

The Discourse of Land Grabbing and Resistance in Newly Reforming Myanmar: The Monywa Copper Mine ¹

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ABSTRACT

The expansion of the Monywa copper mine, the nation's largest, located on the Letpadaung mountain range, north of Naypidaw, Myanmar, affects some 26 villages in the area and creates further concerns over land grabbing. Mining operations in the area have been growing since the 1980s, the project being the result of a joint investment by the government and international extraction companies. Similar projects on other ranges nearby have left the surrounding areas polluted and unproductive. Since July 2012, the local communities surrounding the Monywa copper mines have been protesting the rush of recent land grabbing, 'insufficient' compensation and the environmental damage related to the project. Their resistance gained considerable momentum, peaking in November 2012 and escalating in clashes with local authorities, but diminishing with the launching of an investigative committee, a benchmark achievement.

This case study is conducted using a legal rights-based sociological approach, in order to deconstruct the discourse of land grabbing around the Monywa Copper Mine. Its aim is to analyse the discourse surrounding the resistance to expansion and to shed light on the current trends and any new opportunities that may exist in reforming Myanmar. What are the limits of local resistance, and what lessons learnt could be applied to the increasing cases of land grabbing around the country?

KEYWORDS: Land grabbing, media, discourse, Myanmar, copper mine, protest

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I. INTRODUCTION

Conflict over land, and the right to use it, is as old as community. Yet in recent years, in the face of the global financial crisis and growing food & energy security concerns, global attention to land conflicts triggered by ‘land grabbing’ has increased. Land grabbing stresses the in-equitability of land tenure change that occur within a nation, but in conjunction with national, regional and international actors. In Myanmar a growing number of these cases have been recorded. One notable and evidently news-worthy example is that of the Letpadaung copper mine² expansion project, which has been behind a series of land grabs that have led to nationwide protests. In a nation where around a third of the population lives below the poverty line³, and 70% are dependent on the agricultural sector for their livelihoods, issues of land and the right to it are essential.

This paper explores discourses surrounding the copper mine expansion project’s land grabs and related protests as produced by the national and international media⁴. In other words, it analyzes how media has chosen to give weight to certain themes related to this case of land grabbing over time and then contextualizes the results. The subject of the research is the ‘discourse’ enveloping the Letpadaung expansion project land grabs; it is not simply an analysis of how ‘land grabbing’ as a general theme is portrayed by media. This wider focus on the media discourse as a whole is needed to capture the complexity of the *de facto* situation and to appreciate the dynamics of the various interplaying themes picked up by media. It is also due, in part, to the realization that there are many actors contributing to this situation who may not consider it a case of land grabbing. Although the catalyst behind this issue is land grabbing, other themes have come to dominate media discourse as the reporting of the case increased. For example, the perceived spread of negative environmental impacts, expanding onto the grabbed lands, and within its previous boundaries, is the second most consistently reported narrative by volume, and the most consistent of the entire protest period for reporting across all media groups.

Initially the media focus lay on the theme of land grabbing itself, expounding on the inequitable confiscation of land and the inadequate - if any - compensation locals received. Concurrently farmers were reportedly concerned about the spread of pollution and the environmental damage caused by the project, which is to be of a similar scale to those developed on other Monywa mine sites. These themes dominated media coverage until early November 2012 when support for the protest swelled nationally and media coverage highlighted the ‘act of protesting’ in a reforming regime. However the violent raid of protest camps on November 29th again shifted the focus of the discourse. Outrage over the number of monks injured in the raid rekindled unpleasant national memories. Resistance to the Letpadaung mine expansion was then heralded as both a moral point and a religious issue with some media sources referencing violent crackdowns of the Junta days. In general the

² One of the four mine sites of the Monywa Copper Mine

³ According to 2007 figures. *Burma*, CIA The World Factbook, available at: <https://www.cia.gov/library/publications/the-world-factbook/geos/bm.html>, accessed 28 April 2013.

⁴ ‘Media’ here signifies newspapers made available in English language for the sake of consistency between news broadcasters, both national and international, and in that must be available in online format.

Letpadaung expansion land grab narrative has been taken up as a test case by which to judge how the government and its reforms will handle similar cases appearing around the country.

II. METHODOLOGY

The media examination in this paper was conducted using a systematic qualitative data analysis approach, with elements of media theory and semantics used to deconstruct the discourse. In order to identify a trend in media discourse surrounding this case of land grabbing, the main themes addressed in 177 articles, from the pre-September 2012 period (when coverage began), until March 22nd 2013, were coded and their density recorded. The major themes identified as being significantly developing over time in the articles where: the issues of land grabbing itself, compensation, (negative) environmental impact, protest as an expression of public freedom, the violent protest camp raid of November 29th 2012, and the injured monks caught in the raid.

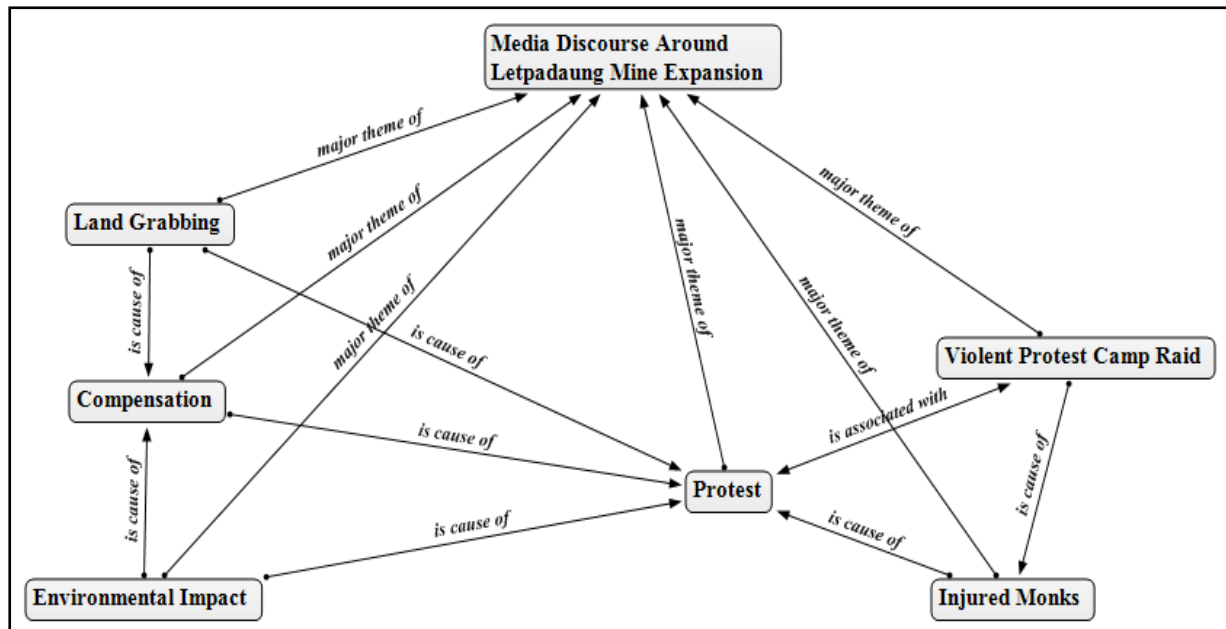


Figure 1. Main Themes and Relationships Expressed Over Time from Left to Right

In order for an article to be ‘tagged’ with one of the codes presented in Figure 1, it needed to be entirely dedicated to the theme or contain a section dealing with the theme explicitly. For example, in the case of the ‘Land Grabbing’ theme, a detailed reference to the land grabbing/confiscation/seizure⁵ of land ‘needed’ for the mine expansion project was required. Specifically to those lands whose ‘re-appropriation⁶’ is contested by their prior

⁵ Due most likely to political sensitivities, CG and MG have not used the term ‘land grab,’ whereas other sources have used this term in various articles interchangeably with ‘land confiscation’ and ‘land seizure’.

