (Andersen, 2016, v; Myanmar Constitution, 2008; U San Thein, 2018, 24).

The KNU controlled territories formed separate administrative units from the Myanmar government before 2012. Some areas were dangerous war zones (Jolliffe, 2016, 10). After the 2015 NCA there was freer movement between KNU and Myanmar government territories. Some areas were opened and some became DAZs (Brenner, 2018, 89). The April 2012 bilateral ceasefire agreement in Tanintharyi Region committed the Myanmar government to recognizing the KNU land system (Jolliffe, 2016, 15).

Karen people have probably lived in the Tanintharyi hills for over a thousand years (Burma Campaign UK, 2014). The Tanintharyi Nature Reserve was established in 2005, in the northern part of the region at Yebyu Township. The government has always held it up as a successful protected area, but it has been the site of many human rights violations. In particular, the military government gazetted the protected area when the villagers had fled to the jungle (CAT, 2018b, 12).

In the Bokepyin Township, there are three huge conservation projects - the proposed Lenya National Park (2002), Ngawun protected area as an extension area of Lenya National Park (2004), and Ridge to Reef (2017) (CAT, 2018b, 11-18). The first two protected areas have not been demarcated yet due to security issues (IUCN, 2019). Of the three conservation projects, this study will focus on R2R. This project is intended to protect biodiversity in the wider landscape of the Tanintharyi region, both terrestrial and marine. The project is planned for implementation under the Global Environment Facility (GEF). The main funder is the World Bank, with the United Nations Development Program (UNDP) responsible for implementation, along with the Myanmar government's Ministry of Environmental Conservation, in partnership with the Smithsonian Institution, Green Economy Green Growth, the Myanmar Association, Fauna and Flora International (FFI), the Forestry Department and the Tanintharyi Regional Government (GEF, 2018).

The mountainous Tanintharyi Region is a global priority for environmental conservation with its intact Sudanaic lowland forest, the largest in the Indo-Burma Biodiversity Hotspot, and as home to endangered species, especially tigers and elephants (Baskett, 2015) - a good neo-colonialist choice for the betterment of the industrialized countries, using the loaded text of "Green Conservation" (Stott, 1999, 24).

## Statement of the research problem and justification

The following table shows the chronology of R2R project implementation, and the action-reaction between communities and the international organizations.

**Table 1.1** Ridge to Reef Project chronology

Actions of the project implementing parties		Community Reactions to Project Implementation	
Year	Actions taken	Year	Actions taken
2014	Pre-feasibility study by UNDP and FFI		
2015	GEF approved budget for concept note preparation		
2017	GEF concept note approved by UNDP		
2018 July	GEF approved budget for project implementation	2018	Domestic and foreign news media describe the communities' concerns
2018 July	UNDP launches project inception workshop	2018 July	Letter of objection sent to GEF headquarters by Conservation Alliance of Tanawthari (CAT) on behalf of 9 communities. Press release.
2019 July	Investigation team of the Social Environmental Compliance Unit of UNDP (SECU) visits affected villages	2019 July	Accountability Counsel posted on media urging the investigation visit to fully respect local responses.

After GEF approved the budget, UNDP announced the project inception workshop which was launched in Dawei town, Tanintharyi Region, on 17th July 2018, attended by the regional government, central government ministries and departments, NGOs, CSOs and universities. The aim was to share information about project implementation sites and approaches, to clarify roles and responsibilities, and to finalize an annual work plan (UNDP Myanmar, 2018).

Project supporters and opponents were present alongside project stakeholders. The communities accused the project of having little transparency, and asked the project implementers to see for themselves the situation on the ground (Carroll, 2018). The spokesperson of Kawthoolei Forestry Department (KFD) responded by re-evaluating and re-designing the R2R project with more consideration for human rights and the rights of indigenous people.

UNDP stressed its engagement with all stakeholders, including the KNU, but maintained that KNU concerns were outside the scope of the project (Chau, 2018). The affected communities from Lenya and surrounding areas reacted by holding a press conference with the help of a CSO - Conservation Alliance for Tanawthari (CAT). At the same time, the local community released a press statement and letter of objection addressed to the GEF Conflict Resolution Commissioner in Washington D.C. They argued that the project lacked free prior informed consent, and lacked proper local consultation including with the KNU ethnic armed group who held administrative authority in many affected areas (CAT, 2018a). Based on these complaints, UNDP's Social and Environmental Compliance Unit (SECU) planned investigation visits to some affected communities in Bokepyin Township in July 2019.

The project chronology shows that the process had started before the 2015 NCA but without formal approval until 2017 when the NCA was in effect. This might not be a sensitive issue for the government, but it is of consequence in the dual administration zone since the project contravenes the terms of the NCA. That is why the KNU refer in media interviews to the current peace talks and the need to have regard to them since the project is in a DAZ.

Karen communities, Tanintharyi media and CSOs reacted against R2R project implementation. Throughout the process, they questioned the role and commitment of the Myanmar government. Affected communities and CSOs also have low trust in Fauna and Flora International (FFI) related to the issue of the proposed Lenya national park (CAT, 2018b, 21). Also, FFI's local staff are ex-Tatmadaw; due to war trauma, Karen communities are still afraid of Burmese people outside their communities, especially ex-military.

For this study, I considered only the terrestrial area of the R2R project: Lenya-Bokepyin and Manoro. Six villages, Hein Line, Chaung Sone, Htin Mae, Ywar Tharyar, Manoro and Lehpoe Kam, are the main targets of the investigation. The proposed protected area is huge - one-third of the whole region. It has long been occupied by Karen indigenous people with their own nature conservation practices. I attempted to explore how each actor constructs negotiation power, and to investigate the negotiation strategies that the Karen communities apply. The negotiations actioned by the Karen communities are aimed at maintaining existing cultural identities in terms of customs, beliefs and heritage, and the community's right to self-determination within their ancestral domain. This research fills a literature gap with empirical data about the negotiation process between communities and international organizations, and the proactive response of communities and civil societies.



## Research questions

- What does each stakeholder do to maintain power in the negotiation of GEF's Ridge to Reef project?
- How do the stakeholders engage in the negotiation process of Ridge to Reef project?
- What kind of mechanisms do the Karen communities use to claim legitimacy on land over their ancestral domain?

## Research objectives

- To understand the situation of community reactions against the project and how the process is going on;
- To explore the community's approaches to negotiation actions with various actors;
- To investigate the Karen community's social relations with their ancestral domain and the practices of customary land management

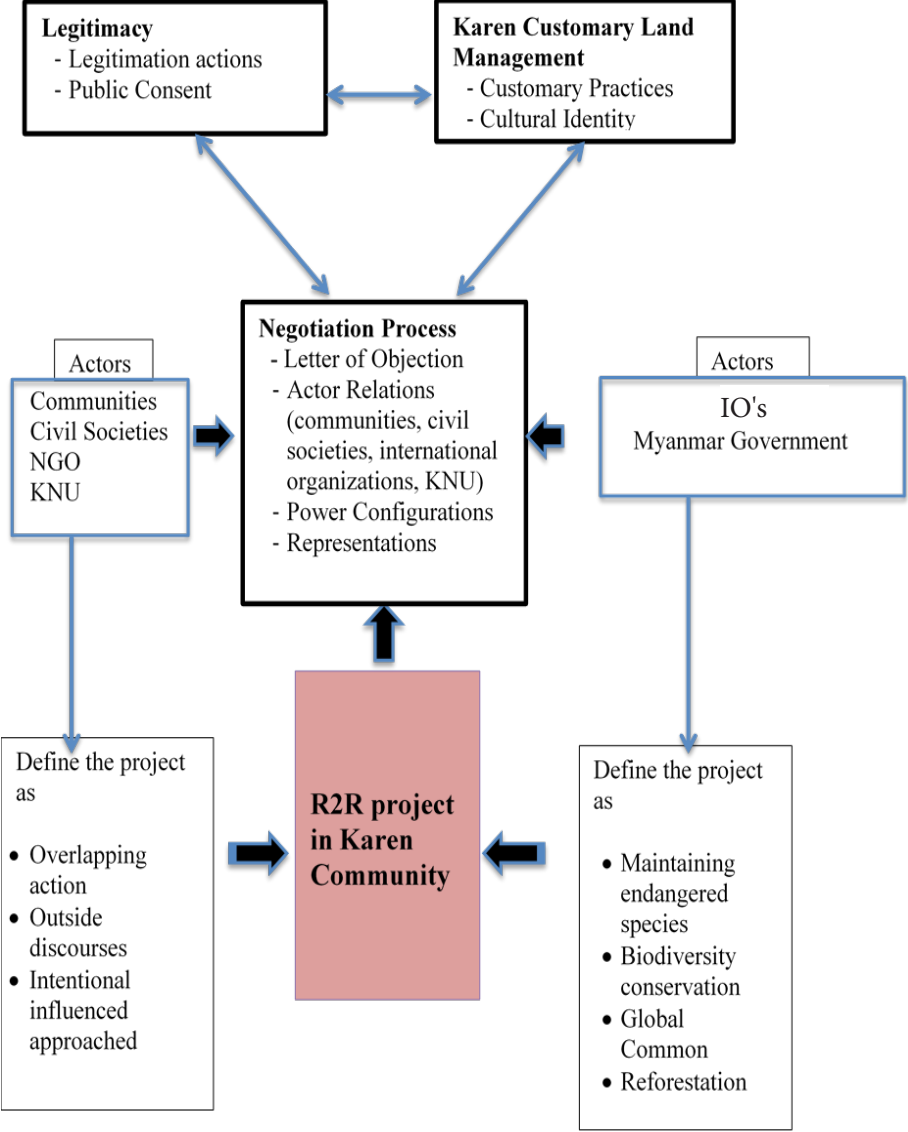
## Conceptual framework

I conceptualized the source of project opponents' negotiation power with three concepts. The core concept of "negotiation" provides a way of analysing how the source of power contributes to actor relations and accelerates the negotiation process. I used concepts of "legitimacy" and "customary land management" to explore communities' legitimization actions and how they employed their existing resources, namely their social and cultural capital.

In a negotiation, each stakeholder struggles to construct power through representation, common interests, and values. To engage in the negotiation process, each actor develops power configurations to handle the negotiation and must decide whether to ally with other interest groups or confront the project supporter group alone. The customary land management concept encouraged seeking out local knowledge about how the Karen communities contribute to sustainable conservation under customary practices. This study looks at the Karen customary land management system or Karen cultural identity as negotiation strategies to claim legitimacy over their ancestral domain.

In this process, legitimation actions play an important role in claiming legitimacy with evidence of existing local knowledge; customary practices which are not only for survival but also for sustainable conservation. It is maintained that the communities' struggle to legitimize Karen cultural identity offers a better, more peaceful solution to conservation. The communities' cultural and social capital are rooted in the values of ethnic and cultural identity.

In sum, the conceptual framework guides the interaction between stakeholders and stakeholders' power construction to reach the desired goals through negotiation. Specifically, the framework helps to situate the actors' actions and interactions. It also shows how they construct their power by using their resources based on authority, positions, formal and informal laws, values, interests and representative history.



**Figure 1.1** Conceptual Framework

## **Operational definitions**

### **Community-Based Organization (CBO)**

A CBO is a non-profit organization founded by the members of a community. Villagers initiate the organization, and it is formed as a committee with full structure. For example, it has president, secretary, finance, cashier and a committee. But it does not have an office. Each position in the structure is elected by consensus. The various office-holders work for the community as volunteers.

### **Civil Society Organization (CSO)**

A CSO is a non-profit organization with employed staff. It has a specific office and organizational structure with roles and responsibilities for each position. The office is located in a town. A CSO does not have sub-branches or offices in other towns or villages. It receives funding from local NGOs and international NGOs. It operates projects directly with received funding. Under Myanmar registration law, CSO registration is voluntary. Thus, some are registered organizations, while others are not.

### **Non-Government Organization (NGO)**

An NGO is a legally registered non-profit organization with an employed staff of more than ten persons. It has a specific office and is usually based in the capital city. It might have sub-offices in other towns. The main source of funding is international organizations. It implements projects both in towns and villages. Sometimes, office staff directly implement the project; however, project implementation may be shared, along with funding, with partner organizations, particularly CSO's.

### **International Non-Government Organization (INGO)**

An INGO is an NGO whose headquarters are based in another country. In Myanmar it is legally registered and signs a Memorandum of Understanding with specific Government Ministries. It will establish an office in-country usually staffed mainly by international staff and with only a few locals. All the INGOs in Myanmar are based in Yangon. They receive funding from both government and private sectors. They may have project-based branch offices in other towns.

## **International Organization (IO)**

This includes INGOs – see above – and organisations such as UNDP and GEF, which are governmental i.e. established internationally by governments working together.

## **Research methodology**

I employ the qualitative method to understand objectively and inductively the social reality of the villages. This method reveals, and allows for the interpretation of, the meaning of actions and the relationships of variables. Also, it allows me to experience the specific circumstances and social reality of the negotiation process among stakeholders. It has the advantage of enabling observation of the behaviour and attitudes of the communities in real-life settings. It contextualizes the struggle to empower local actions for land legitimacy and customary land management (Mason, 2001, pp. 55-59).

Before the actual field research, I did preliminary field research for a month in the targeted villages, and participated in CSO office work and CSO related field trips. It was a good opportunity to contact the most reliable key informants and to observe the field situation and the community in the real social setting. The whole field research -- excluding the preliminary field trip -- took two months, from 24th August to 24th October 2019. I had the chance to observe the actors' relationships, local activities in response to the R2R project, and the communities' struggle to collect evidence for the legitimization process. I also had the chance to talk to project-related stakeholders.

## **Research sites**

Myanmar's Tanintharyi Region lies at the junction of the Indo-Burma and Sundaland biodiversity hotspots. It possesses a unique assemblage of both locally endemic and globally threatened wildlife species. The area has been fragmented due to the expansion of oil palm cultivation (Myers et al., 2000, p. 854). Before the ceasefire, the research sites were war zones between Tatmadaw and KNU; then in recent times, after the Nationwide Ceasefire, the region became in part a DAZ. As mentioned above, the selected villages are Hein Line, Chaung Sone, Htin Mae, Ywar Tharyar, Manoro and Lehpoe Kam (see Figure 2). They were chosen in part because transportation was not too difficult. The availability of time and money was also a consideration. The site is based in the targeted communities – the ones who responded actively to the R2R project intervention. While other affected communities kept silent, the

villages chosen are under DAZ, with contested policies and administrations. Also, they perceived that as they could manage their resources by themselves, outside intervention was not necessary. They expressed their unfavourable views of the project via media and press conferences with the aid of civil society organizations.



**Figure 1.2** Map of Targeted Villages

## Unit of Analysis

The unit of analysis in this study comprises the stakeholders in the R2R project. These include the villagers, village leaders, CBO members, a former

UNDP staff member now employed as an engagement officer for the R2R project, the Myanmar government township forestry officer, the KNU Brigade 4 Tanawthari township officers and the Head of Kawthoolei Agricultural Department (KNU Headquarters), and representatives of local CSOs (CAT, Southern Youth, Myeik Lawyer Network, Wahplaw Wildlife Watch Society). The selection of all these entities was crucial, as I needed multiple perspectives from different actors and different background positions.

## **Data collection**

In this research, I used three techniques to generate data during the fieldwork: documentation, observation and key informant interviews. Access to the field sites and access to the respondents were not too difficult for me as I had worked with the targeted communities. Also, I have acted as an external consultant with the CSOs and CSO alliance. A one-month preliminary field trip was an excellent start to observe the field situation, contact the respondents and establish a rapport with the gatekeepers. For secondary data, I reviewed the related reports, newspapers, news articles and academic papers at an online database and university database. I also consulted the documents from reliable TV and radio media, and reports by NGOs.

The advantage of examining documents is that they form the main source of data for project supporters UNDP and FFI. These international organisations refused to grant me interviews, either formally or online. Their representatives explained that as the project is halted at the moment, they are in an uncertain position. The UNDP representative encouraged me to find data online instead. Therefore, I had to rely on the forwarded e-mail conversations among FFI, UNDP and CAT. I received the documents through personal communication with the CSO alliance, agreeing to follow the ethic of “Do No Harm”.

There are disadvantages in relying on documents. Secondary sources generally provide weaker data as opposed to data collected in real social settings. However, I checked the supporting data against that generated from the interviews with the supporting actors, such as government officials of the forestry department and FFI partner organisations.

Observation in a real social setting is an excellent tool to generate data in the field. I used non-participant observation. It provides objective and neutral data; thus, I can avoid biased interpretations (Creswell, 2007, 135). I got the chance to participate as an observer in project related activities through the recommendation of SY and CAT. I informed them of my status

as a researcher during the introductory section of each activity. All of the activities were conducted in the Karen language. This made it difficult for me: although I have a working understanding of the language it meant that I had to observe meetings and events passively without participating in group activities. To deal with the language barrier, I hired a Karen-Burmese interpreter, who is neither a community member nor CSO, CBO, NGO staff. This was intentional to avoid interpreter bias. It proved very helpful in acquiring correct and reliable, opinion- and exaggeration-free data.

I used this technique as a data collection tool at the CAT bi-annual meeting with the KNU township officers, alliance members and project funding agencies. Other activities included CBO, CSO and township KNU quarterly meetings, CBOs/CSOs data validation workshops and Kawthoolei Plantation Day, which was organized by CBOs.

I used in-depth interviews for critical informants. The field trip led me to access informants who were not in my original planned list of key informant interviews.

In the real social setting I had more chance to talk with respondents. An extended stay in the village provided data and confirmed it with the respondents. They preferred to talk in the evening, after working hours: their work sites, such as permanent orchards, shifting cultivation and fishing areas, are far from the residential area, and some villagers fish along the river in the daytime. Mainly, I used semi-structured interviews and informal interviews, out of respect for people from conflict sensitive areas, in the specific context and the conflict-sensitive situation. All the targeted areas are conflict-sensitive; the communities have grown up in a war-zone, and are still afraid.

I used semi-structured interviews with targeted informants. Informal interviews or talks with other villagers, such as casual labourers or small grocery shop owners, added to my understanding; information from informal discussion helps to balance the information provided by the elite group or R2R project aware groups such as village leaders, committee members and civil society staff. Also, casual interviews let respondents be comfortable; they preferred not to have their voices recorded, which made for a less tense setting. As Werner and Schoepfle (1987) state, “some stakeholders are threatened when we do a formal interview, and it is a barrier to getting data” (p.299).

