

CASE STUDY

Tanintharyi region, Myanmar

Empowered community reverts displacement for large dam

In 2011, a hydropower dam project threatened to displace 1797 people from 4 villages in the Anyar Phyar Village Tract in Southern Myanmar. Due to strong community organisation, research, and campaigning, the communities were able to gain the support of the government. As a result, the hydropower project was cancelled. People could register their land in accordance with the 2012 land laws, which entail that the government issues land use titles for individual households. This achievement was possible thanks to grassroots action and mobilisation.

PRINCIPAL ORGANISATIONS INVOLVED

Trócaire; Dawei Development Association (DDA); Takapaw

LOCATION

Anyar Phyar Village Tract, Dawei Township, Dawei District, Tanintharyi Region, Myanmar

TIMELINE

2011-2013

TARGET AUDIENCE

Indigenous communities, civil society organisations

KEYWORDS

Indigenous communities, civil society organisations, research, grassroots action, advocacy, campaigning

GOOD PRACTICES

Towards making land governance more people-centred

This case study is part of the ILC's Database of Good Practices, an initiative that documents and systematises ILC members and partners' experience in promoting **people-centred land governance**, as defined in the Antigua Declaration of the ILC Assembly of Members. Further information at www.landcoalition.org/what-we-do

This case study supports people-centred land governance as it contributes to:

- Commitment 2** Ensure equitable land distribution and public investment that supports small-scale farming systems
- Commitment 5** Respect and protect the inherent land and territorial rights of indigenous peoples
- Commitment 7** Ensure that processes of decision-making over land are inclusive
- Commitment 9** Prevent and remedy land grabbing

Case description

Background issues

General context

In 1962, the Myanmar military established a totalitarian regime in the country. Under its rule, land rights were withdrawn, with the government owning all land, and enforcing a series of mandatory output-oriented agricultural policies. Today, land ownership and land usage rights are weak, as all land in Myanmar belongs to and is managed by the State. Many of Myanmar's people rely on customary land rights, and land acquisition is governed by the colonial-era Land Acquisition Act of 1894, which is inadequate by modern standards and not always implemented properly (Kurosaki, 2005; Kyi, 2000; Oxford Business Group, 2014). This is exacerbated by the land grabs of the military government in support of private companies. The Land Acquisition Act enables the State and companies to compulsorily acquire land when they assert - with due public notice - that such land is needed for "any public purposes". However, the reality is that villagers only learn that community land has been transferred when they are approached by companies to negotiate compensation. For communities who are displaced from their land and relocated, compensation for lost livelihoods is inadequate and many do not have access to justice.

In 2011, Myanmar began its transition to democracy. Nonetheless, the country's rural population remained among Asia's poorest and without tenure security. While land reform movements had sprung up around the continent, in Myanmar, people's movements and campaigns, especially at the grassroots level, were unheard of.

Local context

Myanmar authorities' plan to develop a dam in the Anyar Phyar village area, east of Dawei, Tanintharyi region, dates back to 1970. In the 1980s and 1990s local communities were impacted by civil war between the military and the ethnic armed group, which led to instability in the area. As a result, the project could not commence as planned. However, in 2011, the initiation of peace negotiation attempts, as well as of the military control over the village areas, prompted the government to restart the project.

In the same year, the project began to develop on the ground. The New Energy Wave Company, a Burmese company, bulldozed farmland without any notice near the Anyar Phyar village. With the entire village tract included in the project site area, an order from the General Administration Department (GAD) was issued for 1797 villagers from 4 villages to be relocated.

Problems to be addressed

First, there were no rights available under the law for local communities to register their land. This left them unable to apply for land titles.

Second, the project developer did not recognise the customary land rights of the local people and begun the dam development without consent from or notification to the villagers.

Solution

Anyar Phyar villagers were empowered by using the strength of their community ties and culturally-appropriate research and campaigning methods. By building a strong community committee, and implementing community-led research and campaigning activities, the community was able to influence the government's plans on the land. DDA and Tarkapaw, with the support of Trócaire, worked with Anyar Phyar villagers to organise a local committee and provided training in law, human rights, and campaigning.

As a result, Anyar Phyar villagers were able to protect their customary land rights by campaigning against a hydropower dam project in a non-violent way. In March 2012, at the national level, two new land laws were published, including the Farmland Law and the Vacant, Fallow, and Virgin Lands Management Law, which allow for land use registration for farmland but maintain that the government remains the ultimate owner of all land in Myanmar. The villagers organised themselves to apply for land registration under this law, and in 2013, they began the registration process.

A total of 386 households (comprising of 1,510 people) from 3 villages, covering an area of 5004.93 acres, received official documents formalizing their right to cultivate their land.

Furthermore, on 6 August 2012, after meeting with the community, the Tanintharyi regional government sent a letter to the energy company, asking them to stop the construction of the hydropower dam and to consult with the community before moving forward. However, the villagers were not informed of this letter and only found out about it through a question asked by an MP in the regional parliament.

Important results were achieved not only in terms of customary land rights protection, but also in the use of practices available for grassroots movements to claim space in a changing Myanmar.

Activities

In 2011, DDA and Tarkapaw, two civil society organisations based in Dawei, supported by Trócaire, met the affected community for the first time.

They started providing trainings on the Universal Declaration of Human Rights (UDHR) and on citizens' rights, as well as on data collection, negotiation, and non-violent and non-confrontational campaign methods for villagers to be able to complain, campaign, advocate, and start a dialogue with relevant stakeholders. The trainings helped the community members to develop a local committee, which was formed by representatives from the 4 villages, including the elders and village heads, to facilitate discussion among the villagers and lead the activities related to the No Dam campaign.