⁶ Re-appropriation, as under national law, all land belongs to the State, and tenure is the ‘ownership’ of land use rights. Thus from the government perspective, and according to the new Land Law of 2012, if the project is deemed in the best interest of the State, i.e. as a State project, there are grounds for the re-appropriation of land, with necessary compensation given. The amount is not specified, however a recent decision by the Letpadaung

tenants. Simply containing the term in a sentence that lists the various issues surrounding the Monywa mine controversy was deemed insufficient.

While some themes are interconnected they may also work in parallel. The reported concern of locals over compensation, with a specific focus on the lack of/or need for further compensation for re-appropriated land, has been caused by both land grabbing and by fears of spreading negative environmental impact. However the ‘theme’ of compensation is sometimes set-aside by media as newsworthy in and of itself, e.g. a piece on the general lack of financial equitability identified where an agreement was signed/agreed to and a re-evaluation was being called for. Thus it cannot always be conflated with either of the ‘land grabbing’ or ‘environmental impact’ themes and is isolated as a separate, yet connected theme. Similarly, the theme of ‘environmental impact’ stands alone even as it is connected to both concerns for related compensation, and land grabbing. Essentially this theme covers the negative environmental impacts that the expansion project will purportedly affect and what may be needed to mitigate them. Thus an article may be coded with this theme whether its description of environmental impact is linked to the land grab theme or as a separate concern more closely connected to, for example, feelings of place, nostalgia and a desire for continuity.

Reporting of the Letpadaung Mine land grab case increased along with national protest. The theme of ‘protest’ became so popular that coding it as a theme on equal footing with the others was not productive; as it was mentioned with some emphasis in the majority of articles related to the land grab case, becoming more of a ‘meta-theme’. However, two themes related to the protest experience that caused large shifts in the discourse arose at the end of November 2012. The ‘violent protest camp raid’ (crackdown/raid) theme grew out of the Nov 29th pre-dawn raid of, the then remaining, six protest camps in the Letpadaung area by riot police. Connected to this is the theme of the ‘injured monks.’ Articles focused on the injuries sustained by Monks who had participated in the protest and as a result of the raid, as well as on their follow-up care. This theme carries heavy cathartic elements that further encouraged protests and drew national and international media attention to the Monywa case. It is not surprising then that these two themes dominated the discourse surrounding the Letpadaung land grab case for subsequent months, overshadowing previous themes.

Investigation Committee suggests that all land be compensated according to current market values, but the application of the findings by the implementation committee has chosen a different standard to follow.

MB: Myanmar Based (55)	CG: Chinese Gov Backed (27)	FBL: Foreign Based Local News (62)	International : (19)
The New Light of Myanmar (17)	Global Times (4)	The Irrawaddy (47)	Al Jazeera (4)
The Myanmar Times (18)	China Securities (3)	Mizzima (15)	BBC (11)
Eleven News (20)	Xinhua (20)	DVB: Democratic Voice of Burma (26)	The New York Times (4)

Table 1. News sources by group for the period of pre-September 2012 - March 22nd 2013

Note: Number of articles in brackets.

The news sources chosen for this analysis belong to five groups of media (see Table1): Myanmar Based national media (MB), Foreign based local news (FBL), Chinese government-backed national media (CG), and international media. This spread was chosen to circumvent the bias that may exist within an individual news group and to capture the breadth as well as the depth of reporting. Three news sources per category were selected, with an attempt to unify within each group the political/social stances of each, the intended audience.

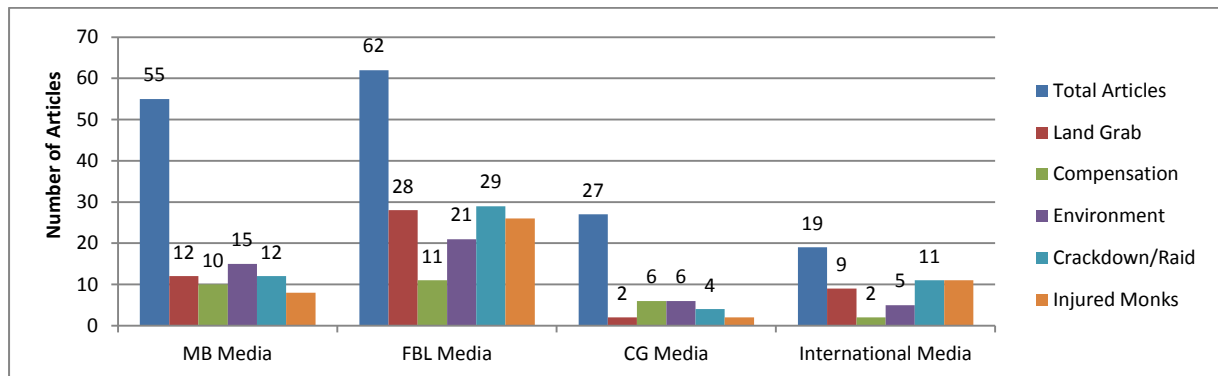


Figure 2: Number of Articles by Media Source Available

The volume of sources treating this subject by group is indicative of the ‘distance’ each source group has from the subject. The MB and FBL sources (55 and 62 articles respectively), are from newspapers that focused specifically on Myanmar related news, while the CG and International news sources are not. Historically each of the three MB news sources has had to pass through government monitoring/censorship before release. However, new legislation was passed in 2012 to begin the easing of censorship and government control. Reporters Without Borders ranked Myanmar 151st (its highest ever), out of 179 countries at the beginning of 2013, which is a move up of 18 places since 2012⁷. *The New Light of*

⁷Reporters Without Borders, “Press Freedom Index 2013”, available at: http://fr.rsf.org/IMG/pdf/classement_2013_gb-bd.pdf, accessed 1 May 2013.

Myanmar is the country's oldest and only English language daily, established in 1993, and – previously reputed as being a vehicle for Junta propaganda – it is reportedly taking advantage of the reforms to re-define itself as an open state-run newspaper⁸. The other two MB newspapers, *Eleven* and *The Myanmar Times* are weeklies with slightly different histories but both must still pass the rigours of the state media machine. *The Myanmar Times* was co-founded in 2000 by an Australian and Burmese investor making it the only news source in Myanmar to hold foreign investment⁹. *Mizzima*, like *DVB* and *Irrawaddy* are based outside of Myanmar, in India, Norway and Thailand respectively and are outside of the censorship of MB sources. However, one FBL news source, *Mizzima*, founded by Burmese expatriates, is to become an accepted privately owned MB media source under the reforms¹⁰.

The Monywa Copper Mine is jointly funded by China, thus the protest concerning the mine have a direct impact on their interests. Bringing Chinese media discourse into the study shifts the frame and adds a further dimension that, like the international media sources, demonstrates the scale of the issue. CG media also has a history of censorship that mirrors that of Myanmar¹¹, thus setting it up as a counterpoise to FBL and international media sources. As international media covers a wider area and a broader readership, it shows the 'popularity' of the Letpaduang land grab and protest case. Nineteen articles (from only three sources) covered the issue¹².