I interviewed key informants involved in this R2R project to get valid and reliable information from different stakeholders to strengthen the informative data and data analysis. I conducted seventeen key informant interviews and



ten casual interviews, including informal talks. I also took into account gender equality to include women's voices. All of the names mentioned in this study are pseudonyms, adhering to the "Do No Harm" ethical code.

**Table 1.2** List of interviews

Type of Interviewee	Number	Gender		Representation
		Male	Female	
Targeted Communities	8	7	1	Ordinary (Youth, Elders) Village committee member Village leader
CBO members (Villagers)	2	1	1	Manoro village Htin Mae village
CSOs in Town	4	3	1	Conservation Alliance for Tanawthari Southern Youth, Myeik Lawyer Network Wahplaw Wildlife Watch Society
KNU	1		1	Kawthoolei Forestry Department/ Agricultural Department
Myanmar Government	1	1		Forestry Department Bokeypin Township
International organisation	1	1		United Nations Development Program (Ex-staff)
Informal Talks and casual interviews	10	6	4	Casual laborer, grocery shop keeper, CSO staff, KNU township officer, village committee members, housewife, international consultant, Myeik Parish Priest

## Data analysis

I generated data by interviewing villagers from different locations in the village, different backgrounds, different positions in the village and different age ranges. I applied critical analysis and data validation during the field trip from different perspectives, where the informal talks with persons who were unaware of the R2R project were constructive. No research is perfect and fully complete; however, we strive to produce a picture as accurate, reliable and comprehensive as possible (Atkinson & Hammersley, 2007, 181-183). For the research to be reliable and valid the researcher must avoid bias based on personal experience; trusting data from a single source; or being too naively optimistic.

The field notes were handwritten with reminders and reflective notes in the margin. The essential points or "need more information" points were highlighted in different colours. The notes from observation and interviews

with reminders, evidence of audio, photos, phrases and ideas with reflected key concepts were categorized into texts and summaries. The interpreter provided me with the original mp3 files and computerized Burmese transcriptions of all interviews. After that, I translated and transcribed Burmese to English. After the field trip, data screening, coding, data grouping, and creating themes relevant to the data that were generated from the research were systematically processed. Most of the data processing was done during the fieldwork, which assisted in leading to follow-up questions and in gathering the different sources of information to cross-check the data.

I categorised, classified and interpreted the data critically and compared it with the literature review. Repeated reading and reviewing of the field notes made me reflect more deeply and look for gaps in my analysis. A constant review of the research proposal – and especially the conceptual framework – led to more effective data categorizing and coding. Ultimately, my analysis is based on critical linkages among the related concepts, research questions and arguments (Creswell, 2007, 148-151).

## **Ethics**

I adhered to ethical codes ‘do no harm’ and ‘weigh competing ethical obligations due to collaborators and affected parties.’ Particularly for the former, I needed to consider possible harm to participants’ dignity, bodily well-being, livelihood, and psychological and material well-being. For example, some comments might risk the safety of community members who are under the administration of both the Karen National Union and the Myanmar government (American Anthropological Association (AAA), 2012, 3).

Neither I nor the interpreter was a community member; the interpreter fully understood the local language (Karen), which gave the community comfort during the interview process. The translator was not involved in the loop of project-related stakeholders, which was helpful to avoid bias and conflict of interests.

## **Limitation**

The international implementers representatives provided only limited access, even though I tried to see them using both formal and informal ways to respect the above-mentioned ethics. To show transparency, the back and forth e-mails, messages and phone SMSs are in the data record.

Some respondents refused to sign the consent form for voice recording. Government officers and the ex UNDP staff member were more comfortable with note taking. These interviews were conducted without voice recording, with signed consent forms.

## **Book outline**

This book is organized into six chapters.

Chapter One: Introduction. This sets out the background, including the local political and conflict situation; and the reasons for my interest in doing this research, followed by the problem statement, research questions, and research objectives. There follows an overview of conceptualization with a diagram and narrative description. Operational definitions and research methodology are premised on the scholar's field experience.

Chapter Two: Concepts and Theories: Negotiation for Land Legitimacy discusses related concepts in this study, such as negotiation, legitimacy and customary land management.

Chapter Three: Stakeholders' Negotiation Power in the Ridge to Reef Project presents the negotiation process of the Ridge to Reef project. This chapter attempts to answer the first research question, with specific sections on identifying stakeholders, the role of each involved stakeholder and stakeholder-relations. It further discusses each stakeholder's power construction for the negotiation process.

Chapter Four: Stakeholders' Actions in the Ridge to Reef Negotiation Process, discusses the stakeholders' engagement in Ridge to Reef project, and answers research question number two. Specifically, how the actors get engaged in the process of R2R negotiation and the approach to reach the power balance of the negotiation process.

Chapter Five: Karen Customary Land and Legitimization is also the chapter on findings presented for research question number three. It is about the mechanism that the local community uses for the negotiation process. Functioning local practices, laws and cultural identities are informatively presented.

Chapter Six: Conclusion; the conclusion of the research consists of two parts: a summary of findings and reflections on the theories.



# 2

## CONCEPTS AND THEORIES: NEGOTIATION FOR LAND LEGITIMACY

The concept review is rooted in the statement of the problem and the main research question. The problem statement seeks to find out the actors' process of engagement in the negotiation and their struggle for legitimacy over their ancestral domain. This chapter conceptualizes the theoretical justification for the struggle with three concepts: "negotiation," looks at how each actor engages in the negotiation process, while "legitimacy" and "customary land management" explore how the communities employ their resources - social and cultural capital - to the legitimation process, with local endorsement.

Two famous works, "The Anti-Politics Machine" by James Ferguson and "Land" by Derek Hall, shape both the literature review and my conceptualization of this study. Ferguson's presentation was about a lack of discussion about the strength of participation when the community is the agent in a conflict. The work of Derek Hall, especially in his chapter five "Titling and Conservation", seeks to further our knowledge about the main role of key transnational actors (Hall, 2013).

This chapter focuses on the relations between context and concepts. Firstly, I present the R2R negotiation process. This will follow the approach of each negotiator and how they maintain negotiation power through representations, actor relationships, and their source of power. Secondly, the land legitimacy struggle in Karen communities raises the specifics of the legitimation process, including the allocation of resources and the mobilization of public consent. It shows that public consent on local rules and practices is appropriate and necessary. Finally, I analyse local negotiation mechanisms under the concept of customary land management.

## **Negotiation process of Ridge to Reef Project**

The long interaction between civil societies and international organizations in the case of the Ridge to Reef Project began with CAT's letter of objection on behalf of the communities, sent to GEF headquarters in June 2018. Since then the negotiation parties have struggled, so far unsuccessfully, to reach a common understanding. The chronological data on the interaction between the civil societies and the international organizations (see previous chapter) describes the bargaining process with the aim of bringing the project out of suspension. Each stakeholder formed alliances with others and together they tried to reach their common goal.

A vast literature on negotiation has emerged over the last several decades. Most scholars define negotiation as a bargaining process to reach a common goal. According to Winham (1977), the negotiation process is a step-by-step building of a common goal between two different parties. Similarly, Iklé & Leites (1962, 21) described the negotiation process as a process of compromising and convergence and of making concessions between opposite parties. Kissinger (1969), on the other hand, defined negotiation as an accord achieved through hegemonic action by one side, even though both parties create a common position producing an integrated solution.

Negotiation may be either distributive or integrative, or a mixture (Iklé & Leites, 1962; Walton & McKersie, 1965, 24). Distributive negotiation is sometimes called hard-bargaining and operates under zero-sum conditions - any gain one party makes is at the expense of the other. It is sometimes called win-lose because of the assumption that one person's gain is another person's loss. Integrative negotiation on the other hand tries to improve the likelihood of negotiated agreement by taking advantage of the fact that different parties often value various outcomes differently. Integrative negotiation attempts to create value in the course of the negotiation by either "compensating" loss of one item with gains from another or by constructing or reframing the issues of the conflict in such a way that both parties benefit. It is sometimes called win-win.

Much literature addresses integrative approaches, stressing the importance of identifying the underlying interests of each party's position and using this knowledge to create alternative solutions that address these interests (Pruitt, 1981). Others argue for alternative ways to better negotiations. For example, Fisher (1983) proposes finding mutual gains wherever possible during the negotiation process. Still others point to the shortcomings of both approaches, arguing that no "pure" approach can accommodate the complex multi-stakeholder situation. Odell (2000) proposed a conceptual continuum of

strategies ranging from purely distributive through mixed to purely integrative.

The main actors in the R2R case deviate from the mainstream negotiation package of distribution, integration and mixed, but nevertheless this concept can be used to analyse what has happened. This study will fill a gap in knowledge about locally initiated negotiation, and the involvement of actors using different approaches to negotiation in line with changing situations at different levels - local, district and national. All the actors expected to reach the same destination or outcome.

Community negotiation actions tend to occur when communities refuse to accept outside prescriptions which go against their culture and interest. The community builds a network with many layers, making a strong claim in the process of negotiation. A community struggling to claim rights to access and control resources does not struggle alone, but has the assistance of social organizations and urban middle-class activists. Juul & Lund (2002, 6) reaffirmed that local communities conduct their rights claims with the aid of other people and institutions.

The arenas of environmentalism and community rights can stimulate socially marginalized groups to articulate policies with powerful collective actions. The successful court case of Klity Creek lead contamination in Thailand is well-known; negotiations to achieve justice led to cooperation among civil society organizations, media, activists and local communities (Sitthikriengkrai & Porath, 2018, 176).

In another case in Northern Thailand described by Hayami (1997), the local Karen people impeded a government project and claimed their rights to access the forest and land using the practice of "Tree Ordination" - the application of a Buddhist symbolic item (a saffron robe) to a tree or trees to protect them, as a cultural tool to stop the project. The whole community engaged in the negotiation process by using the symbolic representation of Buddhism, the source of community power.

This study focuses on the circumstance of communities and civil societies up against international organizations rather than the state and society. It explores the project opponents' pro-active engagement using negotiation as a non-violent weapon. During the negotiation process the actors involved employ resources to reach for their goal through social networks and regeneration of cultural practices. The power configuration, actor relations and group representations are interrelated, and contribute to reaching a power balance in the negotiation process.

## **Land legitimacy struggle in Karen communities**

After the R2R project came to the notice of the Karen communities in the Tanintharyi Region, they awoke to the need to strengthen and regenerate their customary land management systems. They started to promote customary land management and to get consent and endorsement from the Karen communities on functioning rules and practices. The communities agreed on which actions were the most appropriate, for nature as well as society. They rejected outside management of their natural resources by international conservation organizations and governments, but instead sought consent from community members to the Karen customary land management system as the legal practice of Karen communities in the region.

Governments seek legitimacy from the public, and the public may believe that their government has it. However, this belief is open to challenge. Locals seek legitimacy within the community first, before they claim land legitimacy through community mobilization activities. These activities encourage them to undertake further legitimization actions. The communities themselves and their practices are legitimate with the endorsement of community members. In the case of South Sudan's unsuccessful law reform (Pimentel, 2010, 21-28), the authors shared deep insight into cultural imperialism, which was the rule for specific tribal people in specific areas. Local rules on the other hand are deeply rooted in particular knowledge, practice, culture and history, which become the cultural identity of the tribe. With the attribution of public consent, the local rules are legitimate and superior to the newly imposed (culturally imperialistic) statutory laws.

To achieve legitimacy, a legitimization process is necessary. Dowling & Pfeffer (1975, 124) emphasize the legitimization process and legitimating activities of organizations. However, their findings and discussion provide only a limited explanation of how social and material resources are applied. This study shows the importance of resources such as cultural and social capital and how the actors use these resources in the process. This leads us to investigate the actors behind state and society, and the social and cultural resources that they use (Martin, 1997). Hybels (1995, 244) argues that legitimacy theory must examine the relevant stakeholders (state, public, financial, community and media) and how each stakeholder and their resources support each other.

In conclusion, the legitimacy concept is relevant to use as an analytical tool to examine the R2R case, where project opponents struggle with asymmetrical power to access and control natural resources within indigenous territory. The main focus of this study will be seen as legitimacy and consent, as local communities construct important elements of the legitimization process, and



where the small power-holders – communities and civil societies - seek legitimacy within communities, and the communities believe that they are the right power-holders to exercise control over both people and resources within the specific territory. Powerful local authority and local control are the real source of legitimacy.

Local resistance against top-down and biodiversity-driven approaches approved by the state is significant (Stoll-Kleemann & Welp, 2008). Arts et al. (2018) argue that the legitimacy of environmental management is in the actors' ability to participate in the decision-making process and the outcome of the process rather than the formal or informal inclusion of the actors in the process. Local actors were delegitimized as not having enough scientific knowledge, and social relationships with nature were written off as "emotional inspiration". Platteau deals with the realities of Sub-Saharan African land issues. There, the state excludes the community voice and participation in the process of policy-forming, which means the state imposes new policy without prior informed consultation and consent, which is not legitimate.

Weeks et al. (2012) argue that legitimacy has different scales. A local organization is not legitimate if it contradicts the local cultural model without the full support of the local communities. Even though the local organization claims that it is working according to the cultural model, their actions may be mixed with economic and scientific considerations.

From other perspectives, Corson & MacDonald (2012) argued that the actions of state and non-state actors (international environmental institutions) legitimating conditions of green grabbing had become a critical issue. Authors projected the state action of demarcating a protected area under the Convention on Biological Diversity (CBD) as a kind of land grabbing (Corson and MacDonald, 2012, 273). In other words, powerful actors protect their interests under cover of conserving "global commons", leaving their real purpose unspoken (protected areas are often where land and resources are abundant).

In certain circumstances, the local narratives, religion, ritual practices and politics are worthy of claiming legitimacy and the right to manage the ancestral domain. For instance, Moor (1994) describes how the Kaerezi people in Zimbabwe claimed their rights over ancestral land and employed social memories and the rights to access local resources based on their participation in the fight for independence led by Robert Mugabe; the local people sought to legitimize their ancestral land with culture, memories and stories even though the government officially had gazetted their land as state property. In terms of claiming rights to control land and resources, different powerful

agencies make their own values, discourses, and narratives. At the same time, the local people use their resources - informal narratives, customary practices and evidence of their efforts - as a moral basis of legitimation.

Most of the above legitimacy-related literature overlooks the role of the state and its actions to gain legitimacy with the consensual acceptance of the ruled society. Local rejection of acceptance propounded by the government and international conservation organizations can be seen as the legitimate struggle of Karen communities. The local communities promoted the existing normative belief of customary land management among community members. They endorsed the functioning rules and practices within society as the most appropriate for nature and for members of society.

### **Karen customary land management**

Manoro and Lenya-Bokepyin areas are mostly KNU controlled and come close to the highway which is under both administrations. Most Karen communities are forest dwellers and are used to conservation practices in their daily lives. According to Rajah (2008) and Burma Campaign UK (2018), the Karen communities have probably lived in the Tanintharyi Range for thousands of years. This alone is evidence that their way of life provides sustainable management of land and forest. It is also the reason why international organizations and governments want to control the intact forest and resource rich Tanintharyi Range. The Karen community wants to promote its zoning practices under the Karen customary land management system. During the negotiation process of the R2R project, the Karen communities reacted to the international organizations with evidence of locally practiced conservation actions in line with Karen customary land management systems, and local well-known customary rules. The Karen community in Manoro and Lenya-Bokepyin areas are using Karen customary land management systems, especially the “Kaw”, as advocacy tools.

In general, people define land as a thing, an asset, and a property with a social relation of ownership, mostly from an economic point of view. Indigenous people on the other hand see land as “their sense of self not separated from the land” and interlock their life experience with the land of the natural world. Therefore, the land is very important in the various meanings of their traditional practices (burial, ceremonial customs), way of life, and access to natural resources providing basic needs (Circles for Reconciliation, 2016).

Wanitzek & Sippel (1998, 121) noted that it was difficult to make a general statement about customary laws due to their great variety in different communities. On the other hand, people in customary areas administer customary land in accordance with the values of cultural, religious and self-sufficient economics within their communities (Arko-Adjei, 2006, 2). In pre-modern society, the customary rules were legitimate in general (Gilley, 2006, 502) and “locally legitimate regimes” were based on “sufficient popular support” (Walzer, 2002, 35).

Unruh (2018) discussed the difficulties of proving land rights in the developing world. He used case studies of Mozambique, East Timor and the Zuni of the United States to show the different effects of using different contexts of politics and economics. He concluded that cultural geography or landscape-based evidence, along with informal legalities of ability to use, can trace the social relation to the land. Recorded maps and agreements are useful for engaging between formal and informal regimes as effective solutions.

The concept of a customary land management system is suitable for the study. I investigate how cultural identity is constructed, the connections among traditional practices, systems and cultural identity, and why constructing a cultural identity becomes a legitimization activity. In the legitimization process, customary land management is a powerful mechanism for negotiation. Subsequently, the concept creates the space to conceptualize and weave together the sub-concept of legitimacy. The customary land management system concept is a connector to understand the legitimization actions for the negotiation process, and it supports the two concepts of negotiation and legitimacy. Moreover, it enhances the discovery of new insights into the cultural knowledge, systems and practices of the people under study.

The local community has legitimate power over territory when there is a deep local nexus to a historical legacy. Lentz (2013, 8) argued that the community uses the local regime to exclude people from outside their community territory, even latecomers settled within the community. He discerns that customary tenure is dynamic and heterogeneous rather than static.

Local efforts to claim legitimacy under the customary system in a specific territory need to be fully expressed and demonstrated. They have the potential to influence dealings with powerful actors. The local community has relevant knowledge and ability to manage the land customarily, an approach which is sustainable and ecologically resilient. For instance, the Dayak community in Indonesia applied the approach of developing mixed participatory mapping to protect and regain their ancestral land. The approach of regaining Dayak Lands contributed to revitalizing customary

practice, to show the capacity and ability of the Dayak to manage their land by themselves. The Dayak forest resource system is based on an intricate land-use plan, which respects the community's territory with its attached meaning and value of sustainability, collective kinship and biodiversity subsistence handed down over the generations (Natalia, 2000).

Hares (2009) examines Karen and Lawa ethnic groups who are living harmoniously with nature. There are different opinions among NGOs and academics on the upland people and their practices of local wisdom, traditional values and production for survival. These ethnic groups are named forest guardians because of their sustainable use of resources, soil and forest in rotational cultivation. On the other hand, the state sees them as forest destroyers due to their burning cultivation areas before plantation. Hares calls the agricultural practices with local knowledge as a bottom-up alternative and counter-narrative to justify the community's claim for legitimacy (Hares, 2009, 390-91). It is relevant to take into consideration that the focus of powerful actors is different, and different between the state and the international organizations.