With the support of these groups, the community then began taking a number of actions to assert their rights to land. They carried out community-led research on the flora and fauna in their area, drawing from the knowledge held by their own community members. Through community-led research, data were collected on how many wildlife species and forest resources like timber and medicinal herbs would be lost due to the dam project.

In 2012, the community included these data in a complaint letter presented to some government officials. Among them there were the President of Myanmar, the Chief Minister of the Tanintharyi regional government, and representatives of other government departments including the Settlement of Land Records Department (SLRD) and the Ministry of Power.

They also developed their own method to prove their land ownership. They created a community land registration form, measured the land they owned and made neighbours sign the forms as witnesses to attest to the ownership of each land plot. Through these actions, they were also able to demonstrate that they earned a good income from their plantations, mainly from betel nut.

With the support of DDA and Tarkapaw, the community continued to assert their position, through a number of campaigning actions. These included

- a 'No Dam' T-shirt campaign; a poster campaign, with the unveiling of a sign board displaying a prayer from the inhabitants of the villages asking for peace, justice and environmental protection;
- a stone-gathering campaign, whereby people passing through the village could place a stone in support of the villagers' cause.

The community worked closely with journalists to raise awareness on the issues they were facing. Although there was no official reply letter from the national government, many local authorities came to visit the villages and the project site. As a result, the case was mentioned in both national and local media (Saing, 2015).

"This is the one river we have in this area and everyone relies on its resources. If there is no water, we will die" - U Kyin Aung, community leader

Importance of the case for people-centred land governance

This case clearly demonstrates that real power can come from the affected communities themselves. It shows the importance of community-led research and campaigns, which can bring planned development projects to a halt and improve land tenure security. It also shows that when existing laws, regulation and customary land rights are not respected actions can be taken by relying on strong community mobilization.

Changes

Baseline

There were four affected villages (Anyar Phyar, Dah Thway Kyauk, Seik Chaung, and Nyaung Chaung), which had a combined total population of 1,797. Prior to forming the committee that would lead the campaign against the hydropower dam, there were no existing community organizations. Furthermore, the villagers did not have any land use titles.

Achievements

After setting up a local committee and engaging in research, campaigning and advocacy activities, 386 households (comprising of 1,510 people) from the villages Anyar Phyar, Da Thwe Kyauk, Seik Chaung, covering an area of 5004.93 acres, received official documents formalizing their right to cultivate their land. As a result, the New Energy Wave Company removed its machinery and personnel from the Anyar Phyar Village area.

The community was strengthened by the formation of the committee, which facilitated cooperation. The activities of campaigning and awareness raising spread a general sense of solidarity with affected communities.

Evidence

The Independent Mon News Agency reported on the Dawei residents' mobilization on the International River Day in 2015 (Saing, 2015). During the mobilization, community members gathered along the Anyar Phar riverbank to assert their stand against the dam and the river's importance for their lives and livelihoods.

Lessons learned

Lessons for civil society

Firstly, in order to obtain results through community mobilization, it is important to systematically build a strong structure at the grassroots level. Without it, it is difficult to achieve long-term success.

Secondly, collecting data is crucial when dealing with the government. Concrete and solid information is necessary in order to change the attitude of government officials and to influence policy makers.

Thirdly, connecting with other community groups provides strength and support, which is important for building the momentum of the campaign.

Finally, ensuring media coverage is vital, as well as ensuring that community members know how to speak with the media and consider the media as a tool to share their message.

Lessons for policy makers

Policy makers should ensure they can rely on a clear understanding of whether infrastructure projects are really needed by communities. Inclusive and meaningful consultations with the communities before any decision is taken are crucial to assess their usefulness.

Stakeholders such as companies and the government must provide accurate, understandable information to the communities. Proponents of development projects must apply the principle of Free, Prior, and Informed Consent (FPIC) when they engage with them.

Policy makers should also be aware of the fact that a development project that lacks the support of communities cannot be successful.

The government of Myanmar should consider reviewing and amending existing land laws. Alternatively, they could develop a new land law that is in line with the relevant international guidelines and human rights mechanisms - such as the UDHR and the FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security - as well with national policies, such as the recently approved Myanmar national land use policy, passed in December 2015. The Myanmar government should also fulfil its obligations under domestic and international law to recognize and protect the ancestral and customary land rights of communities.

Challenges

In 2011 and 2012, it was difficult to organise campaigns and to encourage local people to understand the changes that were taking place in Myanmar. A deeply rooted fear of those in authority remained very strong in the minds of local people. They did not believe it was possible to change the opinion and attitude of the government. These

challenges were overcome with training on law, human rights, and non-violent and non-confrontational campaign methods rooted in traditional culture. Such training boosted the community's confidence enough to express their stance and engage with government officials without fear.

Local authorities tried to pressure the community into taking compensation and relocating. However, thanks to a strong local organization, the community was able to resist this pressure.

Follow-up

The community continues to meet through the community committee, which is now focusing on developing strategies that will support the long-term development of their area, by ensuring full land registration for all the community members and building better infrastructure, like roads. After the government's instruction to stop the construction of the dam, a new clinic was completed and an existing school was upgraded. This is a clear sign from the government that the construction of the dam is no longer their priority and that they will include the four villages in their township development plan.

Furthermore, villagers have continued the land registration process. They applied for full land user certificates under Myanmar law, which includes the rights to transfer land by sale, exchange, or inheritance. Most of the households in the four villages now have land use certificates, and the committee is actively supporting and implementing development affairs in the interest of community members.

The experience of Trócaire and its partner organizations, DDA and Takapaw, may be replicated or scaled up by CSOs, CBOs, and communities across the world facing similar threats. It demonstrates that there are different ways to use advocacy strategies, campaigns and domestic and international laws to halt development projects with negative impacts on the life of local communities.

Supporting material

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