It would not be an overstatement to say that one of the key reasons why this case of land grabbing has gained support and why it has had some demands met (e.g. for further compensation), has been due to its systematic and well-rounded media coverage, both in the local and international spheres. Perception being a fickle friend in politics, media can play a key role in influencing actions taken by governments seeking to impress. However, while locals and protesters use media to their advantage, and vice versa, it is necessary to properly contextualize the themes that both players push or else readers of such media-created discourse risk falling into the trap of misinformation circulated for the sake of forming opinions, a dangerous use of rhetoric¹³. In an effort to avoid that eventuality, this paper aims to outline, gather and identify the most successfully broadcasted themes, and cache them within the country's current political, social, environmental and legal regime context.

⁸ Reuters, *In Reforming Myanmar, a Junta mouthpiece gates a makeover*, available at: <http://in.reuters.com/article/2012/10/17/myanmar-newlight-media-freedom-idINDEE89G0GJ20121017>, accessed April 28th 2013.

⁹ Centre for Independent Reporting, *Burma: Co-Founder of Myanmar Times on Trial*, available at: <http://cijmalaysia.org/2005/02/08/burma-co-founder-of-myanmar-times-on-trial/>, accessed 26 April 2013.

¹⁰ Reporters Without Borders. *Retrograde Bill Threatens Tentative Progress*, available at: http://en.rsf.org/burma-retrograde-bill-threatens-07-03-2013_44176.html, accessed 28 April 2013.

¹¹ According to Reporters Without Borders China ranks below Myanmar in freedom of the press, at 173th place. See *supra* note 8.

¹² The BBC has covered the issue more consistently; this is not surprising considering Britain's historical relationship with Myanmar and the BBC's recent coverage of Aung San Suu Kyi's movements to and from England and elsewhere.

¹³ Aristotle defines rhetoric as the available means of persuasion, for others it is often the antithesis of truth, for some it is merely clever literary devices and language. McLaughlin, Becky, Coleman, Bob eds. *Everyday Theory A Contemporary Reader*. New York: Pearson Longman, 2005. P806.

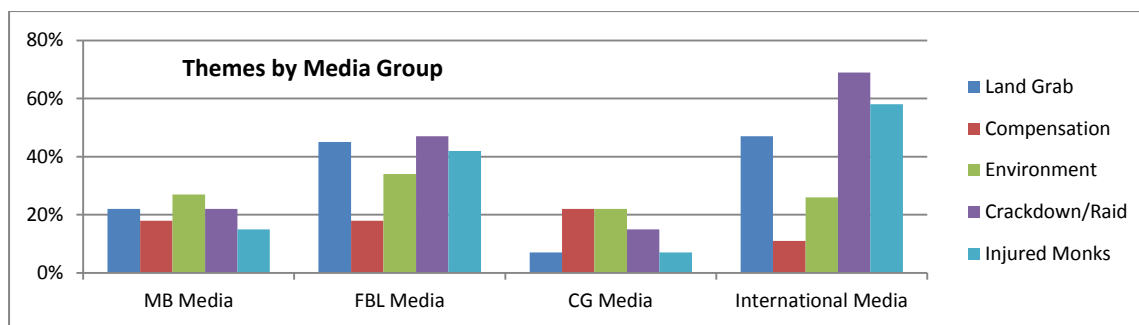


Figure 3: Percentage of Coverage per Theme per Media Group from Case Articles over Time Period

III. MONYWA COPPER MINE HISTORY AND GENERAL FACTS

In 1922, a British geological team identified the presence of what seemed to be copper in the river beds of the lower Chindwin River¹⁴. At the time they had been close to discovering the Monywa site, one of the world's top ten copper deposits. The Monywa copper mine property consists of three mountain ranges: the Sabetaung (which includes Sabetaung North and South), Kyisintaung and Letpadaung deposits and their surrounding areas. The site conceals a site with copper concentrations great enough to make it one of the last sites where open pit mining is still profitable. Copper being an essential element to the industrial world, the Monywa Copper mine project is certainly a significant project. Situated in Myanmar's northern Saigang Division, the mountains, which lie within Salingyi Township, are located 15 miles from Monywa City. Their shadow reaches over the Chindwin River, one of the country's main freshwater sources, and so too might the pollution created by the mining of their copper.

Investment, specifically joint foreign investment, in Monywa copper extraction has a long history. Between 1985-1997 an earlier mining project, developed by Mining Enterprise No. 1, a State-owned company, and RTB Bor Copper Institute, a Yugoslavian state-run company, extracted copper using floatation-concentration processes¹⁵. However, due to financial concerns, and augmented by the instability of its domestic situation, RTB Bor pulled out of the site.

At the beginning of 1992, Ivanhoe Myanmar Holdings, Ltd., a subsidiary of the Canadian Ivanhoe¹⁶ company started talks with Myanmar's government owned Mining Enterprise No. 1, to develop facilities on for the recovery of copper from the Monywa mountain deposits using a heap-leach solvent extraction-electrowinning (SX-EW) process¹⁷. SX-EW is a process that, in theory, has less negative environmental impacts than the previous

¹⁴ Penzerr, N. M. *The Mineral Resources of Burma*. (London, George Routledge and Sons Limited, 1922).

¹⁵ *Monywa Copper mines Fact Files*, available at: <<http://www.ivanhoemines.com/i/pdf/monywa-fact-file.pdf>>, (Ivanhoe Mines Ltd.), accessed 22 March 2013.

¹⁶ Ivanhoe has since been renamed Turquoise Hill Resources.

¹⁷ "Monywa Copper mines Fact File", see *supra* note 6.

concentration-floatation technique as it requires fewer processes and can be conducted in-situ (more on this discussed further in relation to the environmental impacts of the project, as high pyrite contents in the ore have led to the need for higher acidity of solvents used which present their own issues). The feasibility study was conducted in 1994 for the “Sabetaung, Sabetaung South, Kyisintaung and Letpadaung”¹⁸ mountains near Monywa City.

The joint venture with a 50/50 interest between Mining Enterprise No. 1 and Bagan Copper Holdings Ltd. (Ivanhoe Myanmar Holdings, Ltd Burmese subsidiary) created the Myanmar Ivanhoe Copper Company Limited (MICCL) in April 1996¹⁹. The venture was to begin work immediately on 3 open pit mining operations, with a 20-year lease per site, on the Sabetaung, Sabetaung South, Kyisintaung deposits, with future plans to include the Letpadaung area 7 km away. The project was designed to produce 25,000 tpy of cathode copper by heap-leach solvent extraction electrowinning technology, but was boosted to 39,000 tpy by 2004²⁰. From its inception it was the intent of the MICCL, to expand to the Letpadaung deposits as part of its ‘phase 2.’ This phase was projected to increase the annual sum of production to around 200,000 tonnes²¹, with estimates in 2007 suggesting that output could be sustained for 30 years²². Another key draw of the Monywa copper mine, according to Ivanhoe, is the “low-cost” of the copper production, made more appealing by the high quality of the ore. Additionally, it was estimated by Ivanhoe Mines, in 2007, that “approximately 6,500 children, women and men in the Monywa region currently depend on the operation of the Monywa Copper Project for their food, shelter, income and jobs” and this is prior to the Letpadaung expansion, which was set to produce over 1,000 more jobs²³.