The Karen community in Northern Thailand mostly practice a complex and integrated local management system of land and forest: rotational cultivation and forest management with ecological concern based on local narrative and indigenous wisdom, traditional beliefs and Karen moral principles. Local knowledge steers resource management practices. The Karen people became forest guardians who maintain and produce cultural identity and knowledge. The community used Karen local knowledge and customary management practices as a symbolic power for claiming legitimacy over forest control and as symbolic value to constructing a collective identity (p. 107).

In Myanmar, claiming a right of access over land and resources requires strong backing with evidence. The Ethnic Community Development Forum (ECDF) argues that in Myanmar, customary land management has operated from colonial days till the current era. People from government departments might complain about it and ask for statistics or for evidence. However, such evidence does not exist, for the simple reason that the Myanmar government cannot reach into remote areas. With supportive empirical data, the customary land management system contributes to transferable knowledge, to a keenness to protect the environment, to the enforcement of ecologically sustainable livelihoods by practicing decentralized and participatory governance, and to the holistic authority of local legitimation in ethnic community areas in Myanmar. To trace the findings, the ECDF did participatory research in six States - Kachin, Kayah, Karen, Chin, Mon and Shan (ECDF, 2016, 3).

According to ECDF (2016), customary rules and practices have long existed. Some ethnic minority groups have local rules which they have practiced for centuries. The “Kaw” system employs many of the same practices as other ethnic groups’ systems, such as the Kayah. The Kachin and their sub-groups have their own rules and practices to manage their communities and lands. There are core values and common themes despite different practices from place to place. These are (a) common or communal land ownership and use; (b) that the communities’ decision making is legal but that of outside administrative agencies is not; (c) communal management of water, land and forests; and (d) regular adjustment of customary land and territories to be more effective (p.7).

The ethnic Karen in Thay Khermuder village, Papun Township, Karen State, have for long practiced customary management systems in their village; however, they wanted to have written rules. The villagers discussed the development of local rules, which they eventually submitted in September 2012 to the KNU township administration for official approval. Which was duly granted. This is written *de facto* government-approved legitimate bottom-up rule by the local people over their nature and resources.

## Summary

The Karen communities in Myanmar have been fighting for equality in a prolonged civil war, and are now facing a domestic political transition, while international actors try to make out that environmental and conservation interventions in this post-conflict country are apolitical.

This study attempts to understand the process of negotiation between the local community opposing the 2R2 project and the international bodies supporting it.

I summarise the standard approaches to negotiation, and explain how parties build alliances to strengthen their negotiating position.

Examples are given of other cases where local communities have fought back against powerful opponents seeking to override their customs, traditions and rights.

At the root of the conflict is the Karen local communities’ claim to the legitimacy of their land management system, under which they claim to have managed their environment sustainably for centuries, obviating any need to bring in outside ecologists, lacking local knowledge, to take over.



# 3

## STAKEHOLDERS' NEGOTIATION POWER IN RIDGE TO REEF PROJECT

This chapter comprises three main parts: defining the stakeholders; their roles; and their relationship to the R2R negotiation process. The chapter attempts to answer the main research question: “What does each stakeholder do to maintain power in the negotiation of GEF’s Ridge to Reef project?” The chapter presents what the actors do to promote their negotiation power, where their sources of power come from, and how their sources of power affect their actions. In this chapter, the words “stakeholder” and “actor” will be used interchangeably.

I argue that allying and cooperating with groups with the same interests and values enhances negotiation power, and makes the lengthy negotiation process less tedious. Sharing roles and responsibilities, democratic practices of consultation, and getting consensus all help to produce negotiation power.

### **Identifying the stakeholders**

Identifying the stakeholders helps identify their various interests and motivations, their conflicting interests and the general relationships among actors. In the following section, I list the nine main actors directly engaged in the negotiation process between the communities and the international organizations.

Manoro Tract Anagut Alin (hereafter MTAA) is a non-profit organization established in May 2017. The tract has six villages: Ywar Thayar, Manoro, Kyar Chaung, Khae Chaung, Lampoe Kam and Bankwar Khee. MTAA has an executive committee with president, secretary, accountant, cashier and committee members, none of whom are paid. Officials are elected annually. All the member villages are committed to its purpose: “to keep communities safe from outside interventions and to maintain nature sustainably.” MTAA takes a leading role in communication and problem solving between communities and companies, mostly related to claiming villagers’ rights and actions to get back villagers’ land. The reasons for forming a CBO with multi-villages was the difficult situation for the people in Manoro areas due to the plantation companies. When individual villages responded to the powerful companies nothing happened. The affected villagers realized that to be effective they needed to be united (Naw Phaw: Interview, 22/09/2019).

Alin Thitsar (CBO) (hereafter AT) is similar to MTAA as formed with multi-villages, with an unpaid executive committee. All committee members are villagers. Some work for the KNU – but in this committee they represent their village not the KNU. AT has twenty-nine members and represents 8 villages - Htin Mae, Hein Line, Chaung Sone, Yone Taw, Kataw, Uyin Gyi, Kyauklone Gyi, Thingun Kyun - all located along the Lenya River. Villages near the river have been working together to oppose the classification of Proposed Lenya National Park since in 2016. AT was officially established in March 2018, and was acknowledged as a CBO by both KNU township and district administration offices (Saw Tahdoh, Interview, 22/09/2019). The reason for having KNU people on the committee is transparency. This is important in the villages because they are in a dual administration zone. The committee and its works represent all member communities; the KNU are also community members and should therefore participate. AT has a regular meeting on the last day of every month, with an agenda based on current village issues (Saw Siesie, Interview, 24/10/2019).

MTAA and AT are not concerned solely with R2R. Their overall objectives are to secure land rights for natural resource management and for local communities to manage their forest sustainably based on their priorities and grounded in the principle of indigenous peoples’ right to self-determination (Naw Khukhu, Interview, 01/07/2019).

Southern Youth (CSO) (hereafter SY) was established in June 2014, with a main focus on environmental issues and indigenous rights. The organizational vision is to “Empower the local communities, especially youth, to resist external threats.” It is a non-profit organization, located in Myeik town. SY



project area coverage is Tanintharyi township and Bokepyin township (government administration) or Tanawthari Kawhser and Lenya-Bokepyin Haw Kawau (KNU administration). SY works as a connector between the funding agencies (both local and international), and communities and CBOs. All the staff are paid employees, and most of the funding comes from local NGOs and INGOs. Forty percent of SY staff are from Lenya and Manoro areas, which means they are local people or war victims, knowledgeable about the local context and well fitted for working with local communities. SY is also a member of the Conservation Alliance for Tanawthari (CAT). Conservation Alliance for Tanawthari (CSO Alliance) (CAT) was founded in 2014 as a coalition of Karen community organizations working in the region. Alliance members were brought together by the threat of green grabbing and mega projects, because they realized that individual organizations could not respond effectively. CAT aims to promote the conservation of biodiversity and to protect the rights of indigenous communities. CAT Network Organizations include (1) Tenasserim River & Indigenous People Networks (TRIP-NET) (2) Community Sustainable Livelihood and Development (3) Tarkapaw Youth Group (4) Candle Light (5) Southern Youth and (6) Karen Environmental and Social Action Network (KESAN). There is one designated CAT Coordinator who facilitates and coordinates all CAT meetings and network-wide activities. Among the CAT members, KESAN and TRIP-NET function as advisors and providers of technical advice, while the other five member organizations are working for local communities in the target areas. Each CAT member has different experiences in different local contexts throughout Tanintharyi Region, and all are Karen CSOs that have worked for many years for rights-based issues in cooperation with communities in both conflict-affected and non-conflict affected areas.

CAT member organizations' staff know the local context and history of target areas and share the culture of target group members, which allows them to communicate effectively with the local communities. Working for community rights relies on a great amount of trust between the assistance organization and the community, which CAT member organizations have developed over many years. Regular coordination and review meetings are conducted among CAT members according to the situation and needs in the area. A CAT Coordination Meeting is held in the Kamoethway Area of Dawei every six months, where all member organizations share their work experiences and strategize about work in the upcoming year. In the R2R case, CAT facilitates communication and reporting between the communities and the international organizations by surmounting the language barrier (Naw Kathu, Interview, 11/10/2019).

Wahpalaw Wildlife Watch Society (NGO) (hereafter WWWS) is a government registered NGO based in Yangon. It has connections with the Kawthoolei Forestry Department, the government Forestry Department and international conservation organizations. It was founded in 2015 by Karen bird conservation enthusiasts. The founding purpose is to encourage community-based conservation systems. Most of the staff are Karen but not from the Tanintharyi region. WWWS was working before with FFI and KNU for the Tiger Landscape project (Saw Yoetha, Interview, 15/10/2019).

Karen National Union (Armed Group/Non-State Actor) (KNU) is a political organization, a de facto government in Karen State, and with joint authority with the Union Government in the Tanawthari Region DAZ. The KNU has fourteen ministries - for agriculture, alliance affairs, breeding and fisheries, defence, education, finance and revenue, foreign affairs, forestry, interior and religious affairs, justice, mining, organizing and information, health and welfare and transport and communications (KNU HQ, 2013).

KNU leaders are elected. Elections are hierarchical from village to national level. The KNU congress is convened every five years for the election of a central executive committee. Each congress is intended to be representative of the lower levels: the KNU Congress receives delegates from each of the seven districts in Karen State, the district congresses receive delegates from their constituent townships, and the township congresses receive delegates from village and village tract committees. At the village and village tract levels, the equivalent to a congress is a plenary meeting, which is intended to be representative and is responsible for electing village or village tract committees (sometimes called KNU basic organizations) (Jolliffe, 2016).

KNU headquarters and Mergui-Tavoy District are deeply involved in the R2R negotiation process, through their (Kawthoolei) Departments of Agriculture and Forestry (Saw Nunu, Interview, 20/09/2019). (Hereafter, I will use the Mergui-Tavoy District (MTD) and Brigade number four interchangeably).

Myanmar (or Union) Government: the Forestry Department of the Ministry of Natural Resource and Environmental Conservation, and the regional government, are the prominent actors according to the GEF project document. However, they are not responsible for direct implementation of the R2R project but rather support it indirectly through small and fragmented terrestrial and marine protected areas (U Sein Than, Interview, 26/09/2016).

Fauna and Flora International (FFI) (INGO) is an international organization launched in 2008. In 2011 FFI commenced operations in Myanmar, mainly

in Tanintharyi: site-based conservation in landscape and seascape, tiger project, research on critical biodiversity area, community forestry and responsible ecotourism - in each case in cooperation with the Union Government, especially for planning and establishing protected areas in Tanintharyi. FFI is responsible for capacity needs identification under the National Biodiversity Strategy and Action Plan, and the Myanmar National Tiger Recovery Plan (Oswald, 2017; FFI, 2014).

For the R2R project, FFI is responsible for component 2: “Strengthened management and threat reduction in target proposed Protected Areas, smallholder zones and corridors” due to its experiences in conflict and post-conflict areas in Myanmar, and its joint work with the government for the establishment of Myanmar’s first three locally managed marine conservation areas (FFI, 2018).

United Nations Development Program (UNDP) is the United Nations’ global development agency. As part of the UN it works closely with the Ministry of Natural Resources and Environmental Conservation (MoNREC) at Union level, cooperating to improve environmental governance in Myanmar. Its mandate, along with the World Bank and the Global Environment Facility (GEF), includes strengthening the conservation of biodiversity in protected areas around the world.

For the R2R project, UNDP are to be responsible for the development of component 3: “Emplacement of National Biodiversity Survey Framework”. UNDP recognizes the limited skills of the Myanmar government in acquiring and disseminating biodiversity data, and the need to build capacity in the shape of institutions, technical and human resources, and infrastructure. UNDP is not responsible for implementation on the ground, but rather will provide technical and capacity-building assistance to the relative project-implementing partners at local level.

Accountability Counsel (INGO) (AC) is a non-profit international organization based in San Francisco, California. It “amplifies the voices of communities around the world to protect their human rights and environment.” AC seeks justice for the indigenous people, women and girls who are most affected by internationally financed (mostly commercial) projects, by providing financial and professional support to people in need of justice against human rights violations and power abuse cases. AC’s mission is to enhance the capability of needy and vulnerable communities who are facing injustice issues to help them fight for human and environmental rights.

AC is now giving direct support to the CSOs in Tanintharyi, and indirect support to CBOs in the case of the R2R negotiation process, mainly by providing information and advice on response strategies (Saw Shweba, Interview, 04/10/2019).

**Table 3.1** List of Stakeholders

Stakeholder Differentiation	Stakeholders	
	Project Opponent Groups	Project Supporter Groups
Key Actors	Manoro Tract Anagut Alin (CBO) Alin Thitsar (CBO)	United Nations Development Program (IO) Fauna and Flora International (INGO)
Supporting Actors	Southern Youth Development Organization (CSO) Conservation Alliance for Tanawthari (CSO Alliance) Karen National Union (Governance/Armed Group Actor) Accountability Counsel (INGO)	Myanmar Government Wahpalaw Wildlife Watch Society (NGO)

### Stakeholders' roles

CBOs undertake community mobilization to provide a strong and united voice for the case against the R2R project. At the first stage - sending the complaint letter - the leading CBO organised the collection of signatures not only from CBO member villages but also from those outside (U Chitho, Interview, 24/09/2019). Community unity can be broken by different perspectives, attitudes, knowledge and benefits exploited by outside protagonists. In the case of community reactions to R2R, however, the CBOs ensured that there were no such problems.

CSOs in Myeik support the CBOs by being actively involved and effectively performing their role in mobilising the community. CSO training and workshops set out to empower project-affected and potentially affected communities by inculcating knowledge and the confidence to communicate with outsiders (Sa Than Naing, Interview, 03/10/2019).

The training became a rehearsal space to present, discuss and find solutions. It was the only chance for participants to communicate with people from outside their communities. Participants shared knowledge and experience during the training, and established networks to keep in touch with each other afterwards (Saw Tahdoh, Interview, 22/09/2019). As a result, the local

community became well equipped with knowledge and skills while the building of social networks helped them to be strong and united.

CAT took both a supporting role and a frontline negotiator role, and provided technical assistance to the community right from when the negotiation began. An elderly CBO member from Hein Line village explained:

CAT assists us because we do not know how to contact the INGOs that we have to address, and we don't know how to talk to them. I mean in English. We, the villagers, do not know the English language. Therefore, CAT becomes a bridge between the communities and the international organizations (Saw Eh, Interview, 23/09/2019).

UNDP was primarily answerable for implementing the R2R project (GEF, 2018). As a UN institution it is obliged to work with host country governments, and to integrate the globally launched UNDP mandate to strengthen the conservation of biodiversity in protected areas around the world. But they also have obligations to consult and respect the rights of indigenous communities, and the essence of CAT's complaint was that these obligations had not been fulfilled.

Fauna and Flora International (FFI) takes the community mobilisation role, with the help of the Myanmar forestry department, through awareness programs for the establishment of community forests within village boundaries in accordance with government policy. FFI launched a "cash for livestock farming and plantation" development program for households. This was not successful; it was unpopular with villagers who lacked trust in the obscure information provided, and had memories of FFI's involvement in the development program for the Proposed Lenya National Park in 2002 (GEF, 2018). Another problem is that FFI local staff are ex-Tatmadaw. Due to war trauma Karen communities are still afraid of Burmese people from outside their communities, especially ex-military people.

As the de facto government KNU has a specific mandate and responsibility to build diplomatic relationships with the other actors. According to KNU officials, their local representation is the main decision-maker on matters of administration, disputes and outside interventions (Saw Po Ehsu, Interview, 06/06/2019). But in the case of R2R, KNU Brigade #4 seems to be just taking benefits from the negotiation process in the shape of technical and financial assistance for their Forestry Department, not only from civil society but also from R2R related international organizations.

### **Actor relations: enhancing negotiation power**

There are two groups of actors - project supporter groups and project opponent groups. The communities, KNU, CBOs and CSOs, all stand as project opponents. On the other side, FFI, UNDP and the Myanmar government stand as project supporters. Before the communities' involvement the opponent groups all worked separately for the most part, while the project supporters were closely connected through the joint programs of the National Biodiversity Strategy Action Plan and the Tiger Landscaping project.

### **Distributive negotiation: people power versus outside threats**

The Karen communities in Manoro and Lenya-Bokeyyin areas constructed negotiation power by allying with other groups with common values and interests. This carefully constructed alliance produces an integrative negotiation mechanism which brings collective actions to respond to outside threats, whereas a distributive negotiation usually leads to a win-lose outcome, with the communities being the losers.

Anagut Alin meets monthly and there are bi-monthly CBO meetings with Anagut Alin, Alin Thitsa and Khine Myae Thitsa (Tanintharyi township CBO). The meeting venue rotates among member villages. The close connection among the three CBOs produces better responses and strategic reactions, and beyond the R2R case improves village development activities, village welfare activities, social aggregation celebration activities, and so on.

The relationships between CBOs and CSOs can be defined as strategic, to build solid power. The communities approach the CSOs in town to improve their decision-making capacity by becoming better informed, to enhance their power to influence actors from outside not only for the R2R case but also for land disputes between companies and villagers, and between villagers (Saw Eh, Interview, 30/09/2019).



**Figure 3.1** Training and Workshops - CBOs, CSOs and communities  
(Source: Southern Youth Development Organization)

Local communities' first step to building negotiation power is making contact with the CSOs in town to receive training, not just to acquire knowledge but also communication skills, and the interaction and advocacy skills needed to use them. Training or workshops requested by the communities include technical training related to legal awareness, court procedure, land rights, environmental impact assessment process and media advocacy. The communities requested training or workshops to be held in villages where many interested participants can join (Naw Kathu, Interview, 03/10/2019). Problems with CSO training include limited funds and the limited number of attendants. CBO members nominate trainers based on the topic (forest, land, customary, local knowledge, and so on) and language skills, then prioritise by voting among the CBO committee members (Saw Tahdoh, Interview, 22/09/2019). "Every decision is made collectively among the committee members and respected village people." After training, villagers and committee members meet to share their knowledge. If the information and cases are very important or urgent, the committee leader calls all members to meet urgently as soon as the trainee arrives (Naw Phaw, Interview, 08/10/2019).

The communities sought a connection with CSOs to improve their knowledge, expand the network and learn from the outside world. Southern Youth took a supporting role and facilitated links to other resource persons



for training and workshops. Cooperation and support to fill the skills and knowledge gaps among local actors were the key factors to bring the local communities into empowerment. Each training organization takes a different area of expertise, for example, Southern Youth takes the topic of youth empowerment and leadership, Myeik Lawyer Network takes the topic of legal awareness and complaint mechanisms, and Green Network takes the topic of environmental conservation.