However, issues concerning the payment of dividends and the financial insecurity of the project led Ivanhoe Mines to a slowly withdraw from the project²⁴. Since 2004 Ivanhoe mines had been looking to minimize its share of the Monywa Copper Mine project. Media broadcasted in April 2006 that: “a consortium of South Korean companies was planning to buy half of Ivanhoe’s 50% stake in MICCL ... [which] would reduce Ivanhoe’s interest in the Monywa project to 25%”²⁵. This did not come to fruition, and on October 18, 2006 Ivanhoe Mines announced that they were moving to divest themselves entirely of all Myanmar assets²⁶. In order to do this, in February 2007, Ivanhoe created the Monywa Trust, “an

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ *Annual Information Form For the year ended December 31, 2007*, (Ivanhoe Mines Ltd.), March 28, 2008, available at: <<http://www.turquoisehill.com/i/pdf/2008AIF.pdf>. March 22nd 2013>. and “Monywa Copper mines Fact File”, see *supra* note 6.

²¹ Comprised of approximately 50,000 to 80,000 tonnes from the Sabetaung and Kyisintaung (S&K) deposits and 125,000 to 150,000 tonnes from the Phase 2 development of the Letpadaung deposit.

²² “Monywa Copper mines Fact File”, see *supra* note 6.

²³ The types of jobs are a key question when examining the import of these figures. “Monywa Copper mines Fact File”, see *supra* note 6.

²⁴ Ivanhoe Press Release: “Ivanhoe Mines has not recovered the more than \$100 million it has invested in the development and operation of the Monywa Copper Project and has not made a profit on the investment. MICCL, the Myanmar joint venture company that owns and operates the Monywa Copper Project, has not made regular dividend payments to its joint-venture shareholders during the almost nine years of mine operations.”

²⁵ “Monywa Copper mines Fact File”, see *supra* note 6.

²⁶ *Ibid.*

independent third party trust ... [which] transferred ownership of the Myanmar Assets to the trust". "Trust Holdco," a company created for the purpose of holding and selling these Assets, then issued a promissory note to Ivanhoe entitling them to the proceeds of the sale of the Monywa Copper Project. Production continued in the interim phases (2007-2011), but was halted in late 2008 until mid-2009, when the financial crisis caused copper prices to downturn²⁷.

On June 24th 2010, The Irrawaddy reported that "China North Industries Corporation (CNIC) announced [on its website] that it signed [on June 10th] the Monywa Copper Mine Project Cooperation Contract with Burmese military officials during the Chinese Prime Minister Wen Jiabao's visit in early June"²⁸. But it was not until April 5th of the following year, 2011, that National news, The New Light of Myanmar, released a statement that the deal had been finalized:

*"Brig-Gen Zarni Win of the Union of Myanmar Economic Holdings Ltd and Executive Deputy General Manager Mr Yin Jiaxu of NORINCO (G) on Production Sharing Contract for Sabetaung, Sabetaung South and Kyisintaung Copper Mines"*²⁹.

IV. MYANMAR'S LAND TENURE REGIME

As part of the contextualization of this discourse analysis it is instructive to outline the recent changes to Myanmar's Land Laws. Under the 2008 Constitution of the Union of Myanmar, the Union "is the ultimate owner of all lands and all natural resources above and below the ground, above and beneath the water and in the atmosphere" (Art 37 (a)). With around 70% of the population living in rural areas³⁰, and 30-40%³¹ of those employed working the land of others, land, and especially farmland rights are a contentious and complex issue (often embroiled in ethnic politics³²). On March 30th 2012 the government brought into force two new land laws, and on August 31st 2012, their respective rules³³: *The Farmland Law; The Farmland Rules, The Vacant, Fallow and Virgin Lands Management Law; and The Vacant, Fallow and Virgin Lands Management Rules. The Farmland Law (and Rules)* replaced these earlier laws:

1953 Land Nationalization Act;

1963 The Disposal of Tenancies Law; (*The Farm Land Law 2012*, Art 43 (a, b, c));

²⁷ Kean, Thomas, *Monywa copper mine restarts production* (June 2009), 24(473), The Myanmar Times.

²⁸ Kuang, Ba, *Chinese Weapons Maker to Mine Monywa Copper*, Irrawaddy, 24 June 2010, available at: <http://www2.irrawaddy.org/article.php?art_id=18798>, accessed 22 March 2013.

²⁹ New Light of Myanmar, April 5th 2011, available at: <<http://www.burmalibrary.org/docs11/NLM2011-04-05.pdf>>, accessed 22 March 2013.

³⁰ *Burma*, CIA The World Factbook, available at: <<https://www.cia.gov/library/publications/the-world-factbook/geos/bm.html>>, accessed 28 April 2013.

³¹ Fujita, Koichi et al, *The Economic Transition in Myanmar After 1988, Market Economy versus State Control*, (Singapore, NUS Press and Kyoto University Press, 2009) P9.

³² Customary law dominates the governance of land in the Ethnic minority States that are more autonomous, eg. Shan State

³³ The 'Rules' for each Law detail the application of the March 30th Laws and were drafted by the Ministry of Agriculture and Irrigation, signed by Myint Hlaing the Union Minister of the Ministry. The Farmland Law and the VFV Law were passed by the Parliament, the Pyidaunsu Hluttaw, and signed by President Thein Sein.

1963 The Agriculturist's Rights Protection Law

1954 Nationalization of Farm land and Rules;

1963 The Land Rent Rules; (*The Farm Land Law Rules 2012*, Art 117)

The list of the repealed laws here demonstrates the importance of the new law. It, along with *The Vacant, Fallow and Virgin Lands Management Law* (VFV Law), is the base of the nations land laws. Private property is allowed under the constitution (Art 37 (c)), however the majority of the population have only 'use rights' and not 'control rights,' i.e. they cannot decide freely what to grow and when on the land attributed to them³⁴. A positive element of the new Land Law is the encoding of a farmers 'transfer rights,'³⁵ which allows for the leasing and sale of the land that they are registered on. While the laws are progressive in some aspects: outlying the institutions responsible at different levels for organizing, registering and managing rights to land; the laws also makes a farmer's right to work land potentially more tenuous than before. *The Farmland Law* creates too many conditions where the "revoking" of farmland use rights, or "reclamation," of the land by the government is legal (*The Farm Land Law*, Art 7). The burden of proof concerning the pre-existence of right to use the land and to its 'proper' use under the initial agreement made, falls upon the farmer. If the local official is not fully satisfied with their proof the right to use the land may be taken and a fine levied. This is the case for all 'new' farmland granted under the VFV Law and for all farmland currently in use (as re-registration is necessary). The time period of use is also limited to the lifespan of the crops/project to be developed on the land and continued use of the land is conditional on being able to maintain the work on it (*The Farm Land Law*, Art 9(d)). If they are unable to work it after the previous project/ cultivation period is finished³⁶, (or if they wish to change crop – which requires permission), they risk having their land deemed 'vacant' and seized (*The Farm Land Law*, Art 8). Additionally, the government may choose to confiscate any land that it deems necessary for the sake of a project that will be "in the interest of the State or in the interest of the public," and 'repossess' it³⁷. Herein lies the land grab concern.

V. LAND GRABBING BY THE EXPANSION OF THE MONYWA COPPER MINE: MECHANISM, COMPENSATION AND ENVIRONMENTAL IMPACT

A. MECHANISM OF THE LAND GRAB

During the week of March 7th 2013, an investigation committee, the parliamentary Farmland Investigation Commission, completed and submitted to the parliament their report on land confiscation from all around the country. An LFB news source, the Burma Partnership,

³⁴ Farmers must submit a request to the local Land and Settlement Authority in order to change their cropping.