In the case of R2R, communities act for themselves, with civil societies taking facilitation and supporting roles (Saw Shweba, Interview, 04/10/2019). CSOs in Tanintharyi are in close contact with each other and partner organizations. The partner organizations take different roles and responsibilities, and act as links between the authorities and the communities. For instance, Dawei township-based organizations take advocacy roles because the regional government and regional level government departments are located there. CBOs alone are not enough: technical support is needed from the CSOs and NGOs from town, in particular ALARM, SY, CAT for legal awareness, land rights, Environmental Impact Assessment process, and so on. A CBO member said, “CSOs and NGOs support us. We mobilize our people on the ground” (Naw Blinka, Interview, 22/09/2019).

The villager also commented on their response to the R2R case, “Villagers are the main performer for every step of issues” (Saw Htoo, Interview, 23/09/2019). The CSO alliance coordinator acknowledged that “communities are the main actor. They express their voice first and then initiate the negotiation process” (Naw Kathu, Interview, 08/10/2019).

The other organizations who possess local knowledge are in Myeik. They take responsibility for organizing and mobilizing the communities, using geographical expertise, information sharing, and awareness training.

### **Collective actions: power in the communities**

“Uniting the people to solve a problem or to reach a goal” (Nesman, 1981, 4). Communities have a close relationship with the KNU sub-township authorities – but they are sometimes in dispute. For instance, the KNU violated forest rules when KFD staff logged a villager’s land, saying they needed the timber for an office building. The villager made a complaint to the KNU sub-township authority through the village head. Consequently, the sub-township decided to give all the timber back to the villager and to ban logging on villagers’ land by local KFD thenceforth.

In the past, the KNU ignored villagers’ complaints, and even threatened



villagers who complained. Now the situation is changed due to the political transition from military rule to democracy, and the ceasefire agreement. The community now has free movement in and out of the territory, and villagers have learnt about their rights from some of the CSOs. That prompts the villagers to be strong and to dare to react against oppression. The village head has now been invited to participate in proceedings as an observer and has had the chance to present updates (Saw Siesie, Interview, 22/09/2019). "KNU human rights policies are good, but people from KNU are bad. They sometimes abuse power and authority" (Saw Marku, Interview, 02/07/2019).

Power is a core issue in community participation since stakeholders exercise different degrees of power to achieve desired outcomes (Ananda 2009; Cornwall & Coelho 2007). Collective actions consolidate to produce a power balance. Value- and identity-based representation draws the group together to respond in unison to the R2R project. Regular meetings among project opponent groups are the main factor in building up the power balance. The CBOs, CSOs and KNU hold meetings every four months with a Question and Answer session which gives the governors and the governed equal rights to ask questions and give answers. An advantage of the ceasefire between the Myanmar government and KNU is that it helps to even up the power balance between communities and KNU authorities. The relationship between KNU, CSOs, CBOs and communities is not smooth due to issues around mining companies and other commercial actors.

Decisions are in the hands of communities, and they are the main actors to respond to outside threats. They decided to join the R2R negotiation process as a non-violent approach. Their objective is for the R2R project implementation to be scrapped on the grounds that it is not right to intervene with an international conservation project in areas occupied by Karen communities where nature is already under sustainable management (Saw Sieblut, Interview, 24/09/2019).

Throughout the process, CAT helped not only in facilitating communication between the communities and UNDP but also in policy advocacy to the regional and union level governments. Accountability Counsel also supports the negotiation mechanisms by providing information and guidance for strategic responses. Hence, the empowered communities and strong community-based organizations become a barrier for outside business and conservation organizations whether local or international (Sa Than Naing, Interview, 03/10/2019).

Significantly, the UNDP's former engagement officer for the project acknowledged the role of local people and civil society in Tanintharyi, "If the

local communities and civil society were not strong enough or kept quiet, the R2R project would have been implemented in that area long ago” (Naw Kwee, Interview, 04/09/2019). The negotiation power constructed by the communities and their allies has many layers of support, with different platforms from different levels leading the momentum of the negotiation process – a significant collective action to create a strong claim for the right to control the land and natural resources (Shalardchai et al., 1993; cited in Anan, 2000).

### **Distributive negotiation; bureaucratic power**

Power derives from positions occupied in various societal institutions and is dynamic and continually negotiated through social interaction (Lukes 1974; Gaventa, 1980; Gaventa & Cornwall, 2006). The international organizations’ ultimate goal in using distributive negotiation is to make the opposition groups step back and allow them to implement the project. Likewise, the project opponent groups use their alliance forming mechanism to build negotiation power with state and non-state actors and the KNU, and Karen NGOs, to oppose. This study sheds light on the nature of powerful actors who use power and authority to pursue their goal, whether it is fair or not.

In this case, there are two international bodies: the United Nations Development Program (UNDP) and the British INGO Fauna and Flora International (FFI), who are the main implementing organizations. Both organizations are working with the Myanmar government with whom they have Memoranda of Understanding (MoU). They have undertaken many small and fragmented protected area projects within the Lenya-Bokepyin and Manoro areas. Under Bokepyin Forestry Department (FD) there are altogether eight proposed protected areas both terrestrial and marine (Manoro Reserved Forest, Taung Nge Mangrove Reserved Forest, Shwe Gile Nyo Mangrove Reserved Forest, Yae Ngan Gyi Mangrove Reserved Forest, Bonkun Public Protected Forest, Karathuri Public Protected Forest, Langang Marine Nature Reserved (82,564 acres) and Htinmae Reserved Forest. Of these, Karathuri and Htinmae Reserved Forest have already been approved at ministry level. FFI is an FD implementing partner for technical, material and financial assistance to the Lenya Proposed National Park, which was upgraded from public protected forest into National Park. The whole East strip of Tanintharyi is in the conservation area. FFI also offers technical assistance for the Langang Proposed Marine Protected Area and is currently engaged in area calculation prior to mapping (U Sein Thein, interview, 26/09/2019).

Due to their limited human and financial resources, and their technical inadequacies for planning and managing all these fragmented projects,

Bokepyin township FD needed to cooperate not only with FFI but also with the White Cord, a Danish NGO, and One Map Myanmar. This was mostly for public awareness training, government staff capacity building, technical support to ground level implementation, taking aerial photos, patrolling, area demarcation and mapping. FFI did most of the terrestrial and marine area measurement, developing the database and then sharing it with the FD for the final protected area mapping. FD supported FFI to contact the villagers for further FFI implementation (U Sein Thein, interview, 26/09/2019). FFI organized some local guides with high daily wages and set camera trapping at some village borders. FFI entered the villages with the help of the Myanmar government's Administration Department and Forestry Department (Saw Sie, Interview, 24/09/2019).

Some villagers in Hein Line, Nan Taung and Lahpoekam accepted FFI project activities, for example the funds for hardwood nursery plants (10 nurseries per household) and livestock breeding (pig, chicken) (50,000MMK per household) as substitution activities for hunting and collecting forest products, which were banned. FFI did not mention the purpose and objectives of the funds and while some accepted others did not due to concerns about the unclear message. One female villager explained:

We villagers accept the right organizations but not the fake organization, for example, FFI provides cash (50,000 MMK) per household and collects signatures, which were used in FFI report as the villagers agreeing to the national park classification. The reason for providing cash is for the vulnerable households of the village to start a plantation in the residential compound (Naw Phaw, Interview, 23/09/2019).

But government forestry officials were appreciative

FFI's activities are really good because they can provide area expertise for every step of the project implementation of protected area demarcation, proposed process and development program, and so on. For instance, FFI provides cash and nursery plants to start and maintain household income, mostly for the project-affected households. The program was conducted even for the "Mokin People" or sea gypsies (locally called "Salon") plus an education program to increase their literacy (U Sein Than, Interview, 26/09/2019).

In 2015, KFD central and FFI were close to signing an MoU for the baseline data collection of endangered species in KNU controlled areas; however, because of communities' and CSOs' negative response it did not happen. The KFD head told FFI to contact the district office in Dawei for project implementation.

Another entity that the international organisations try to ally with is the KNU. KNU headquarters and R2R-related organisations such as UNDP and FFI had never been connected. After release of the complaint letters UNDP tried to hold a meeting with KNU high headquarters officials including the KFD head. This was the start of actor relations between KNU headquarters and the international organisations.

In late 2017, FFI approached the Mergui-Tavoy District (MTD) or KNU Brigade #4 for the implementation of camera trapping in the KNU controlled areas, especially in the Lenya-Bokepyin and Manoro areas. KNU does not directly implement any project within controlled and DAZ areas; thus, WWWS, the Karen NGO working on conservation issues, was brought in for implementation (Saw Yoetha, Interview, 16/10/2019). The KNU high official confirmed "KNU does not like outsiders' implementation where KNU has administrative authority" (Saw Beh, interview, 24/10/2019). The KNU liaison office and District office acknowledged and signed the MoU with FFI and WWWS for tiger landscape projects - not only in the Tanawthari, Lenya-Bokepyin, but also Lehmulah and Kasodoh townships, which are located in Dawei Zone (Saw Yoetha, Interview, 16/10/2019). But KNU district office neither forced the township office and community to accept the implementation nor informed them about the project.

For implementation of the tiger landscaping project, WWWS was brought in to the Manoro and Lenya-Bokepyin area, as a result of FFI's relationship with KNU (Saw Ehklu Dah, interview, 24/10/2019). This happened with passive consent but without broad consultation with the local communities. That led to local dissatisfaction with FFI camera trapping. There were responses not only from the villagers but also from KNU village heads and Lenya-Bokepyin Sub-township officers. Due to war trauma and without transparent information, insecurity led people to destroy the cameras in the jungle. Some respondents comment and express about the FFI camera trapping. "We think that it is a time bomb!" (Naw Phaw, Interview, 23/09/2019). Another said "I think it is tracing tools to us and our activity" (Saw Kalar, Interview, 23/09/2019), or also "I think all of the villagers are under surveillance of someone. It is so ridiculous and even scary. I'm worried about the war coming back" (Naw Blinka, Interview, 22/09/2019).

During the CAT coordination meeting in Dawei, the KNU liaison officer (Dawei) explained to CAT members why FFI's ex-Tatmadaw staff were the reason for poor relations and escalating conflict between FFI and villagers (Fieldnotes, 06/06/2019).

The joint tiger landscaping project is presented to the authority and the community as an inception intervention in the partly-KNU controlled DAZ. This actor relationship between FFI, WWWS and KNU MTD is based on common interests. FFI's approach to KNU is to build a better relationship for the smooth implementation of the R2R project, while KNU receives financial and technical assistance, and the data for their own wildlife conservation. And WWWS can build their image to expand their project coverage.

Otherwise, the mechanism of allying with authority was not successful because of different backgrounds and contexts. The R2R project coverage area is under government control, and DAZ and KNU control. The areas overlap 1.4 hectares of community land, including seventy-three Karen villages, fourteen of which are under KNU control (CAT, 2018). KNU's administration system is decentralized – local communities and local authorities have full power within their territory, whether village or township or district (Brenner, 2018, 85). KNU authorities cannot tell communities what to do.

There has never before been a project involving UNDP, FFI and CAT. There were some loose connections between them including an unsuccessful attempt by UNDP, after release of the complaint letters, to arrange a meeting with CAT (CAT did not respond (CAT, 2019b)).

Field data tells us that CAT and civil society are highly transparent and accountable for what they have done in R2R related cases. Nevertheless, the UNDP and FFI refused to grant my requests for meetings: "There is information about the project on the UNDP website, and she should refer to the same. Thanks" (White, Interview, 01/09/2019).

The Myeik FFI office coordinator referred me to their country director who replied:

"... FFI has not been involved in the implementation of this project and currently has no formal role in it. This is a highly sensitive subject, and the issues raised are not yet resolved ..."  
(Jan, Interview, 18/09/2019).

Both UNDP and FFI, seeking resumption of the project, approached Myanmar government officials directly and indirectly, especially at the FD; CAT alliance members; and KNU high officials– i.e. elite level authorities

rather than the most vulnerable people, whose voices they didn't hear (Pruitt, 1981). I have to say that the approaches of both UNDP and FFI to the CSOs and communities are not genuine because instead of creating common positions towards producing problem resolution they are working to a pre-determined outcome. Each action by the UNDP and FFI is to push the project opponent stakeholders, not only to stop their opposition but also for them to accept the government's policy and actions as legitimate.

### **Re-initiation as negotiation ploy**

While the project opponent groups maintain their strong position of not implementing the R2R project, the project supporter group tries to take a step back from a competitive situation and think of an alternative solution. After the UNDP meeting with the KNU high official, UNDP undertook to redesign the project; however, it was not a serious undertaking (Saw Klel Lay, Interview, 31/10/2019). Also, according to an unofficial conversation between CAT and SECU (UNDP), the UNDP was now thinking of adopting the "Local Community Conserved Territories and Areas (ICCAs)" Approach. Under the current Myanmar Government, laws and policies are controversial in discussing protected area and land grabbing issues. On the other hand, the Myanmar civil society network and Forest Bill Committee are now in the process of discussing the ICCA approach which recognizes indigenous people and their rights (Naw Kathu, Interview, 08/10/2019).

Prima facie, this approach pays attention to local interests, key concerns, and equity, and promotes a local role in management and conservation governance (Borrini-Feyerabend et al., 2004, 27). But Unruh (2018) suggests not to overlook whether community participation is state policy. He concluded that checks and balances in the ability to use the land, social relations to land, and recorded maps are good. The IUCN core values on the protected area give full weight to indigenous people's rights (IUCN, 2000). Land restitution in recognition of indigenous rights is a long process. Most are ongoing in countries such as South Africa and Australia. There is one successful case in Canada, namely, the Gwaii Haanas National Park Reserve. The Haida people and the federal government of Canada spent time for the establishment and management of protected areas with local consultation. It took five years to reach the agreement (Thomlinson & Crouch, 2012). In the Tanintharyi Region the negotiation process will be at a critical stage when the project supporter groups begin to accept the call of Karen civil societies.

## Discussion

Negotiation is about the relationship between response strategy and the construction of negotiation power. In the R2R case, the establishment of allies is the main source of negotiation power.

The concept of negotiation itself is losing ground because there is no specific model to reach a better outcome. Still, it is a step towards searching for common ground, and in general conflict parties use it as the best and most relevant solution to prevent serious conflict. Different scholars propose different approaches: distributive, integrative or mixed, and wise choices can be made from within the range (Odell, 2000; Pruitt, 1981; Raiffa, 1982). Each side has to aim for a single text agreement, passing through the steps of proposing interests, compromising, rejecting unlimited demands, and so forth. The R2R negotiation is still an ongoing interaction of proposing interests etc, as the parties have so far failed to reach the desirable single-text agreement.

Both conflict parties use the distributive negotiation approach to influence each other's proposed perspectives. The project opponents group build negotiation power through local participation and collaboration; the project supporter group tried to pressure the opponents group through alliances with the Myanmar government and local authorities. But the villages are not under Union government administration but in dual administration areas, and the Karen communities in those areas mostly rely on the KNU administration, which is decentralized and customarily administered. The attempt to apply pressure via local authorities does not work in this particular context.

The approach and strategy of community, CBOs and CSOs are to build negotiation power. The configuration of the negotiation group, relationships among negotiators, and relationships between negotiators and the constituents they represent can impact the negotiation process and outcomes. The Myanmar government Forest Bill Committee has introduced the ICCA approach without any specific and supporting policies and laws. Many questions and complaints remain outstanding. It seems the Myanmar government wants to calm down the protests against their demarcation of government-protected areas throughout Myanmar - all, unsurprisingly, in resource-rich regions belonging to ethnic people - Kachin, Chin and Karen especially.

The community commitment embedded in Karen customary land management manifests itself in terms of cultural and social relationships over land and natural resources. The sense of belonging to the local

community is a crucial factor driving the R2R negotiation process. The strategic responses through stakeholder engagement, stakeholders' application of political capital in the contested area, and bringing cultural identity to the process will be presented in the next chapter.



# 4

## STAKEHOLDERS' ACTIONS IN THE RIDGE TO REEF NEGOTIATION PROCESS

Strategic thinking needs to reflect the situational context and the nature of people in a specific space. The actors' relationships play a vital role in maintaining a power balance; however, searching for possible solutions takes time. The current negotiation is heading to the integrative stage from distributive negotiations involving stakeholders of different backgrounds. The stakeholder engagement, the process of building mechanisms to enhance the negotiation power, and the reason for holding the same position throughout the process requires explanation. I will argue that representation-centred negotiations are the key to the negotiation process. The process of stakeholders' engagement can be seen in two parts. First, each stakeholder brings different forms of engagement to the process. Second, the stakeholder engages in the process and configures negotiation power throughout the process. Sometimes, the circumstances of supportive external factors are considered. In particular, political factors such as the Nationwide Ceasefire Agreement and cultural factors such as the Karen customary land management system. With these findings, I try to answer the second research question, "How do the stakeholders engage in the negotiation process of the Ridge to Reef project?"

### **Negotiation actions: different forms of stakeholder engagement**

Engagement means communication or interaction about a specific issue between stakeholders (Burchell & Cook, 2008, 38). Dialogues reflect an organizational approach to overcome communication barriers and lead to a broad understanding of inter-organizational relationships. Greenwood (2007, 315) added: "stakeholder engagement is understood as practices the

organization undertakes to involve stakeholders positively in organizational activities.” This notion highlights involving stakeholders to build mutual responsibility with others, as well as committing to problem-solving (Burchell & Cook, 2008). In the R2R negotiation process, key stakeholders are CBOs (MTAA and AT) and IOs (UNDP and FFI), all of whom bring other supporting stakeholders to the negotiation process. The community made the first response to the KNU district and headquarters offices. Consequently, the KFD sent their complaint letter to UNDP Myanmar. The community and CSO chose to complain directly to the main funding agency (GEF) based on experience of delayed government response and indeed lack of response to some community complaints.



**Figure 4.1** Press Conference - CBOs and CSOs opposed to R2R project  
(Source: Southern Youth Development Organization)

Figure 4.1 shows the press conference launched by community members, AT, MTAA and CAT on 16th July 2018, at Dawei. On the same day, CAT sent the letter of objection to GEF headquarters on behalf of the communities. All the project opponents put out statements through social media, international media and local media.

There was no response from UNDP to the KNU headquarters complaint letter and no meetings with KNU authorities nor with communities. The KNU had no interest in engaging in the negotiation process before the letter of objection to GEF headquarters. The only reaction by a government

agency, the Forestry Department of Tanintharyi Region, occurred on 18th July 2018. It called for local people to participate in the R2R project and maintained that the project would not harm local people but would help local wellbeing and economic prosperity. Subsequently, UNDP's responses escalated the grievances and lessened their negotiation power in the R2R negotiation process.

On the one hand, UNDP showed that it took local concerns seriously. They did internal evaluations after receiving the KNU complaint letter on behalf of the communities, and in September 2018 hired as "Engagement Officer" an influential person with close connections with KNU and CSOs (CAT, 2019b).

But at the same time UNDP reacted with a top-down approach focused on how to dismiss the temporary suspension of the project. UNDP's e-mail conversations (UNDP/FFI/CAT), written forms of statement and responses show their approach. In November 2018 UNDP directly urged CAT members to withdraw their complaint letter, and in December they wrote to SECU setting out options for investigation designed to steer them towards resuming project implementation. In June 2019, after confirming the date of an investigation visit by SECU, UNDP responded to issues raised by KNU and CAT, making it clear that they did not want to suspend project implementation.

Unlike UNDP, the civil society groups preferred to suspend negotiations until SECU's compliance investigation was complete (Naw Kathu, Interview, 11/10/2019). The UNDP assumptions, reactions and actions show very little concern for community voices and community reactions.

The CBOs and CSOs collectively believed that a bigger group could make a louder noise and be more effective. Therefore, the MTAA and AT were established with multi-villages instead of individual villages. This was a significant point for the CBOs in Manoro, Lenya-Bokepyin and Tanintharyi. Also, CAT is an alliance of Tanintharyi Karen CSOs, established with seven CSOs from Dawei and Myeik. Thompson et al. (1996, 75) found that using a negotiating team increases the probability of reaching integrative agreements because teams exchange information and assess more accurately the other party's interests.

For the communities another reason for firm collective action in engaging in the R2R negotiation is to fight the regime that they have all suffered under for so many decades. Allies are known to be trustworthy based on their ethnic identity and the same values they bring to nature and resources. Social group facilitation emerges from good networking, rich social capital and commitment to the public good (Putnam et al., 1992). The strategic

engagement of local CBOs and CSOs in the R2R negotiation process enhances their negotiation power and brings powerful claims and legitimate actors to the negotiation. If the project's opponents had engaged in the negotiation process individually, their interventions might have been overlooked or even regarded as illegitimate. Their commitment and their common ethnic identity showed a sense of belonging to the communities:

The project would affect not only Chaung Sone village but the entire area of Lenya-Bokepyin where the indigenous Karen dwell (Saw Marbu, Interview, 24/09/2019).

There is no land, no life and no Karen people because missing collective celebration leads to dying identity and dying ethnic (Saw Siesie, Interview, 30/06/2019).

When land issues are encountered in our Karen communities, the communities faced inequalities, threats to property, knowledge and customary practices. Therefore, everyone is responsible for maintaining properties and culture. Unity, understanding and trust will send us to our expected destination (Saw Nunu, Interview, 29/09/2019).

The collective reactions by local communities are based on their past experience of political, economic and conservation regimes. Ever since the 2012 bilateral ceasefire agreement, plantation companies, mining companies and international environmental organizations have entered the Lenya-Bokepyin area, with permission from the Myanmar government under the Vacant Fallow Virgin Land policy. The community encountered modernity and outsiders, and government policies which did not protect them; they became alienated and there was erosion of traditional practices. The communities felt injured because newcomers (from urban areas) accepted or agreed with government policies and benefitted from company and government projects.

Some of the local people were lured into company employment. The companies' encroachment led to the diminution of arable land in the surrounding areas. Local people complained about the companies' encroachment, but there was no response. The communities realized that the individual and even the village was ineffective. Manoro village representatives started to organize surrounding villages in response to the company invasion. They changed their approach to decision-makers such as the regional level Karen Ethnic Affairs Minister and Regional Prime Minister (Naw Dah Prit, Interview, 13/09/2019). They decided to respond collectively.

The close relations and shared responsibilities among the project opponents are the main sources of opposition to the R2R project. The CSOs mediate between state actors and community actors, and between communities and international actors. Some Dawei based CSOs have experience with lobbying the regional government and the forestry department in Dawei. These organizations take an advocacy role. Some Myiek-based CSOs are knowledgeable about the local context, and so take responsibility for organizing and mobilizing the communities through an information sharing and awareness training campaign (Sa Than Naing, Interview, 03/10/2019). Not only CSOs agreed with this but also UNDP ex-staff (Naw Kathu, Interview 08/10/2019; Naw Kwee, Interview, 04/09/2019). All of them confirm the power of collaboration and shared responsibilities and appreciate the ability and active participation of communities in the negotiation process. That means that the negotiation process is active, and they agree to lobby for the advocacy approach rather than mere protest.

The community brought the KNU to the negotiation process by sending their complaint letter, which explained the ground situation. As soon as the KNU received complaints from the CSOs, KNU headquarters suggested confirming the ground situation and local perceptions on R2R from within the KNU bureaucracy. After receiving enough information, KNU proceeded to process the complaint to UNDP and the CSOs and district KNU. The project opponents are not always engaged with each other, and there are even some clashes. For example, the KNU accepts the development of industrial zones and dam construction in the Tanintharyi River. The CSOs and community complained to the KNU, but there was no response, “there is no response from KNU even though the villagers informed them as to their disagreement especially as regards proceeding with dam construction” (KHRG, 2017, 4). However, KNU supports the local decision and standpoint against the R2R project, and subscribes to the same value of controlling ancestral territories under local rules and practices. Only in the R2R case do the local communities’ desires and interests coincide with those of the KNU.

The collective actions among community, CBOs, CSOs and KNU produced a power balance in the negotiation process of the R2R project. Enhancing negotiation power by establishing allies narrowed the power gap between communities and KNU. The situation is, hence, driven more by democratic values, and less by a patron-client relationship between KNU authorities and community members. It has now reached a balance of power, incidentally allowing complaints about KNU rule violations and corruption.

The UNDP brought KNU to the negotiation process. It set up a meeting with KNU headquarters officials, where it reported that UNDP was seriously considering the KFD complaint letter with the idea of solving the problem by a re-design of the project. In the new design, the KNU controlled area might be taken out of the project targeted area. To get official attention, the UNDP spokesperson, Mr. Peter Batchelor, said (Chau, 2018) that, “The UNDP has recently reached out to KNU senior officials for a meeting to clarify their concerns, some of which in our view are outside the remit of the project. Then, it is fully committed and ready to engage with all key stakeholders in Tanintharyi” - a very unclear and one-sided statement after the meeting.

Finally, the communities and the Karen civil societies contacted UNDP's Social and Environmental Compliance Unit (SECU). This so-called third-party entity came on the scene on 2nd April 2019. The letter outlining the Terms of Reference articulated the scope of work and the anticipated timeline of its actions. Consequently, CAT asked SECU to represent the series of events as mentioned in the complaint letter and to expand the scope of work, without omitting the actors and institutions that CAT felt had to be party to the investigation (CAT, 2019). The response letter from CAT is very specific and goes to the root cause. The CAT coordinator mentioned that these reactions had the technical support of Accountability Counsel (Naw Kathu, Interview, 11/10/2019). Accountability Counsel provided information and advice for a strategic approach.

There are altogether six forms of engagement in the R2R negotiation process: written statements and email exchanges; community mobilization activity; workshops, training and meetings. All forms of engagement reflect the interaction, encouragement and inclusivity of the communities (Jeffery, 2009, 14). This interaction process addresses the communication barriers and improves understanding through establishing relationships (Burchell & Cook, 2008, 38).

Following Baird & Billon (2012), political capital is one of the main factors to take into account in the context of a post-conflict country. The NCA has become a tool for negotiation in R2R ever since the negotiation process began. According to the CAT complaint letter on behalf of potentially affected communities, CAT called to both government and R2R to take committed action on article 25 and the interim arrangements, to reduce the potential risk of conflict resurgence. This was the first time actors mentioned following the NCA, which is the most important document at Union level between Myanmar government, Tatmadaw and ethnic armed groups.

All the stakeholders must take account of the NCA. The representative of Myeik Lawyer Network, and the UNDP ex-engagement officer, accused the government of violating the NCA in the case of the R2R project.

It can be shown that government violates the NCA because, according to NCA, any implementation in DAZ has to have prior informed consultation with each administration officially. However, the government did not pay attention to this. This is the only legitimate document to point out government violation (Sa Than Naing, Interview, 03/10/2019).

The UNDP ex-staffer agreed:

The project implementation violates UNDRIP as there was no free, prior and informed consent from the community before implementation. INGOs failed to consider the Nationwide Ceasefire Agreement (NCA) and point number thirty-seven or the last point of Pyidaungsu Accord Part-1; to get a consultation with the authorities before the project intervention. Also, these are the reasons for KNU comments to re-think and re-design the project (Naw Kwee, Interview, 04/09/2019).

The FD's prior information is only for the classification of Bonkun Reserved Forest that is located under the KNU Tanawthari Kawhser controlled areas (KNU township administration). The government forestry officer said:

Pay attention to NCA: we Bokepyin Forestry Department must inform if we have an activity to conduct in DAZ or KNU controlled area. We did inform the district level authority and liaison officer, but it is useless in the sub-township level. That was said by KNU Lenya-Bokepyin Sub-township secretary P'doh Naw Sae (U Sein Than, Interview, 26/09/2019).

Moreover, there was a conflict between KNU and Bokepyin Forestry Department. KNU destroyed the FD's hardwood plantation site and the signboard inside Bonkun Reserved Forest even though FD had given prior information to KNU authorities. FD had stopped the project. The forestry officer said, "Actually, FD can sue them under the existing forest law, but FD stepped back because we need to avoid that kind of unnecessary conflict during the peace process. FD has to respect NCA anyway". This point links to the representation of FD in the case of R2R. The FD as a government department has to stand for government policy rather than the local



communities. A Burmese villager in Lahpoe Kam village has high expectations of the NCA. He said “the situation is better and better after the ceasefire agreement between KNU and the military. They are now talking at the table and not fighting each other” (U Chitho, 27/09/2019).

At the local level, an elder of Hein Line village mentioned that, “due to signing NCA with government, the KNU takes just a backup role. They are committed to supporting the villager’s preferences” (Saw Eh, Interview, 30/09/2019).

Another female villager mentioned a similar point:

If the R2R project forcibly intervenes, we villagers will fight back. Even if we make war again. We just respect the agreement between our leaders (KNU) and government, that’s it (Naw Khu Khu, Interview, 20/10/2019).

The CBO representative of Lenya-Bokepyin area commented on the INGOs and the government, suggesting that the Myanmar government’s conflicting positions vis-à-vis the NCA and R2R creates a ridiculous situation:

The R2R project intervened in our areas with permission of the Myanmar government. Myanmar government is one of the partnership members to implement the project. That became a question, why does the government do that? Government action is inconsistent as talking peace on the one hand and trying to stimulate war on the other. This is so ridiculous. Because of that, we villagers worry about the war returning due to this R2R project in the KNU control area (Naw Blinka, Interview, 23/10/2019).

Each actor has a different attitude about the NCA and Myanmar Peace Process; but it is significant that the actors are at one in paying respect to the NCA. A USAID ‘tool kit’ on conflict and land issues stated that “competition over access to land is often, at its core, about power, both socio-economic and political” (USAID, 2005, 6). This shows the importance and benefits of political capital to land conflict and power relations, especially in the context of the relationship with indigenous communities and ethnically related cultural conceptions of landscapes in conflict-affected communities.



## Representations and negotiation power

Representation is crucial to the R2R negotiation process. This section discusses how each actor represents whom and to which related phenomenon during the negotiation process. Specifically, the project supporter group has a related institutional interest and a positional interest. The opponent groups value keeping nature and natural resources under local rules and practice. The representations of communities and civil societies are factual rather than descriptive, underlying a sense of belonging to shared ethnic identity, shared resources, shared cultural value and shared background of the conflict.

According to Kuroiwa & Verkuyten (2008, 402), the group unity of the Karen ethnic in terms of shared narrative about family and blood ties is the key to mobilizing people with different backgrounds. Baird (2016) argued that representation, power and hierarchical approaches are common when stakeholders try to influence each other. The representation and actions of stakeholders are critical to the outcome of the negotiation. The negotiation process hinges on the success of the less powerful group, i.e. the project opponents, in constructing negotiation power. The community representation of the negotiation process is different from person to person but united by a sense of belonging to the community. The relationship between conflict-affected scenarios and solidarity for hardship endurance among community members is a significant finding in this study. That makes their representation more meaningful and consolidated to reach towards the power balance in the negotiation process. In the specific context of a conflict-affected community, it is usual for historical memories of war, past struggles and loyalties to be instruments for community mobilization (Baird & Billon, 2012, 298). As the villagers from Lahpoe Kam and Manoro mentioned:

The people from SY and the KNU we flee together, struggle and endure the hardship together, resettle together. There is no question about their representativeness because they all are local like us (from our community), so they help to protect us from not only war refugees but also from conservation refugees. On the other hand, we can interpret indigenous wisdom as “Sticky Rice” – you can see it as the main constituent of Karen ritual ceremony and “each rice grain sticks together” so, ancestors taught us to stick together for unity (Saw Marku, Interview, 27/09/2019).

The Manoro villager expressed as:

Villagers, SY and KNU are the same identities, same value each has reciprocal relationship during the wartime, so I trust them and their actions that represent to the local people absolutely (Naw Hsipoe, Interview, 30/06/2019).

One respondent shows their representation to the R2R negotiation as, “I represent to Karen people because we are forest-dependent people, if there is no forest, there is no Karen anymore” (Saw Klar, Interview, 22/09/2019).

In a broader sense a CBO representative of Lenya-Bokepyin mentioned as follows:

Although my concern is for the Karen people, consciously how can we say we are fighting for our people. It is because R2R will affect not only the Karen people but also other people in Tanintharyi region (Saw Haysoh, Interview, 24/09/2019).

During the informant interview, the head of KFD (headquarters) mentioned:

KNU principle is “the original owner of the land is people” and fully recognizes and practices the definition of indigenous people and their rights to use and own. Therefore, KNU accepts outside interventions when the community agrees to implement the interventions. KNU respect and represent the decisions of each district and local people (Saw Ehklu Htoo, Interview, 24/10/2019).

CSOs are very committed to representation of the community, even though they are under threat and in a risky situation. The CAT coordinator expressed her perspective as:

CAT represents the Karen community in Tanawthari, and it was established with the guidance of the mother organization KNU Mergui-Tavoy District (Naw Kathu, Interview, 04/10/2019).

For example, CSO staff working in KNU areas feel insecure due to being under surveillance by the military information sector and the police (Special Branch) who observe and trace every trip to DAZ. Government behaviour and attitudes affirm this situation. Their General Administration Department used to accuse the CSOs of working illegally as non-registered organizations. The CSOs are registered yet the government, and related government

departments, accuse them of being illegal. Under the Registration of Organization Law (2014) article number 7, registration is anyway voluntary. Even though the KNU are not covered by article 17/1, KNU and its co-workers are on the watch list of the military sector (the military sector is still powerful in Myanmar politics). Normal representation or commitment really does need a deep commitment and sense of belonging to the community. The power configuration of the project's supporters can be seen at the same time. INGOs on the other hand seem to value project goals, and the protection of personal employment and job positions. According to the GEF proposal document, the R2R project will directly support the state implementation of the Myanmar National Biodiversity Strategy and Action Plan (GEF, 2018, 13). INGOs seem to share the Government's concern to follow National Forest Planning to get economic growth through permitted projects, followed by international funding and foreign investment. The perspectives of the UNDP ex-engagement officer also support that:

The interest of the funding agency GEF (World Bank support) is an initial project intervention for the later mega-development projects, to get to know the local situation and context. Similarly, the interests of Myanmar Government are both in funding and attracting further World Bank-supported mega development projects in Myanmar (Naw Kwee, Interview, 04/09/2019).

International funding comes back essentially to the World Bank. The expectation is of increasing economic growth by injecting capital into conservation as an initial stage for the IO side. For the government side, it kills two birds with one stone. It completes national planning (with the obligatory commitment to the United Nations Convention on Biological Diversity) and attracts foreign direct investment for economic growth (MoECAf, 2014, i). As a government official makes clear, the government representation is to implement their policy:

For the conservation and protected areas, Ministry of Environmental Conservation and Forestry has ten years under National Planning to increase permanent protected forest, reserved and public, up to 30% and protected areas to 10% of total country land cover. For me, I'm a civil servant and appointed by the government ministry. So I have to stand by the law, department policies and procedures. You can compare and analyse the data of both sides (U Sein Than, Interview, 26/09/2019).

According to CAT's comments on UNDP's terms of reference for the SECU investigation, and the comments of the UNDP ex-engagement officer, the interest of international organizations such as UNDP and FFI is only funding and getting the job done. They develop the proposal, receive funding and implement. They do not care about the local community or the political situation in Myanmar. Specifically, for the concerns of local communities, UNDP and FFI never showed up for official consultations about inception and difficulties of R2R project implementation. During this field trip, the young women from Hein Line village invited them: "Please, come and see what's happening on the ground, don't see us from above" (Naw Byuu, Interview, 24/09/2019).

The UNDP ex-staffer appreciated the actions by Karen communities, CBOs and CSOs as:

Implementing organizations UNDP and FFI are very weak in knowledge about the Karen local context. They just approached the elite level authorities as a problem solution. This is a weakness. The UNDP should approach the communities and civil society groups, because communities' desires and voices are more important than the KNU authority in the area (Naw Kwee, Interview, 04/09/2019).

Generally, institutional commitment is relatively weaker than the in-group social relation to community and ethnic identity. The IO's engagement to the R2R negotiation process is based on different interests - to benefit from the project, from the relationship with government and for economic benefits. In economic terms, "There is no free lunch." The different purposes and nature of representation by each actor show the process of constructing negotiation power: for government representatives to nourish the national interest; for international organizations to protect personal employment and position and in some cases to pursue economic interests; for the communities the wellbeing of the community and the maintenance of the ancestral territory not only for the current generation but also for the next. In short, the common value of the communities competes with the other negotiation parties' institutional and personal interests. The project opponents can only push the negotiation process forward with their sense of belonging to the communities and the territory.