³⁵ "What is Land Tenure", FAO, available at: <<http://www.fao.org/docrep/005/Y4307E/y4307e05.htm>>, accessed 28 April 2013.

³⁶ As outlined by their agreement with the local Land and Settlement Authority. It should also be noted that any new land tenure rights given under the VFV Law are based on ability to use land and that in this case land tenure is based on promise-to-work system

³⁷ Article 26 *The Farm Land Law*. This article also calls for "compensation without any loss," but is very vague as to what that means in application.

reported that the Commission found that 250,000 acres (101,171 hectares) of village land had been grabbed by the military under the previous regime³⁸. In their report the commission wrote that they had conferred with leaders among the military concerning the seizures and that “Vice Senior-General Min Aung Hlaing [...] confirmed ... that the army will return seized farmlands that are away from its bases, and they are also *thinking* about providing farmers with compensation” [authors’ emphasis]. However the report makes no mention of the Letpadaung copper mine issue as the confiscations were not conducted directly by the military, but by the joint company consisting of Wanbao Ltd and Union of Myanmar Economic Holdings Ltd (UMEH), a predominantly military owned company”³⁹.

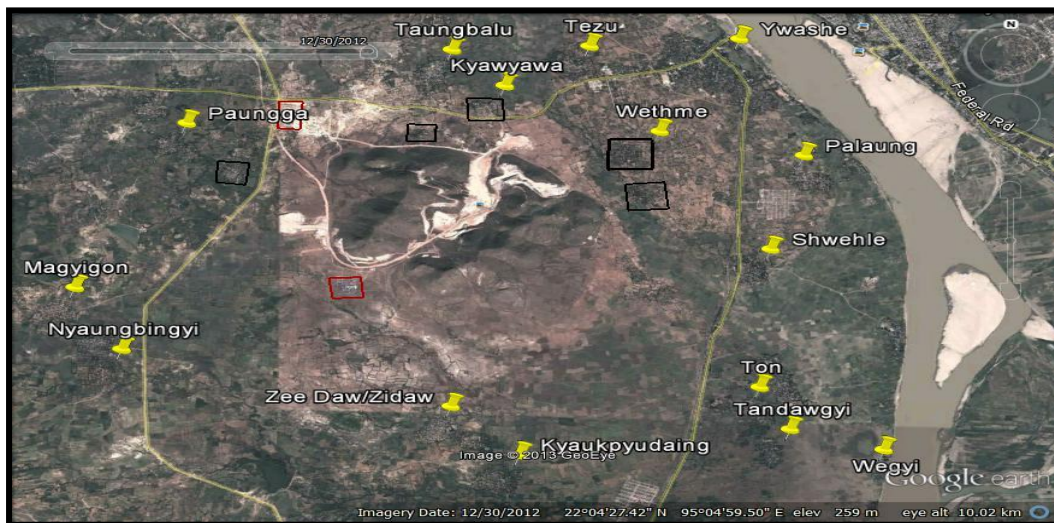


Figure 4. Large Villages Surrounding the Letpadaung Mountain

Source: Google Earth 12/30/12

Under the 1994 *Myanmar Mines Law*, currently under revision, a committee is to be set-up for each “Mineral Reserve Area,” that is responsible for investigating the effect of the project on the public in terms of their rights, and to ensure they receive “reasonable rights and benefits” at the demarcation stage of the project [*Myanmar Mines Law 1994*, Ch 7, Art 21(c)]. This establishment of an equitable situation from the outset is the responsibility of the Ministry of Mines, and therefore of the government. This said, for the sake of the Monywa copper mine expansion project, approximately 7,800-8,000 acres (3,157-3,237 hectares) of land from 26 villages around the Letpadaung Mountain, the site of the new mine, was confiscated by the project, and done in a manner that was evidently inequitable (as confirmed

³⁸Burma Partnership, *Rampant Land Confiscation Requires Further Attention and Action from Parliamentary Committee*, Burma Partnership, 12 March 2013, available at: <http://www.burmapartnership.org/2013/03/rampant-land-confiscation-requires-further-attention-and-action-from-parliamentary-committee/>, accessed 22 March 2013.

³⁹*Ibid.*

by the Investigation Committee) . The land grabbed by the project belongs⁴⁰ to the people of Salingyi's Hse Te, Zee Daw, Wet Hmay and Kan Taw villages⁴¹.

Early in 2012, villagers were ordered to leave the area and move to relocation sites. By November 26th 2012, 218, out of the intended 442, households had been relocated to another prepared village.⁴²

B. COMPENSATION: NON-EXISTENT OR TOO LITTLE - TOO LATE

The issue of compensation was, and remains to be, at the heart of the Letpadaung land grab case. Little or no compensation was given to the farmers and members of the 26 villages affected by the project. Reporting on this theme remained low throughout, however (refer to Figure 5). Buoyed by the new protest law, and the hope that regime change brought, the effected peoples decided to voice their complaints, directing most of them against the Mining Company itself. The reality of the legal situation is not as it has been presented, or understood, by the media however. When the previous government signed the deal with Wanbao and UMEHL for the Monywa copper mines they had not apparently outlined the extent of the land to be issued to the joint venture company for 'phase 2': the Letpadaung mine. It was not until September 2012 that UMHEL was given a 60-year grant to work on the land although work had already started on the mountain itself and dumping was already occurring on its surrounding lands. At this point the government had decided on a land use change that overlapped with the farmlands of the 26 villages. This meant that the lands were being 'repossessed' in favour of a project 'beneficial to the State and public.' It was the responsibility of the State at that point to inform the villagers of the change and to compensate them for the loss accordingly. When the new regime came to power, they, by international law, inherited the responsibility for the agreements made by the previous regime. Thus they are now the responsible 'land lord' of the leased/confiscated land. Under *The Farmland Law* stipulates [chapter 4, art. 26, 27] that compensation must be given for farmland taken in these cases, such that there is no "loss". Thus the State owes reparations to those whose land was taken.

The rules are different for the land affected by the project beyond the agreed area outlined in the Monywa Copper Mine Company/Government contract. Under the *Myanmar Mines Law* of 1994, a project that wishes to expand beyond the Mineral Reserve Area, must negotiate, and have agreements, with those who have the "right of possession, right of use and occupancy, beneficial enjoyment, right of succession or transfer of the said land,"⁴³ [*Myanmar Mines Law 1994*, Ch 4, Art 14]. In this area the villagers are still the holders of the

⁴⁰ Community/village land and private farmlands.

⁴¹ Nyein, Nyein, *Copper Mine Land Grabs Protest Heats Up*, The Irrawaddy, 23 August 2012, available at: <<http://www.irrawaddy.org/archives/12207>> accessed 22 March 2013.