## **Actions of Karen communities in the negotiation process**

The indigenous people, landscape and environment, are interconnected so that it is impossible to separate them (McMillan, 1988, 103). The passing down of traditional knowledge by ancestral and oral tradition indicates the relationship among the various factors of nature, people, land and environment. These are the accumulated forms of knowledge and understanding generation by generation (Howitt 2001; De Lacy 1994, 89). Regarding the specific context of Karen communities in the Lenya-Bokepyin and Manoro area, the Karen cultural land management system was brought to the R2R negotiation process. The wise use of cultural identity as an engagement factor underpins the construction of negotiation power. In other words, the Karen communities and the KNU are the de facto government, representing cultural identity and claiming legitimacy for their land claims.

Karen Traditional Practice of Land Management or “Kaw”: Kaw means a place or territory that belongs to the people who are living in a mountain or a valley or on an island. Within this territory, there are natural resources - water, land and forest – all communally owned and managed. Different places have different uses under the locally agreed or acknowledged rules, in which different types of forest are used for different purposes. The people have one Shaman who takes responsibility for village administration, leading and decision-making roles, ritual ceremonies, disputes procedure and health problems (Naw Khu, Interview, 16/10/2019). Some villages have a defence group to protect the people and natural resources from outside threats, made up of villagers (one person per household of either gender). The group is also responsible for village administration. Sometimes, the female leaders are more disciplined and stricter than the males. Leadership roles in the group are taken on a rotational basis. In a Shaman administered village, only the Shaman’s generation have a chance to be community leaders. Each community has a specific Shaman and defender group. Villagers have to obey the decisions of the responsible person, whether the Shaman or the defence/administration group. These practices date back a hundred years or so. In the Upper Lenya area only Karen communities in the jungle or remote areas still practice the Kaw system (Saw Eh, Interview, 24/09/2019).

It is now rare to see ritual practices and defence groups, largely due to the war and Christianity (Gray, 2019, 16). When modernity encounters a large population, resources dwindle. Consequently, local practices and customs change. In the past, the main crop was rice and shifting cultivation, collective or individual, was the practice. But now shifting cultivation areas become orchards as permanent plantations; reciprocal working practice becomes

daily working wages. Water sources become threatened, as the government permits more plantations in the villages. Villagers plan to maintain and conserve the forest by themselves. Since ancestral times each village has had an “untouchable forest/watershed forest” to conserve water. The forest would have a fish sanctuary. This shows that villagers can conserve nature under self-management and collective action. Natural resources in good condition due to conservation are the heritage for the next generation (Naw Kedoh, Interview, 23/09/2019).

Although current practices are not the same as a hundred years ago, their core meaning and value have remained unchanged. For example, forest and water resources remain under collective management with specific local rules. Each community has an administration team responsible for protection and village development. Locally agreed dispute procedures are still functioning. Some local practices might disappear, but some are still practiced within Karen communities. The systems need to be promoted, and some need to regenerate. The CAT coordinator expressed her perspective as:

CAT represents the Karen communities in line with the institutional objective of maintaining and conserving the customary ancestral territories (Naw Kathu, Interview, 11/10/2019).

One Chaung Sone villager explained his reactions as:

The main reason I resist the R2R project is that I would like to keep the historical heritage of our ancestors in line with protecting our territory, people, culture and tradition (Saw Olando, Interview, 24/09/2019).

Likewise, KNU represents the Karen communities, Karen territory “Kaw” and the current political status in the country’s peace process. Within “Kaw” – the spatial ideology of KNU and Karen communities - collective protection, collective management and conservation practices are part of daily life. Some communities monitor logging and patrol the forest in their territory.

Linguistic usage in both the Karen communities and the KNU emphasises the idea of territory. The term “Kaw” is incorporated in Karen usage and place names. A district in Karen is called “Kawrae,” a word which clearly incorporates “Kaw.” Similarly, a township in Karen is called “Kawserh,” and a sub-township is called “Haw Kawau.” The KNU name for territory is “Kaw,” whatever the size. For the entire Karen community, “Kaw” means “Territory” (Fieldnotes, 30/09/2019).

According to the KFD (Headquarters) head, working with KESAN since 2000, there has been no problem with cooperation and coordination between KNU and KESAN, because both parties have the same ethnic identity, same value and same culture.

Salween Peace Park was inaugurated on 18th December 2018 (Saw Beh, Interview, 24/10/2019) with three objectives: Peace and self-determination, environmental integrity, and cultural survival. SPP is rooted in Karen customary management systems, social and environmental justice, and deliberative democracy. The SPP occupies 5,485 square kilometres of the Salween River Basin, which includes more than 340 villages, 139 demarcated “Kaw”, 27 community forests, four forest reserves, and three wildlife sanctuaries. Padoh Ten Der (Chairman of Mutraw district) stated, “this is the land of Mutraw indigenous Karen people. To preserve and protect our existing ancestral land, environment and culture, we established the Salween Peace Park initiative” (KESAN, 2019; Mongabay, 2019). The essence of SSP is control of the space and activities by the indigenous Karen communities with an obligation to defend and secure – especially to claim a particular kind of sovereignty – against invasion by outsiders (Cowen and Gilbert, 2008).

The representations of communities, civil societies and the KNU are substantial rather than descriptive, underlying a sense of belonging to the community, shared ethnic identity, shared resources, shared cultural values and a shared background of conflict. The negotiation process is relatively successful in constructing negotiation power for the project opponent groups. In a specific context, the communities’ values and interests shape their representation to engage in the R2R project negotiation process. Representation or commitment does not make sense unless there is a deep commitment and sense of belonging to the community.

## Discussion

Each stakeholder brought in other actors in a different form of engagement to the negotiation process. The project supporter group cannot influence project opponent groups because the power configuration of Karen communities and their actions are firm and strategic. The local communities represent not just one village, but whole communities who would suffer the tragedy of R2R. The international organizations represent their institutional mandates, the State’s demands, keeping the promise of the contract with the government, statutory law and government policies. In the context of Myanmar, current statutory law and policies are still controversial because

they do not reflect local needs but fulfil those of an elite group, including the State and its tycoon friends (LIOH, 2015; Wood, 2011).

The communities' and the CSOs' rejection of the international proposals represents not just one group but a broad alliance of project opponents. The connection among these groups is still strong and without internal conflicts, despite project supporters' attempts at sowing discord. The opponent groups, although motivated by their particular interests, avoided internal conflicts through adopting strategies of cooperation, collaboration and collective work.

The end goal of intergroup negotiations reflects the individual and institutional interests of negotiators, which are divergent; how they impact negotiations is critical in comprehending the process and outcomes. Internal conflicts among allied actors delay the process and are barriers to achieving the desired outcomes. Collective representations are called 'collective' because a collective entity has decided their meaning and importance. No one person can determine the meaning of these symbols, ideas, values, or ideologies; a large group of people has established their purpose over time.

The common value of the project opponent group is "land is identity and legacy," i.e. they have an obligation to maintain the land and keep it for the next generation. At the collective level, identification with in-groups can evoke collective behaviour even in the absence of interpersonal communication among group members. Individuals develop a cooperative orientation toward shared problems. The project opponent actors can push the negotiation process forward due to the weight of collective representation of communities and territories. Each actor constructs power with collective actions and allegiances among the same value groups and same interest groups. In the R2R case there is no internal conflict among the allied actors, even though they represent different institutions and specific organizational interests, and engage in the R2R negotiation process from different positions. Substantial collaboration is the result of cooperation among the actors who have a common goal, share the same values and responsibilities and are united by the common purpose of resisting outside threats. The project opponent groups united to overcome some of the dilemmas and shortcomings of collective action during the negotiation process.

The wise use of engagement mechanisms such as representation, cultural capital and political capital leads the R2R negotiation process peacefully. It is a powerful example of participants' willingness to restrict individual gain while preserving collective well-being (Caporael et al., 1989; Kramer & Brewer, 1984).



The R2R negotiation process can be defined as: “stakeholder engagement in the negotiation process through representation” (Baird 2016). Significantly in the R2R case, the representation of cultural identity - the “Kaw” - and the sense of belonging to the locations and community. The third-party (SECU) engagement in the process as a form of independent mediation has so far underpinned the positive impact. The role of the third party and its engagement is vital to calm the conflicting parties. In the R2R negotiation, the impact of SECU engagement has so far been relatively good; it has calmed the talks by listening to local voices and thus preventing severe conflict in communities.

The picture of committed and collective representation is not only effective for the negotiation process of R2R but also, in the broader context, contributed to the Union level peace process. Political capital was used by all of the stakeholders, including the key and supporting stakeholders. To prevent the outbreak of unnecessary conflict, it was initiated by grassroots laypersons and local authorities. In the Union Peace Conference, the principles and policies of ethnic communities are discussed through political dialogues among the ruling parties, military and NCA signatory ethnic armed organisations. This includes the engagement of KNU and “Kaw”.

So, the successful case story of R2R could be a negotiation tool for union level political dialogue, not just for the Karen community but for all the ethnic minorities in Myanmar in the expectation of a future Myanmar Federal Democratic Union.

The relations, interactions and engagement in the process look more strategically managed than planned. Setting goals that are supported by public commitment led the process to the current situation of applying the integrative approach to the R2R negotiation process (Freeman and McVea, 1995, 11). Conflict-affected communities suspect outsiders who try to engage with them, even though they have the recommendation of the township or district department. It takes time for community organizations to build trust with outsiders. WWWS cannot build trust, and faced unsuccessful project implementation in the Lenya area even though it is a Karen NGO and shares the same identity and language and is even recommended by the KNU district office. Trust is the foundation of integrative negotiation (Savolainen and Lopez-Fresno 2018, 20). As negotiations are interdependent, trust or distrust may exist, as in any interdependent relationship. Mistrust may develop in negotiations, which is harmful for the outcomes (Gunia et al., 2014; Lewicki & Polin, 2013). If both conflict parties try to establish an integrative agreement, building trust plays a vital role.

The actions of both parties, including supporting stakeholders, indicate that land legitimization happens in the name of regulations, institutional authority, cultural capital and political capital. Land legitimization resists not only neo-colonialism by international organizations but also combats the state territorialization of periphery areas. For Sack (1986, 19), territoriality is a kind of classification which regulates specific resources, and eliminates individual or collective rights with rigid rules. On the other hand, state actions of territorialization under conservation regimes are part of a continual process of green territoriality by state and international entities (Wood, 2019, 4). Vandergees & Peluso (1995, 399-400) agree that the state exercises power to control people and resources by denying peoples' rights to access land and forest.

In the next chapter, I will present information about Karen customary practices, land management and responses by Karen actors as legitimizing actions.

# 5

## KAREN CUSTOMARY LAND AND LEGITIMIZATION

In this chapter, I present the negotiation mechanisms used by the Karen communities to establish legitimacy over their ancestral territory. Karen communities use Karen customary practices in their daily life; their practices, village names, and usage show their social relationships to nature, which is full of conservation elements. I will discuss what the mechanisms are and how they operate on the ground. I will argue for active public consent for legitimacy rooted in community, as against hegemonic power. The locally originated public active consent has the same power as the hegemonic consent exercised by the state. The “Kaw” is not just a Karen customary tenure; it is a Karen cultural identity with the meanings of self-determination and harmonic interaction between man and nature. It is evidence of the communities’ deep relationship with the land and natural resources. Public consent can bring changes in the political arena when local power is strong.

### **Karen land management practices**

The villages covered by the research belong to Bokepyin Township, which is under Government administration, while Lenya-Bokepyin sub-township is under KNU administration. The whole area is mountainous. The Manoro area is closer to the highway, while the Lenya-Bokepyin area is far to the east and adjacent to the Lenya River. The whole area is KNU occupied and not registered to the Ministry of Home Affairs. Even the government departments and its officers admit and acknowledge that the areas are under KNU control (Fieldnotes, 26/09/2019).

The oldest villages date from around three hundred years ago. There is no specific meaning for the Lenya-Bokepyin area, but Manoro is the name of the creek that the surrounding villages rely on for water. The meaning is a place of encampment in Thai – Thai people were among the pre-modern inhabitants. The area is halfway to the mining and logging areas to the northeast.

The main livelihood patterns are shifting cultivation and permanent orchard. The main income is from seasonal vegetables and fruit. Hunting, fishing and harvesting non-timber products are practiced for household consumption. The significant change in these areas recently is an increase in permanent orchard, and a decrease in shifting cultivation. The reduction in the amount of arable land could lead local people to be greedy and disputatious, but in fact there is no dispute so far due to the locally practiced zoning system and customary rules, personal respect and respect for the local rules (Fieldnotes, 30/09/2019).

The objective knowledge accumulation of a group is their cultural identity, which is socially constructed by specific communities or societies within a cultural framework (Castells, 1997, 7). The “Kaw” – Karen customary land management system – is embodied in the people’s daily life and practices. It is in the practice of communal stewardship where the relationships between nature and social structure occur (KESAN, 2018). Karen communities in the Lenya-Bokepyin and Manoro areas are the conservation experts in terms of local knowledge and traditional beliefs. Nature and Karen communities are connected based on lifestyle, daily practices, terminology, vocabulary, usage and place names. Most of the villages define their boundaries with natural landmarks such as streams, creeks and mountains, areas restricted for personal use because they are the routes for spirits to cross from one place to another. These beliefs and practices are well known and practiced in daily life.

The traditional belief in spirits and customary practices is the key to the Karen’s natural protection. They respect not only the forest but also the animals. The locals believe that animals, forests and people have a deep connection, even in language. Daily meal preparation is strict. Ancestors prohibited consumption of land and water species together, which means chicken curry and fish curry cannot be eaten at the same meal. Conservation practices are seen in the collective harvesting ceremony, called “Aww-Buu-Thaw” in Karen. In this ceremony, meal preparation prohibits consuming animals responsible for destroying the paddy, such as squirrel, wild boar, paddy mice, and so on (Interviews with Saw Tahdoh, 22/09/2019 and Naw Kathu, 08/10/2019). Local conservation practices function due to mutual respect, understanding and commitment originating in the deep connection

between humans and nature. Locally agreed rules aim at the conservation of nature and sustainable extraction of resources, including sustainable ways to care for and maintain soil and water quality. Community members prohibit using modern machines and chemicals for both fishing and agriculture. Only locally made fishing nets, fishery materials, and cultivation tools are allowed. In agriculture the use of chemical fertilizers and pesticides is prohibited.

Local people believe that forests and people are connected. They try to keep a relationship with the forest by making offerings to the forest spirits. Spirit-related events happen mostly in the forest. Villagers believe the spirits can do both good and bad things to them. The traditional belief is that there are spirits in the big trees, streams and creeks. For example, huge twin timber trees, locally called “Thingan-Nyi-Naung” (scientific name *Hopea Odorata*) were cut down by the mining company. A year later, the other hardwood twinned-timber species – locally called “Pyinma-Nyi-Naung” (scientific name *Lagerstroemia Speciosa*) grew in the same place. This very strange phenomenon is well-known to everyone in the Manoro area (Saw Htoo, Interview, 20/09/2019). Townspeople do not have these kinds of traditional beliefs. However, the rural people who rely on the forest still believe in spirits and regular ritual practices (Yos, 2010, 116). A Buddhist-Burmese villager commented on the Karen ritual practices:

Personally, I do not believe in *nat* (spirit). However, it is strange when I see that the wrong matter happens to the villagers who believe in “Nat.” I’m awkward at that time (U Chitho, Interview, 24/09/2019).



**Figure 5.1** Symbol of asking the spirit’s permission for Shifting Cultivation  
(Source: Southern Youth Development Organization)

Figure 5.1 is a symbol of the relationship between villagers and spirits. . Locals believe that the spirits protect them from danger, and give blessings for livelihood and good harvests. Most respondents mentioned that shifting cultivation starts with a request for permission from the spirits. The symbol of cutting half of a four feet tall tree lets the spirits in the area know that the villagers are asking permission to begin cultivation (Saw Kleedel, Interview, 20/09/2019).

Villagers call the spirits to their dreams and believe that the spirits allow them to dream of good things. If they dream of bad things, the villagers move to other areas and begin again. If there was no dream, they start land clearance. If a household member gets sick for no reason, or the farming tools break, or the grass comes up during the three days of land clearance (unusual in summertime), the villagers immediately stop land clearance. Dreams about bad things, or bad things happening, signal that it is not a propitious place for cultivation. In the absence of a bad omen, the villagers finish clearing the land and call for all of the land's inhabitants and spirits to leave before starting the burning. To announce to all the animals, insects, and reptiles that the place will be burning soon, the villagers use the back of a knife to pound the fallen trees, asking all to vacate the area (Saw Orlando, Interview 24/09/2019).

The villagers believe that if they do bad things near trees, creeks or streams, they will incur bad luck for a long time. Unhealthy family members, damaged cultivation or family members in danger are all symbols of wrong things. For making a mistake towards a spirit, the family member needs to apologize to the spirits in the forest with three bottles of alcohol, dessert, rice, sticky rice and candle (observation of village elder at meeting: 01/06/2019). This kind of belief passes down from generation to generation as legend.

Before sowing, the villagers call "Grandma Rice Angel," known in Karen as "Phi Buu Yaw." On a rectangular bamboo dais, they place 7 grains of rice and yellow and red coloured flowers as an offering to the angel, asking for good crops. The dais marks the place to start both sowing and harvesting. On the last day of harvest, farmers build a granary. It must be built in half a day and finished before noon. Then, they call the paddy spirit – the Phi Buu Yaw - by hanging a bunch of paddy ears, a sickle, and yellow and red flowers from the roof of the granary. This event is called in Karen "Buu Kalar." These beliefs come from an ancestral story known as the "Phi Buu Yaw Story" (Naw Phaw, Interview, 24/09/2019). This symbol is seen at Karen New Year celebrations whether in town or village or even away from Karen lands. The following story was told by respondents from different villages.

This is the same as Yos's translation (2010, 117) from Prasert Trakansuphakor, "*Karn sueb tod ong kwam rur kiw kab robob karn tham rai mun wian Khong chumchon kariang*." In this Thai-Karen story, the local name of the rice goddess is "Tho Bee Kha."

**The Phi Buu Yaw Story:** Once upon a time, there was a family of parents and two sons. The two sons were kicked out of the village when their parents died. Later, the two sons got married. They had neither paddy nor rice. The villagers did not sell to them when they tried to buy. One day, the villagers and the two sons went to buy rice outside the village, as sometimes villagers do. The villagers saw an old woman bound with creeping vines all over her body. She was asking for help, but the villagers ignored her pleas. However, the two sons saw her distress and helped her. The two sons then invited grandma to their home, but their wives scolded them. "Why do you bring a guest when we do not have enough rice even for us." The grandma said, "Just take seven seeds of rice and cook them." The wife asked, "How come?" The grandma said, "Just do what I say." When the wife did as grandma commanded, there appeared a full pot of rice. Then, the grandma told the two sons to ensure that they continued shifting cultivation with the seven seeds of rice. The shifting cultivation produced a high yield. The other villagers were jealous of them and stole their rice until there were just seven bunches of rice left. Then, the villagers tried to kill the brothers, so that they could steal all their rice. The two sons ran away for a while but came back when all the villagers left. The grandma told the two sons to build seven barns. The two sons did as the grandma said and finished the seven buildings. After finishing building the barns, the grandma went to the barns, shook herself, and suddenly all of the seven barns were full of rice.

This is why the Karen people believe in the Rice Angel, "Phi Buu Yaw," and worship her with an annual celebration called "Buu Kalar" or the "Rice Spirit Calling" ceremony. After harvest, the whole village has a huge banquet to thank the Rice Angel. At that banquet, the meat of paddy destroyers like paddy mice, wild boar, squirrel and guinea pig are prohibited. Every household is familiar with this local practice. This collective event is called "Aww Buu Thaw" (Fieldnotes at community elder meeting, 16/10/2019). These ritual practices encode conservation knowledge. As a result, the Karen communities are well known as forest guardians. This is central to Karen identity.

For the Karen there is no separate definition for conservation. The land or territory is collectively protected and managed by all the people within the territory for their survival (Yos, 2004, 118). Its sustainability exists from generation to generation. In the "Kaw system," everything within the

territory is protected by all the community members, working together, maintaining together, in line with local rules.

Local resource management leads the whole community into ensuring livelihood security through resource sustainability (Salam et al., 2006, 288). The benefits of customary practice should not be overlooked in the face of evidence of the deep connection between people and nature (Unruh, 2018). With CSO support, the regeneration of cultural identity, traditional beliefs and customary practices have been produced as printed materials – books, newspaper series, visual aids, posters, reports, and so on (Fieldnotes, 20/06/2019; Naw Kathu, Interview, 08/10/2019). Posters illustrating community research on herbal medicine, vegetables and fish species are hung on the walls of most villagers' households.

## **Legitimation**

Following Arts et al. (2018), legitimacy is derived from participation in the decision-making process, with proper management. Legitimation is a process with a strong expectation of receiving consensual acceptance by communities (Ridgeway & Berger, 1986). Karen communities in Lenya-Bokepyin and Manoro have for long practiced conservation of natural resources, both for the protection of scarce resources and for sustainable development. The fish sanctuary and watershed forest are established with the agreement of all community members. The local rules, regulations, and practices are made legitimate by public consent (Pimentel, 2010, 21).

## **Legitimation claims**

Customary rules and practices are dynamic. The local community adapts their rules and practices to the factors they encounter. The adaptations are only to protect their territory, people and identity from outside threats, and mostly use modern technology, in particular drawing maps with the Global Positioning System (GPS) to develop village boundaries, and to map community forest and private orchards (Naw Dah Prit, Interview, 30/06/2019). These adaptations protect against outside threats from the mining businesses and mono-crop plantations, which are permitted by the government and the KNU. And, of course, against the international protected area project.

Practicing modern technology of mapping, codifying places under specific names and purposes, with written rules and regulations, has some drawbacks.



Local knowledge and local practices are not static but dynamic based on local needs and environmental changes or immediacy of experience. Based on the local understanding of the changes, locals interact with the natural surroundings in line with the changes (UNESCO, 2009; Geertz, 1983, 75). The adaptation to modern technology, with codes and written rules which are more rigid and less flexible, devalues local knowledge and local practices of flexibility.

The Hein Line village leader told us about abuses by government- permitted logging companies:

I was employed at the Aye Sein logging company for three years. They did not follow forest department rules. For example, they cut trees without measuring and calculating the production rate. They just cut the biggest part of the tree and threw away the rest (Saw Lulue, Interview, 24/09/2019).

One villager pointed out, “villagers cannot enter the logging area even for hunting, collecting firewood and vegetables. Company staff threaten the villagers.” (Naw Khu Khu, Interview, 30/09/2019). An affected villager claimed that “chemicals damaging my orchard come from the palm oil and rubber plantation company, because the company compound and my orchard are adjacent to each other. How can I avoid it?” (Saw Thatklel, Interview, 18/10/2019)

Both foreign and domestic private companies entered the western part of Bokepyin township when the Myanmar government decided to follow the British colonial law of wasteland, which empowers the government to declare uncultivated land as “waste”, and to allow its commercial exploitation.

The expansion of palm oil plantations increases at an unprecedented rate. In 1999, the Myanmar military government initiated a military-sponsored industrial oil palm scheme as part of its national self-sufficiency plan (BEWG, 2017, 18). In particular, Myeik and Kawthaung Districts in Tanintharyi Region were to become the edible-oil hub of the country, ensuring national self-sufficiency. The Ministry of Agriculture and Irrigation established a 30-year master plan (2000-2030) for the agricultural sector, intending to convert 10 million acres of ‘wasteland’ to commercial agriculture. The industrialization of agriculture meant replacing tight state control of agricultural production and trade with a government-favoured private sector regime. The private companies are owned by a handful of well-regarded Burmese tycoons, who profited immensely from close political and business ties to the former top military leaders (Woods, 2015).

Since 2010 there has been no extension of concessions for military-backed private companies, but instead concessions have gone to foreign-Myanmar joint venture companies: Myanmar Stark Prestige Plantation – the Samling Group of Malaysia conglomerate; and Myanmar Automotive Company – a joint Myanmar/Korea investment. So far they have each put 10-25% of their concession areas to use. There has been illegal logging on a large scale (ALARM et al., 2018). The impact of logging and other joint venture company activities have changed communities' socioeconomic conditions. Resource depletion is such that the local communities are threatened with livelihood insecurity, land-use changes, loss of tree species, loss of wild animals and depletion of freshwater resources (ALARM et al., 2018, 31-42). To make known the situation on the ground there were two advocacy reports by civil society groups and community-based organization groups - "Green Desert" (2016) and "Behind the Oil Palm" (ibid). Local communities complained directly to the union level government and in consequence the Myanmar Stark Prestige Plantation (MSPP) palm oil project was halted after a visit by the union-level government investigation team. Since then, the communities in the areas of Lenya-Bokepyin and Manoro areas have learnt to appreciate the value of negotiation.

Locally agreed rules and the ancestral wisdom of spatially specific practices also reflect the ability of local self-governance and community self-determination. The Kaw system is a collective, practical and strongly rooted system, in specific places. Conservation practices are not new to Karen communities in Lenya-Bokepyin and Manoro areas due to their traditional beliefs in forest spirits, creek spirits, and mountain spirits. With this belief system and local prohibitions on logging the communities retain intact forest and rich biodiversity.

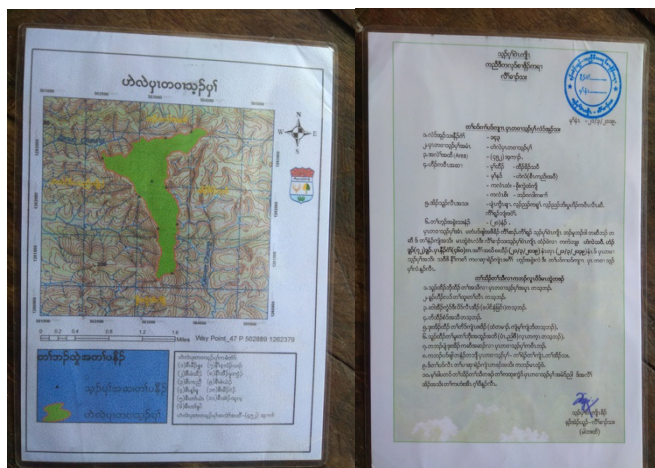
Most communities in these areas have a watershed forest, a community forest (with KNU endorsed certificate), a fish sanctuary, and shifting cultivation areas. They all have untouchable forest within their territory. The locally managed watershed forest has been there since ancient times, but without management plans, guidelines or rules and regulations like a community forest. A Chaung Sone villager said that: "there is no community forest whether KNU endorses or Myanmar government endorses. However, villagers have an untouchable forest to maintain water sources. Everybody in Chaung Sone village knows it is important not only for us but also for coming generations" (Saw Orlando, Interview, 25/09/2019).

All the forest-dependent ethnic groups have the same purpose of maintaining their natural resources - water and food, and inherited ancestral property -

as a legacy for the next generation (Naw Hsipoe, Interview, 26/09/2019). Hence, the reconstruction of Karen cultural identity is supported by active public consent, crucial in the process of legitimation. The active public consent is successful due to full public participation, acknowledged as without any internal conflict among the allied group of different actors.

A community forest is a bottom-up development; community members develop rules and regulations and management plans by themselves, hammered out over at least a year. It is a real local product (Saw Tadoh, Interview, 22/09/2019). The secretary of Tanawthari Kawhser described the process of community forest (hereafter CF) establishment as follows:

- Community mass meeting to discuss the establishment of CF
- Forming the CF committee
- Deciding on the CF area
- Participatory development of CF management plan including guidelines, rules and regulations
- Inform the KFD about CF establishment and submit a management plan
- KFD field check and confirm the CF area with the villagers in village mass meeting
- GPS mapping with the help of villagers
- Fill the KFD- Community Forest Establishment Requisition Form with the signature of the village head and CF committee representative
- Submit the Requisition Form and management plan to the Township KFD
- Township KFD submit to District and Headquarters KFD
- KFD headquarters approve and certify the Community Forest Certificate



**Figure 5.2** Community Forest Certificate of Hein Line Village by KNU (Source: Author)

Figure 5.2 shows a KNU community forest certificate, the front side (left) sets out the rules and regulations to maintain the forest, and the reverse side (right) is a map showing the forest boundary. The community forest rules and regulations are posted in the surrounding areas. The information included on the posters is village/village name, number of acres, rules, and responsible and prohibited areas for logging or any other purposes. It is visible and intended for informal monitoring by villagers nearby. According to the CF guidelines, formal monitoring occurs quarterly by the CF committee. Hein Line village established a community forest of 452 acres with KFD approved certification. There is also a watershed forest under the control and management of local people, and later it is planned to add the village watershed forest to the community forest (Saw Marku, Interview, 25/09/2019).

For Karen communities, living under the local rules is a means of self-determination. The Karen communities in Lenya-Bokepyin and Monoro area prefer to manage their land and natural resources under local rules. Shifting cultivation and hunting are part of the Karen lifestyle, even though they are illegal from the perspective of the state or international organizations. There is no specific place for hunting; it is just a locally acknowledged practice (Saw Htoo, Interview, 26/09/2019).

Common property such as river, forest, pastureland and wasteland are for common use only, and banned for private exchange. Other banned areas are spirit forest and watershed forest. Anyone who trespasses and encroaches on the locally banned area is punished with a fine. The village administration team will intervene for the punishment under the dispute procedure. The respondent from Manoro village explained, “there is no specific amount of

fine for forest encroachment. However, the encroachment of fishing in the community fish sanctuary has a specific amount” (Naw Kedoh, Interview, 23/09/2019).

The respondent from Hein Line explained the locally agreed regulations as “in my village Hein Line, MMK 150,000 (equivalent to USD 100) per fishing net and MMK 5,000 per prawn/lobster. The fine goes to the committee fund” (Saw Sie, 24/09/2019).

Community members respect each other. There is no fence between private lands, or between orchards or other agricultural lands; boundaries are marked by significant trees - bamboo, jackfruit or coconut. It is understood not to encroach on neighbours’ land (Naw Ket, Interview, 28/10/2019). During the field visit, most of the respondents in both formal and informal interviews were consistent in characterizing local practices. The understanding of individual land ownership is that the starting point of land clearance is at the bottom of a small mountain or next to a creek and extends up the entire slope to the ridge of the mountain. The marking points are mostly mountain-tops and creek beds. Locally the practice is called “Moe-Lu-Pala” in Karen. The whole slope is automatically owned by the person who starts clearing the land. The person has to use the land up to the end of the area and is banned from doing parallel or other new shifting cultivation elsewhere in village territory. For animal encroachment or trespassing, the landowners tolerate at most three offences. If an animal (pig or cow) encroaches more than three times, the landowners have full rights to shoot it. There is no right of appeal (Fieldnotes in the village meeting: 27/09/2019).

Each household has the right to extract timber or hardwood inside the utilization forest. For example, three to five tons of hardwood per household for individual house building. The household head has to inform the village administration about the extraction. This practice is against the Myanmar government land and forest law. A villager from Hein Line village mentioned:

For us, the rules set up and agreed among villagers are easy to follow. But the rules from outsiders all have different values and make problems for us and cause social conflict among community members due to the outside influenced rules (Saw Htoo, Interview, 30/09/2019).

Another villager expressed his reasons for refusing outside intervention as “we just want to control and manage the territory, otherwise it might be confused especially if rules and responsibilities are introduced from outside” (Saw Klar, Interview, 23/09/2019).

The MTAA member strongly said that:

We can manage the land by ourselves. It is more relevant because we know the context better than outsiders. Let us maintain our ancestral territory under local knowledge, local rules and customary practices (Naw Blinka, Interview, 22/09/2019).

The utilization forest also provides resource needs for the common good of the community. A villager who helped the construction of the community dining hall mentioned the advantage of local control of resources as;

Now, you see? We can extract forest resources free of charge from our utilization forest. We are building a dining hall to host the event of “Ni-Htaw-Thaw” in coming “Lan-Decembel.” We use the resources sustainably under local regulations. No need to ask permission or spend money (Saw Pepe, Interview, 23/09/2019).

Local dispute procedures are supporting evidence of the functioning of local rules - rules that are not written but locally practiced, respected and functioning. Rules are derived from ancestors and are locally understood and accepted. There is no specific punishment for a specific crime, but the punishment is based on the nature of the crime and is applicable with the endorsement of the community. Community members are the ultimate power holders of local regulations (Lentz, 2013, 8).

When disputes occur in a village, the plaintiff comes to the village head and complains. Most disputes are solved by the village head and village committee under customary local rules, which are locally agreed upon and understood (Saw Siesie, Interview, 23/09/2019).

There was an obvious case where a KFD staff member did some logging on a villager's land. According to the local rule, the specific area was owned by the villager with evidence of starting land clearance in the adjacent area. This is a villager's advanced marking place for shifting cultivation even though there is no cultivation yet. This case was judged by the sub-township judges who gave the logs to the plaintiff and required KFD to promise no more logging inside villager's land.

A villager explained the court case.

KFD staff (perpetrator): the forest in this area is under the KFD management, so we can do it.

Villager (plaintiff): the local law and practice is the truth as well (Naw Kedoh, Interview, 23/09/2019).

Another villager also mentioned the court case: “All of the people in that area practice that and even the offending KFD staff do. Therefore, they have to accept the local practice of dispute procedure.” (Naw Ehblu Doh, Interview, 23/09/2019).

Sometimes, a case goes to higher authorities when the plaintiff is not satisfied with the village level solution. In that case the village head is responsible for continuing the complaint to the sub-township, township and district. Most cases are solved by the KNU authority (Saw Nunu, Interview, 28/09/2019).

### **Advocacy Tools**

Research is a powerful tool (Green, 2016, 6). Advocacy and campaigning points are not floating around in the air, but are concrete evidence of the public participatory research that has taken place to back them up.

For community research and data collection, the community participate as a research core team. They are trained to collect data, as well as processing the data for validation and confirmation. Community members have a chance to participate in every step of the research. The research core team is responsible for conducting village meetings to present findings for validation, and to share challenges and lessons learnt (Interview with Naw Phaw, 23/09/2019, and Naw Kitty, 17/10/2019).





**Figure 5.3** Community research: data collection (Left) and validation (Right)  
(Source: Southern Youth Development Organization)

Figure 5.3 shows some steps of the community research procedure:

- Village meeting to share information about doing community research (for mobilization for participation and planning for the research)
- Form the research core team with members with area expertise (fish, herbal and vegetable)
- Training on research methodology and process (data collection, data processing, data validation and so on)
- Reporting
- Data compilation and finalizing the report between the research core team and CSO staff
- Editing narrative and photo documentation



- Final data validation in the village mass meeting
- Publication procedure and final publication

For advocacy, CAT is the most reliable body to meet Union level policy-makers. At every meeting CAT does a presentation of functioning customary practices and the actual ground situation. The government and policy-makers invited CAT to participate in the policy drafting process of the Forest and Biodiversity Law, Policy and Procedure. This resulted in very little change as the government was beginning to consider the ICCA approach. Local practice is for survival but not for commercial purposes, and it relates to local economics, social, cultural and traditional. The government ICCA approach does not make sense because it is still top-down. The government has the authority to permit logging projects, commercial plantation projects and mining projects. The Ywar Tharyar village head did not sign the top-down instruction to allow the mining project that encroached on the community forest. The village head said that “the villagers elect me, so, I cannot do anything without the villagers’ agreement” (Naw Byuu, Interview, 20/10/2019).

Although the government permitted the mining project they are now thinking again.

CAT presented and advocated policymakers for a win-win situation. The government has a national plan to increase forest coverage area with 30% of Reserved Forest /Public Protected Forest and 10% of Protected Areas. If the government recognizes and integrates the customary practices and local conservation areas, it will be good for both parties. However, biodiversity and forest policy development is still at the stage of drafting. For Union level policy advocacy, community research reports will be presented to the Central Natural Resource and Environment Conservation Committee. CAT has a maximum of four to five meetings per year with Union level government representatives, and two meetings per year with regional-level government (Naw Kathu, Interview, 08/10/2019).

Myanmar government laws and policies are weak and lead to land-related social conflict - a complex situation for the citizen as compared with implementation under popular publicly supported mechanisms (Walzer, 2002, 35). Lubanski (2014, 50) encouraged the recognition and recording of existing local level customary practices and values, based on a discussion of case studies around the world. The purpose is to accelerate the discussion of customary rights in Myanmar. The Burmese Young Scholar Group has called on the Myanmar parliament to take into account customary practices

and regulations in their deliberations (Aung Kyaw Kyaw & Pyae Nyein Kyaw 2019,135). Mark (2017, 84) discussed the importance of tactical social movements for land issues to prevent worse outcomes and land-related social conflict.

The community action of constructing cultural identity does not stop at the local level. It continues to disseminate to the township, district, region and Union level as an advocacy tool to negotiate indigenous rights to own and exercise control over land and natural resources. Thus, the Karen CSO actions of claiming indigenous rights puts pressure on the Myanmar government Forest Bill Committee.