⁴² Yu Jincui, *Wooing old customers anew*, Global Times, 27 November 2012, available at: <<http://www.globaltimes.cn/content/746784.shtml>>, accessed 22 March 2013

⁴³ This set-up of a direct company-to-villager negotiation without stipulations on mediation to ensure a 'fair' agreement, or a standard for what would be considered as equitable in this case, leaves too much open to abuse. Agreement s then reflect the unequal power relations between the two parties.

land rights. The individual farmland rights holders are permitted by law to lease and sell their land rights, except to foreign companies or individuals (unless permitted by the new investment law's provisions). So if the company, as the mining permit holder, wants to lease the use of their lands to build a temporary through road they would be expected to form an agreement with the locals in each case. Inversely, this means that all lands that the company was required to negotiate for were located outside of the original project zone, the rights to which were privately owned. However, the terms for accepting the compensation that was offered in these deals were non-transparent. In early 2011, the Irrawaddy reported, that some villagers were paid 52,000 kyat (US \$60) per acre of farmland as compensation for what they believed were three years' worth the loss of their crops⁴⁴ due to the construction process of the site (i.e. the need for more through roads and the setting-up of power lines etc). However, it had apparently not been made clear that this compensation was intended by the Monywa copper mine company as payment for the 'sale' of the land rights of the farmers, who presumed that they could have the land back to use after three years. In February 2013, after research into this issue, Aung Thein a member of the Myanmar Lawyers Network Myanmar claimed that officials used illegal tactics to get the villagers to sign these contracts. He discovered that "coercion and fraud" were used "to force villagers to sign contracts" and thus "under Burmese law these contracts are invalid and can be rescinded by the villagers"⁴⁵. Further, whatever agreements that the villagers do sign, if willingly, should only be for the term of a 60-year lease, i.e. until the end of the project, because according to the law the land is to be returned to its previous tenant once the 'state project' has been completed⁴⁶.

According to several LNG news sources, the Implementation Committee, charged with the follow-up of the Letpadaung Investigation Committee report⁴⁷ which was released in March 2013, with government support pledged that nearly five billion kyats in compensation would be paid for these land grabs⁴⁸. Compensation is to be paid for 6,784 acres (2,745 hectares) in total⁴⁹. The Irrawaddy, the source with the most consistent reporting of this case of land grabbing, wrote that, a total of around 224 million kyat (\$259,000)⁵⁰ has been given out by the government to 69 farmers presumably for the reparations owed to those whose land rights were officially signed over to the project⁵¹. Determining which of the lands confiscated falls under either of these two scenarios, the State-confiscated and liable land, or the company-confiscated and liable land, however, is up to the government and the report

⁴⁴ Nyein, Nyein, *Copper Mine Land Grabs Protest Heats Up*, The Irrawaddy, 23 August 2012, available at: <<http://www.irrawaddy.org/archives/12207>>, accessed 22 March 2013.

⁴⁵ Roughneen, Simon, *Fraud, Excessive Force Used at Letpadaung Mine: Report*, The Irrawaddy, 14 February 2013, available at: <<http://www.irrawaddy.org/archives/26765>>, 22 March 2013.

⁴⁶ Chapter 6, art. 32: "If projects are terminated, farms are to be given back to original legitimate farm owners (person/organization) who has the right for farming."

⁴⁷ To be discussed in detail further on.

⁴⁸ Eleven, *Farmers receive compensation for land grabbed for copper mine*. Eleven News, 18 March 2013, available at: <<http://www.elevenmyanmar.com/national/2833-farmers-receive-compensation-for-land-grabbed-for-copper-mine>>, accessed 22 March 2013.

⁴⁹ According to Myint Aung of the military owned Union of Myanmar Economic Holdings Limited

⁵⁰ At the time of writing, i.e. up until March 22nd.

⁵¹ Thet Swe Aye, *Villagers Accept Compensation, but Some Still Refuse*, The Irrawaddy, 19 March 2013, available at: <<http://www.irrawaddy.org/archives/29783>>, accessed 22 March 2013.

implementation committee. There are also concerns the loss of the lands to be confiscated could undermine the livelihood security of the farmers, and thus that restitution need also include arable land near the new villages (given or made available for purchase). At a meeting with the residents of Sete village, Thaung Sein, Saigaing Region's Parliamentarian said that villagers located in Tonywa, Sete, and Wethmey will receive new land (according to the Democratic Voice of Myanmar, one of the few news sources that were present at this meeting⁵²). However some declined and agreed in favour of returning to farm their old lands in April, after the previously agreed upon three-year contract for compensation had expired⁵³. This will not be possible for many, due to the previously mentioned reality of the legal situation that the villagers find themselves a victim of.

Some farmers from the closest villages began accepting compensation in April 2013, as their fields were already polluted by waste dumped from the copper mine project, making farming the land impossible⁵⁴. According to the Kyemon, another State-owned newspaper, "69 landowners accepted payments ranging from 700,000 to 1.5 million kyat (US\$810-1,735) per acre, depending of the quality of their farmland"⁵⁵. This was considered an improvement on the slightly over 500,000 kyat (\$580) offered by the company in 2011⁵⁶. However, some still felt that this rate was too low. San Nu Wai, from Sel Tel village, reported that a deal struck recently between neighbours for the sale of the right to 0.6 acres of land was concluded at 8 million kyat (\$9,250), which equates to more than nine times the highest compensation offered by the government to date⁵⁷. Not surprisingly, those that have been amongst the first to accept compensation are those who have already moved to the relocation sites.

C. CONCERNS OVER NEGATIVE ENVIRONMENTAL IMPACT

At the start of serious protest in July 2012, there was no official data available to the public concerning the environmental impact of the expansion project. Yet almost all news groups talked of environmental concerns as one of the main reasons for protest. Thomas Fuller, in The New York Times, went as far as to state that environmental concerns are "[a]t the heart of the case" and that "land seizures" are the broader issue⁵⁸. While data was not available, the history of the area and their experience with other mines on their mountains has made the local people wary. An increase in local air pollution was evident at the time, and dumping on

⁵² Aye Ni, *Protestors close rally sites near Latpadaung mine*, Democratic Voice of Burma DVB, 18 March 2013, available at: <<http://www.dvb.no/news/protestors-close-rally-sites-near-latpadaung-mine/27045>. March 22nd 2013>, accessed 22 March 2013.

⁵³ *Ibid.*

⁵⁴ Wetmae village, four families accepted for this reason, March 17-19.

⁵⁵ Around 1.5 million kyats for one acre of irrigated farmland, 1.2 million kyats for one acre of cultivated monsoon hillside and one million kyats per acre of land not used for cultivation.

⁵⁶ Thet Swe Aye, *Villagers Accept Compensation, but Some Still Refuse*, see *supra* note 44.

⁵⁷ *Ibid.*

⁵⁸ Fuller, Thomas, *In Battling Mine Project in Myanmar, 2 'Iron Ladies' Rise*, The New York Times, 26 September 2012, available at: <<http://www.nytimes.com/2012/09/27/world/asia/27iht-myanmar27.html?pagewanted=all&r=0>>, accessed 22 March 2013.

the lands next to farmland was creating pollution scares amongst the villagers. Whether a ‘real’ imminent threat or not, the environmental concern platform has been successful in gaining attention and support to the protesters of the mine and its subsequent land grabs. The suspected widespread environmental damage that the project is creating, or expected to create, has been almost as consistently reported an issue as the abstract ‘land grab’ (refer to Figure 5). It was reported by all media sources for the entire period of time investigated (both giving way to the crackdown issue after the 29th of November).

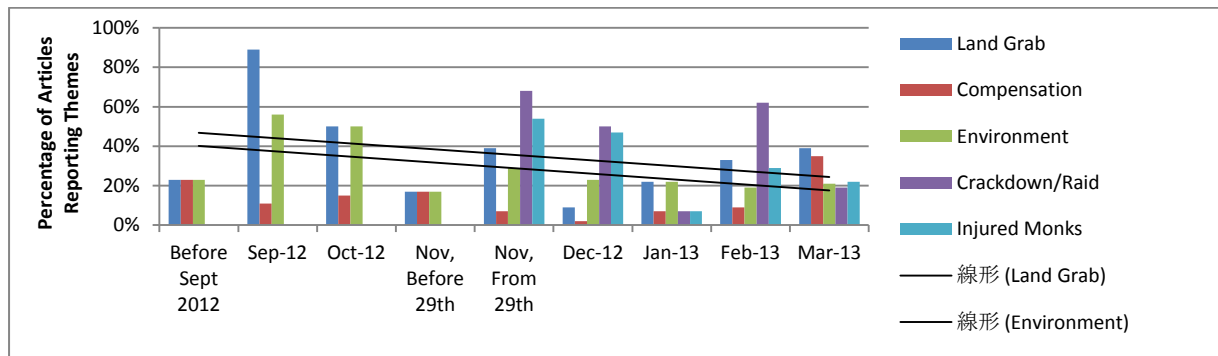


Figure 5. Land Grab and Environment Reporting Trend Lines (all articles)

Environmental concerns were the issue that drew further support in August 2012, from villages further afield. When those living under the Letpadaung Mountain reminded others of “the decimation of nearby [Sabetauang South, Kyisintaung] mountains due to similar projects in the past,”⁵⁹ the literature surrounding the issue began to brim with nostalgia. Suddenly the concern was in protecting the natural and physical heritage of the land that they knew. LNG sources reported locals’ worry over the loss of their mountains. The Irrawaddy has reported on their altruistic desire to preserve their landscape for future generations, most vividly expressed in “mountain gazing” sessions⁶⁰ and of the respect for the monolith that had protected their lands.

It was this environmental heritage agenda that pushed demands for the complete closure of the project. At the start of the protests, the focus had been on insufficient compensation and/or the grabbing of their land rights through non-transparent agreements. But by the end of August and beginning of September, protesters were calling for the end of the whole mining project rather than just the expansion of the existing activities. “What began as a few dozen farmers in Sagaing Region demonstrating over land grabs and inadequate compensation has quickly escalated into a mass uprising against extractive industries which decimate the environment featuring students and activists from Rangoon and Mandalay,” reported the Irrawaddy, succinctly, in mid-September 2012.

⁵⁹ Mann, Zarni, *Letpadaung Mine Protesters Scale New Heights*, The Irrawaddy, 26 October 2012, available at: <<http://www.irrawaddy.org/archives/17430>>, 22 March 2013.

⁶⁰ Nyein Nyein, *Copper Mine Protest Earns Nationwide Support*, The Irrawaddy, 13 September 2012, available at: <<http://www.irrawaddy.org/archives/13913>>, accessed 22 March 2013.



Figure 6. May 11th 2012



Figure 7. December 30th 2012

Besides the damage done to the landscape, i.e. to Letpadaung Mountain itself, there are serious concerns over water quality. Han Win Aung, of the Political Prisoners Families Network, a Burmese NGO, reportedly said “some wells in the area are no longer drinkable or usable as the water has a sour and salty flavour [sic]”⁶¹. Locals situated near the main project site have reported their need to buy bottled water, those who cannot afford it, have no choice but to drink the contaminated water⁶². The pollution is blamed on the current Monywa Copper Mine Company’s activity although there were no public reports. Figures 6 and 7 show the extent of the excavation and subsequent environmental damage done to the side of the Letpadaung Mountain. The villages marked in the images are among the first to be relocated for the sake of the expansion: Kyawkyawa, Kan Taw⁶³, Wethme⁶⁴. While some water pollution can be attributed to the small scale “subsistence mining” [Mines Law, Art2 (m)], carried out by locals in the tailings ponds of previous projects, there is strong evidence that this expansion site poses a serious further threat to the local water table. This is due to the mining methods to be used as the project is currently going through the development phase and is not at extraction/beneficiation/refining phase yet. The Letpadaung mine is to use the same method as the other three Monywa sites: heap-leach solvent extraction-electrowinning processing. This type of processing combines multiple metallurgical processes, requiring fewer steps, and saving energy and reducing emissions. For example, this system reduces the use of smelters and subsequent sulphur dioxide emissions. However, the heap leach process requires a large amount of solvents of very low pH. A 2007 article by an Australian research group (investigating the other Monywa sites), said that they were “extremely acidic, with a solution pH of usually less than 1.5 and in some cases less than 1.0”⁶⁵. In another article by the same group (from 2008), they explained that “most heap bioleaching operations treating low-grade ore operate with a solution pH between 1.5 and 2.5”. However, the Letpadaung site has very high-grade ore, but a high amount of certain

⁶¹ Kuang, Ba, *Chinese Weapons Maker to Mine Monywa Copper*, Irrawaddy, 24 June 2010, available at: <http://www2.irrawaddy.org/article.php?art_id=18798>, 22 March 2013.

⁶² *Ibid.*

⁶³ This village has been entirely relocated.

⁶⁴ Wet Hmay /Wat Hmae/Wat Hmay/Wethme – alternative spellings

⁶⁵ Maung Shwe, Thomas, *Ivanhoe Mines receives \$103 million from Monywa Mine sale*, Mizzima, 5 August 2011, available at: <<http://www.mizzima.com/business/5729-ivanhoe-mines-receives-103-million-from-monywa-mine-sale.html>>, accessed 22 March 2013.

spoil⁶⁶ metals like pyrite, mean that such low pH solvents may be necessary. But this will only increase the concern of locals, and their convictions, that their water table is threatened.

The MICCL used to have bi-annual visits from Société Générale de Surveillance SA (SGS SA), the reports from which were made public, but has since changed to the Singaporean SGS group from inspections conducted every three months⁶⁷. According to U Myint Aung, a project official, the Monywa sites have the international standards of ISO 14001⁶⁸, ISO 9001⁶⁹ and OHSAS⁷⁰ 18001 since 2003⁷¹.

The mining project also sits along tributaries to the Chindwin River (and less than 5 km from the river itself), one of the country's main rivers, that runs into the Irrawaddy River. The far reach of these water and air pollution issues and the concern for the preservation of the landscape in general draw the support from the near and abroad. The environmental narrative regionalized the issue in the same way that the land grab (and the crackdown) narrative nationalized it.

VI. FORMS OF RESISTANCE AND COUNTER-RESISTANCE IN A NEWLY REFORMING REGIME

A. MOBILIZATION OF THE PUBLIC IN THE FACE OF LAND GRABS

One of the major issues raised by the protests and demonstrations that have been occurring all around the country since last year is the increase in land grabs. The Monywa Copper Mine case is just one example of this. Grassroots protest organizations have conducted sit-ins, demonstrations, marches, conferences and even filed lawsuits (against companies, and even President Thein Sein personally⁷²). Information sharing among locals as well as among similarly stressed communities has been a key element in the new wave of protest. Knowledge enables and thus is a form of power⁷³.

Protests began in force on the 2nd July 2012, when an administrative order declared selected lands around the Letpadaung site off limits, and have lasted until the 18th of March 2013. It was then that many farmers, no longer able to reach their farms, realized that their

⁶⁶ The mining term for the waste matter removed from the dug-out materials.

⁶⁷ Yu Jincui, *Wooing old customers anew*, Global Times, 27 November 2012, available at: <<http://www.globaltimes.cn/content/746784.shtml>. March 22nd 2013>, accessed 22 March 2013.