### **KNU's Legitimation Action**

Vandergeest (1997) argued that customs, and locally accepted practices and laws, grant legitimacy to claims for the right of access to resources. The counter-territorialization approach is not only to protect against outside intervention in protected areas but also against the non-recognition of customary practices and indigenous people's rights by state actors and statutory laws. This is not only to control their own space and activities but also to counter mega-development project interventions in Karen community areas. The demarcation of conservation areas has been implemented at both district level and township level with the participation of local communities, CBOs, CSOs and World Wildlife Fund (the latter two only for technical support). This is for validating solid area demarcation and joint actions between KNU authorities and communities (Saw Beh, Interview, 24/10/2019). It is a clear demonstration of territorial power by communities and KNU, and is of crucial significance.

As to low levels of trust regarding the country's peace process on the part of different KNU brigades, the pro-active approach by the KNU and Karen communities can be seen as counteractions. The government's strategy of "divide and rule" has led to an unstable political situation. The KNU temporarily left the Peace Talks, and, since October 2018, there have been various obstacles in the way of the country's peace process (Burma News International, 2018; Nyein, 2018; KNU, 2018). The Legal Aid Network (2014) warned Ethnic Armed Groups to be careful of the military's divide and rule strategy, because of the contradictions between the previous and current ceasefire accords. Officially, the old ones should have been scrapped when the new one was agreed. However, the Tatmadaw and the government did not respect this. Thus, individual pre-existing ceasefires divided the EAGs, whereas the single agreement would unite them (assuming those currently

outside the process join). The EAGs will surely be aware that keeping the existing agreements alive may be part of a “divide and rule” strategy.

There are bound to be uncertainties and clashes with customary practices and local people when international organizations’ conservation ideology and implementation encounter indigenous areas. The customary practices are not just for show, but are a cultural identity that has been practiced for generations - a long-lasting tradition. The KFD Mergui-Tavoy District (MTD) has responded with contiguous landscaping of all wildlife sanctuaries, community forests, and watershed forests. In the Dawei Zone 80% of MTD Karen conservation management areas have been covered, and work will be continued to the Myeik Zone down south. This approach was also practiced in other brigade areas (Brigades #2 and Brigade #6). This is not just to respond to the international conservation project but to respond to mega-development projects as well.

The KFD is now in the process of developing forestry laws with the technical and material assistance of NGOs and CSOs. From the informal talk with the township secretary, it appears that KNU Tanawthari township is also demarcating the “Kyet-U-Taung conservation area,” where patrolling and demarcation is finished up to 75%. The KNU also plans the classification of conservation areas with community participation and with the help of NGOs and CSOs.

The KNU plans to conserve the forest in other villages, including 500 acres in Yone Taw, 1,000 acres in Kataw, more than 10,000 acres in Kyauklone Gyi, Thin Gun Kyun and Ywar Hay Lu. All these villages are located along the Lenya River. Their boundaries are contiguous and are also adjacent to the targeted Hein Line and Chaung Sone villages. Villagers help them patrol and measure with the technical assistance of SY. This is not for community forest but for security. The security concern is not just for KNU but for all of the people in the Lenya area (Saw Eh, Interview, 22/09/2019).

The sanctuary and protected areas were classified as “rare species” and “good ecosystem” areas. Conservation is not new for the Karen people and KFD. In this area, conservation with a specific purpose or agenda is needed, as the area encounters more and more companies and development projects. KFD concerns include not only the endangered species, but also the ongoing harmonious relationships between Karen communities and nature. KFD focuses on conservation areas, and on supporting rangers for forest conservation and sanctuaries. While the customary practices of conservation in the daily life of local peoples already exist, there is a need to step up the practice in some areas (Saw Poehsu, Interview, 24/10/2019).

The KNU administration is a de facto government, and it has related laws, policies and procedures. “KNU realized there are limitations and weaknesses, so KNU focused on reforming with the assistance of the public, our people and civil society. Without them, we cannot reach the goal.” (Saw Beh, Interview, 24/10/2019).

The KFD also expects communities to meet internationally approved conservation standards. The Karen people’s customary practices - the “Kaw System” and “Community Forest” - have been extant for a long time under the management of local people. These practices are examples of the international term “Indigenous Conserved Communities Areas (ICCA).” For Karen communities in Myanmar, including KFD headquarters and all the brigades, this jargon merely identifies practices and functions well-known among Karen peoples in Karen areas. To implement these standards, of course, the role of CSOs is huge. Even the KNU district and township could not reach into each community, and it is impossible to know the particular needs of every community.

CSOs and communities are in close contact with each other and working together in most cases. KNU prefers working with CSOs for the further implementation of counteractions. They will support local needs and implement local preferences (Saw Beh, Interview, 24/10/2019). The focal point is the concept of law and the conditions for generating legitimate law. Logically, Habermas (1996) argues, modern law must be understood in terms of the existence of a self-legislating, legal community that agrees to organize its common life based on law. As such, the basis of the legitimacy of legal statutes derives not from their being enacted by a democratic legislature but rather from their origins in societal discourses and the exercise of public autonomy (Habermas, 1996, 111).

The meaning of land and its value differs between people who have deep social relations to a specific place and land, and those who do not. The 2012 Ceasefire Accords between the Tatmadaw and KNU in the Tanintharyi Region have led to a flood of private, domestic and foreign companies launching mega projects in most of the Karen areas. During the interim period under the Ceasefire terms, there has not yet been any territorial demarcation of administration areas between the Central Union Government and KNU, which confuses the local inhabitants. Due to the series of conservation projects by the state and INGOs, the local community realized that they have to produce substantive evidence rather than merely talking about their traditional system and customary practices. Land use is not just a factor of agricultural production, but rather speaks to deeply held social

and cultural relations. Local people use the concept of territoriality to establish geographic boundaries and assert their rights to manage resources within those boundaries (Vandergeest & Peluso, 1995, 394).

Due to the differences between Myanmar government policies and Karen land policies, the community becomes alert and responds strategically to outside interventions. Having understood the outside threats to identity, cultural practices and territory, the Karen communities in Lenya-Bokeyyin and Manoro areas encourage each other to conserve the forest more and more and to legitimate the collective property under KNU certification.

According to existing Union government forest law and policies, FD has full authority and power to classify the forest and propose the area to be either reserved forest or public protected forest. Union government forestry staff said that “the locals have no authority to maintain, conserve, control the areas, but they are still under a misconception. They think that they are the owner and have rights to manage and use”

Local conservation practices are not legal because their establishment is not under the existing laws and policies. Particularly, the signboard of community forest and fish sanctuary violate the policies and procedures. If they follow the laws and policies, FD welcomes and encourages them. However, the community and SY acted by themselves without informing or cooperating with FD (U Sein Than, Interview, 26/09/2019).

In contrast, the civil society alliance coordinator affirms the relationship of Karen indigenous people to the forest:

We indigenous people rely only on the forest and natural resources, so we conserve these resources. If there is no forest, there is no life for indigenous people. This forest is not only for our survival but also for our children’s education and their future survival. Also, this is the heritage or inheritance of our grandparents (Naw Kathu, 08/10/2019).

Union Government policies are harmful to local communities: ownership sinks into tenancy, and the community forest establishment allows benefits only to committee members but not to the whole community (Naw Phaw, Interview, 24/09/2019). This might lead the community into disunity and disorder. The Union Government sees the land as a resource, and asserts their right to manage it, so the government issues the certificate of right to use, or “Lote Paing Kwint.” It is a long process to even apply for this certificate

of land use (Aung Kyaw Kyaw & Pyae Nyein Kyaw, 2019, 133). KNU on the other hand sees land as inherited from ancestors, as do the people because Karen people rely on the land for their livelihood, survival and education for the younger generations.

Indigenous people are at particular risk of adverse human rights impacts connected to business activities. They are often excluded from decision-making processes based on their general social and economic marginalization. Many of the areas in Myanmar inhabited by indigenous peoples are rich in natural resources, including energy, minerals and gems, and timber, or have agricultural potential. Indigenous civil societies suspect that the authorities have shifted the boundaries of some previously ethnic resource-rich areas into the central Bamar-dominated regions. Where these resources have been exploited by companies, the government, or armed groups, indigenous peoples have generally not benefitted. They are often left in a worse condition as a result of displacement, environmental degradation and resource-driven armed conflict (Global Witness, 2015).

Aung Kyaw Kyaw & Pyae Nyein Kyaw (2019, 134-135) suggest that the Union government legislative branch should reflect the existing customary land management system of ethnic minorities in the National Land Use Policy; and that state and regional governments should enact the policy rather than the central government. A villager and KNU township secretary expressed the controversial law and policy by the Myanmar government as:

The government used to say the voice of Hlauttaw (Parliament) is the voice of the people. But it has not happened in reality. I mean here is the legislative branch having enacted a lot of laws harmful to the communities. So, for me, they are a liar (Saw Htoo, Interview, 24/09/2019).

The KNU township authority commented that “the actions of government are different from what they say. For example, KNU participates in the current peace talks, but there is still fighting between Burma Military and KNU Brigades #3 and #5. So, how can we believe them; that leads us to prepare our territory by ourselves with the support of local Karen communities” (Saw Nunu, Interview, 09/12/2019).

The civil servants’ advice to the ethnic people who are not registered at the Ministry of Home Affairs:

Try to become citizens is the priority and claim citizen rights following the existing laws. Claiming rights of indigenous

people is not the only way to solve because, the past and existing laws, policies are not clearly defining the meaning of indigenous people in reality. However, the legislative branch just recognized the indigenous people in Myanmar under the Myanmar Investment Commission Law and Indigenous/ethnic rights, but not the meaning of “indigenous” (Sa Than Naing, Interview, 03/10/2019).

As per the attitude and self-identification of local people in research targeted areas, they identify as indigenous people by themselves. The villagers from different villages expressed their feelings that:

There is a reason that I am talking about the indigenous people and their rights. That reason is that “the villages along the Lenya River are not registered to the Ministry of Home Affairs officially and under dual administration. The villagers have lived here for two to three generations, so we are indigenous who belong to the areas, and we only have indigenous rights (Saw Sie, Interview, 30/06/2019).

“Especially here in Lenya area, the villagers used to solve disputes and conserve the environment with their own rules and sometimes cooperatively working with KNU. So, we are indigenous, and we have the knowledge to maintain and conserve our environment” (Saw Eh, Interview, 25/09/2019).

The CSO representative is proud of being a jungle person:

I went to town with my mom when I was ten years old boy. In town, people surreptitiously called us “jungle people” in local “Taw-Thar.” At that time, I was angry with them. However, now I’m proud of being “Taw-Thar” because it reflects that we are indigenous (Saw Marbu, Interview, 25/12/2019).

The action and reactions among the stakeholders happen due to contested policies and lack of recognition of being indigenous by the state. State actors try to legitimize not only to control the people but also the natural resources.

## Discussion

Karen communities act to legitimize their land and natural resources with evidence of their social relations to nature. They produce evidence of the



local community way of life, culture and customary practices. Territoriality is legitimate with popular public support (Platteau, 1996; Gilley, 2006; Vandergeest, 1997); and Karen communities believe that they are the right people to exercise authority within their territories.

The legitimization actions of Karen communities represent their ability to manage the areas where they live. The whole legitimization process has been undertaken with an emphasis on local participation (Rapkin, D.P. & Braaten, D, 2009; Arts et al., 2018). This study shows what can be achieved by bottom-up actions as against a top-down, coercive and hegemonic approach (Reus-Smit, 2007; Gramsci, 1971). Gray (2019, 21) recommends that this approach should be used to counter the top-down strategies of the Union government and international organizations. It will be an effective approach to peacebuilding via forestry in the Myanmar peace process.

The community response mechanisms are influenced by the Karen CSOs, NGOs and international ideology; citing UNDRIP, developing mapping for zoning practices with modern GPS technology, establishing fish sanctuaries and regenerating Karen cultural practices and customary regulations - all this is very similar to what the social and environmental movements of the Thai-Karen in Northern Thailand are doing. The adaptation of modern technology and developing zoning practices under written local rules and regulations could, however, be challenged in the future. For example, a boundary defined in the written regulations may have moved.

The ethnic minorities struggle for the federal principle and for policies to abolish current controversial policies and laws; first steps towards the long hoped for Federal Democracy Union of Myanmar.

After the bilateral ceasefire and the NCA, the government extended its assimilation policy to the DAZ. However, their assimilation was not fully achieved due to the community's low trust, and to the fact that the KNU shares power and has more acceptable policies.

This is the first time that a Myanmar community has complained directly to an international organization.

All ethnic territory, customary tenure and practices are under threat from Myanmar government laws and policies (BWEG, 2017; ECDF, 2017; Erni et al., 2018, 28). The alliance of ethnic civil societies is fighting for equal rights for the indigenous people in Myanmar.

Threats by the Myanmar government and IOs to create protected areas escalate conflict in the KNU area of the Tanintharyi Region. They are based



on the violation of human rights and indigenous rights by taking away customary land and territory, denying access to livelihood activities and sacred sites, and loss of culture (BWEG, 2017, 21).

The Ethnic Community Development Forum (2016, 5) articulates the management ability of ethnic minorities and their sustainable management across multiple generations. Customary and indigenous knowledge-based land and resource management are important in the modern world. TRIP-NET, the Dawei based Karen CSO, showed that the existing good forest, rich biodiversity and good ecosystem areas in Tanintharyi Region are evidence of the sustainable natural resources management of the Karen community (TRIP-Net, 2019, 34).

Efforts to make known and strengthen the customary land management system have included releasing rights-based concern statements. There have also been two “Kaw Seminars” organized by the KNU central land committee in June 2018 and May 2019. Most of the local media – such as Burma News International, Progressive Voice, POINT and The Border Consortium – talked about the “Kaw Seminar” as headline news.

The recent official launch of the Salween Peace Park is an affirmative action to protect the indigenous and local people, land, culture and wildlife of Karen State in the KNU Brigade #5 area - Mutraw District (Gray, 2019, 19).

A legitimate government seeks to gain public consent and trust (Weeks et al., 2012). The claim of land legitimacy by Karen communities, Karen CSOs and the KNU, must be heard at national level.

The civil society and the community do, however, need to be aware of the changing world, including the unstable political situation of Myanmar. For instance, unwritten local rules and customary practices could be unsustainable when the rate of population increases and the influx of newcomers to their areas increases (POINT, 2015).

At Union level, the bigger ethnic groups - Shan, Karen, Chin and Mon - are able to pursue their land legitimacy struggle despite the country's current political setting. However, it is difficult for the smaller ethnic minorities such as the Naga, Shanni and Palaung, for example, to claim legitimacy. The larger influential groups have a responsibility for inclusive ideas when they claim land legitimacy at the negotiation table.



# 6

## CONCLUSION

This research looked at an international GEF-funded project – R2R – to establish environmentally protected areas in a region of southern Myanmar inhabited mainly by ethnic Karen. The Karen opposed the project. Their basic premise was that “Karen communities should maintain their existing cultural identities in terms of customs, beliefs and heritage and community self-determination within the ancestral domain.” To which they added that they had for centuries managed their natural resources in a sustainable way, since this was vital to their survival; and that international intervention to protect the environment was therefore unnecessary – the community was doing it already, and they had the local knowledge and experience.

The subject of the book is the negotiation process between the Karen community and the international bodies tasked with implementing the project: UNDP, and FFI, a British NGO. The Myanmar government also supported the project, having signed a Memorandum of Understanding with UNDP.

In areas controlled by the KNU, which was the case here, customary Karen land tenure rights apply. In areas controlled by the Union government this is not the case, and palm oil plantations, mines and other commercial ventures are all too often imposed on unwilling (and unconsulted) populations.

This research focuses on the Karen communities’ struggle.

From the outset they saw that it would be no use responding piecemeal or in isolation; they needed to form alliances. Crucial alliances were with the KNU and with CAT, an alliance of CSOs. Both issued letters of complaint pointing out that the project had been set in motion without consultation with the affected communities, in contravention of both international agreements and the recently signed Nationwide Ceasefire Agreement. The project was

suspended; and a third party – SECU, the UNDP Social and Environmental Compliance Unit – was brought in to investigate and mediate.

Both the project supporters and the opponents built negotiation power by alliances with the establishment – the Union government and the KNU respectively. The communities also built power by mustering popular support, with the assistance of CBOs and CSOs.

UNDP offered at one point to re-design the project, but the offer did not seem very serious. With the Union Government, they then proposed the introduction of an indigenous and community conserved area (ICCA). But this could not work because the Myanmar government has no specific definition of the word “indigenous”, and no policy and actions to recognize the rights of indigenous people.

The project opponents continue to work for an integrative solution, i.e. a formula acceptable to both sides – a “win-win” outcome.

## **Conclusion**

At the time of writing the negotiations continue, so there is no conclusion yet.

## **Limitations of the research; further studies**

This study was conducted only in the terrestrial area due to time and resource limitations. A full comparative study needs to look into the coastal areas and the Burmese population areas that are also potentially affected by the R2R project. The information supplied by project supporter groups, especially UNDP and FFI, was very limited and mostly relied on literature review, news, and UNDP ex-staff. Further studies should therefore be more focused on the perceptions of, and challenges and risks to, the international implementing organizations.

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## About the Author

May Saung Oo has been working with victims of conflict in southeast Myanmar as a freelance development consultant since 2013. She is focused on conflict sensitivity, environmental conservation issues and development projects in conflict-affected areas. May Saung Oo has also assisted with ongoing political dialogue, both at the national (Karen) level and Union level as a technical advisor for the social sector. The process of political transition and regional development is currently threatened by contested rights in Dual Administration Zones: the rights of the indigenous population as citizens, and their rights to traditional communal lands. May Saung Oo's work has been to stand with indigenous people, giving them a voice at the negotiation table

# NEGOTIATING FOR LIFE

## Karen Customary Lands in Tanintharyi, Myanmar

May Saung Oo has done valuable work with this research into the Karen community in Tanintharyi Region, who are negotiating to preserve their customary communal ownership of the lands where they have lived and farmed and fished for centuries, where their livelihoods depend on their conservation of the region's biodiversity.

The study examines two ongoing conflicts: with the Myanmar government who claim that in the absence of formal titles Karen lands are “unoccupied”, and hence available for commercial development; and with the government and international environmental agencies, who believe against the evidence that preservation of Tanintharyi's biodiversity has to be taken out of experienced Karen hands and turned into a project run by international consultants lacking familiarity with the area and its community .

Similar conflicts are bound to occur elsewhere in Myanmar and this study will provide an invaluable source of information and analysis in such cases.



**Understanding  
Myanmar's  
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