⁶⁸ An environmental protection guideline, not a certificate that was updated in 2004 to a more inclusive version, while ISO 14063 is also recommended as it outlines the need to communicate with local people about the environmental impact of a project.

⁶⁹ Quality control certification.

⁷⁰ Operational health and safety standard.

⁷¹ Xinhua, *Myanmar's Monywa copper project comply with national law: officials*, China Securities Journal, 16 October 2012, available at: <http://www.cs.com.cn/english/opinion/201210/t20121016_3625537.html>, 22 March 2013.

⁷² On March 5th 2013, three villagers from the Letpadaung area filed a lawsuit against President Thein Sein, who they say should take responsibility for the crackdown on the 29th of November. The suit was accepted by the regional office, but later rejected.

⁷³ Michel Foucault, "knowledge is power."

lands had been officially confiscated for the sake of the project and that the compensation that they had received (where paid at all) was meant for the loss of their land rights. Villagers reportedly filed complaints with local authorities⁷⁴, but apparently unsatisfied with the result of this effort they began the process of organizing resistance. By the end of July when their efforts to be heard began to disrupt work around the site and irritate those working at the mine company headquarters, a curfew (under section 144 of the penal code) was imposed around Salingyi Township. Mid-August saw what the Irrawaddy called “skirmishes [break] out between villagers and the mining company”⁷⁵ and a 500 person strong march, by residents of the closest villages that were scheduled for relocation, to the administrative office of Salingyi Township (that was turned back by security forces)⁷⁶.

By the end of August, almost two months after the locals affected by the project began their demonstrations, *The Farmland Law* and *The Vacant, Fallow and Virgin Land Law* came into force. These land laws have been highly controversial as they are open to abuse (as discussed earlier). Thus the efforts of the Letpadaung villagers started to draw serious national attention and pique the interest of regional and international media. The high period of protest was from September 2012 to January 2013. The media (except MG news) was drawn to what by mid-November were the almost daily demonstrations centering on the land grabs around the Letpadaung mountain. As the protest gained momentum their cause began to symbolize the entire nation’s struggle against land grabbing. Citizens from different ethnic and political groups started supporting their cause.

The Letpadaung protesters have been very imaginative in their efforts to bring attention to their plight and raise awareness of the issues affecting them. On the 10th of September a group organized a ‘mountain gazing’ gathering to underline the importance of the mountain, and its place in the landscape, that they were likely to lose. The 12th saw one of the first of the public meetings that were to be organized to discuss the issue and that would bring national figures from historical resistance groups like Generation 88⁷⁷. Environmental and legal groups, like the Burma Lawyers Network and Seinyaungso, an environmental NGO from Mandalay, began to cooperate with the protesters, conducting surveys, and reviewing the agreements that had been made between the locals and the company. By the 26th enough attention had been drawn to the issue that a rare press conference was held by the UMEHL’s Maung Maung, the Project Department Director, who said that they would negotiate with the residents surrounding the Monywa Copper Mines (who had the right to submit appeals for consideration directly to the company).

⁷⁴ Zarni Mann, *Farmers Persist in Fight to Halt Monywa Copper Mine*, The Irrawaddy, 11 October 2012, available at: <<http://www.irrawaddy.org/archives/16251>>, accessed 22 March 2013.

⁷⁵ Nyein, Nyein. “Copper Mine Land Grabs Protest Heats Up.” The Irrawaddy. August 23st 2012.

⁷⁶ Kuang, Ba. Irrawaddy “Chinese Weapons Maker to Mine Monywa Copper”. June 24th 2010.

⁷⁷ A group of former students that had been involved in the 1988 uprisings.

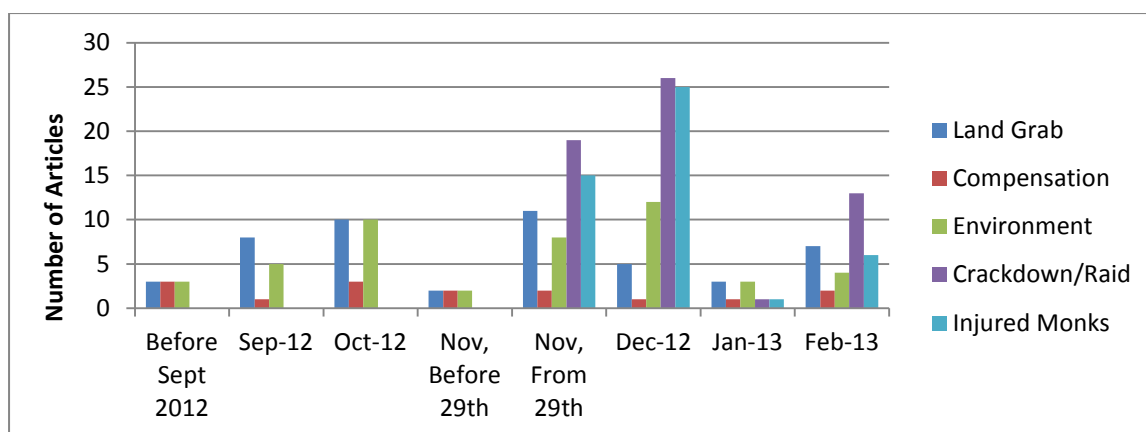


Figure 8. Number of Articles for Entire Period

It was not long before this fight took on another dimension. It became not only a symbol of resistance to land grabbing, which became a secondary theme in media discourse, but an exercise in public freedom of speech and expression. October (Figure 8) was a high in terms of reporting of these events (again, prior to the 29th of November). Attention was being drawn to the importance of the situation as a test for the reforms and the people's constitutional right to protest. Theatrical performances, toddy palm plantation, graveyard sit-ins⁷⁸, and many other inventive forms of peaceful protest were carried out during this month drawing attention to their cause and to their determination to be seen and heard. As the Asian Human Rights Commission has said, this case encompasses "all dimensions of the struggle for political, legal, and social change in Myanmar [Burma] today, including fundamental rights to freedom of speech and assembly, to organize and hold opinions, and to participate fully in public life without fear of persecution or violence," (RFA). Thus this is a test of the reforms taking place and to what degree the basic freedoms of the Burmese people are supported by the new regime.

Under the former military regime, there were very few spaces for 'peaceful' resistance. Citizens lived in fear of intimidation and arrest if they were too vocal in expressing their criticisms of the ruling body or the way they ran things in the country. While these fears have not entirely dissipated, the new public protest law "Right to Peaceful Assembly and Peaceful Procession" that came into force in Myanmar on 5 July 2012, has opened the door, recognizing the 'in-principle' right of citizens to 'legal' protest. The national reaction has been astounding. Previously, as Kevin Woods of the Transnational Institute remarks, "it was never possible ... for villagers to speak out about this or else they would disappear. And suddenly now it's possible - not of course without intimidation from authority figures, but people are not disappearing from raising these issues and it's having a kind of domino effect in terms of other villagers"⁷⁹.

⁷⁸ 9th October over 1,000 people demonstration at graveyards in Sinda

⁷⁹ Mizzima, *Land confiscation issue major concern for Burma's rights groups*, Mizzima News, 23 Oct 2012, available at: <<http://www.mizzima.com/news/inside-burma/8271-land-confiscation-issue-major-concern-burmas-rights-groups.html>>, accessed 22 March 2013.

According to the new Public Protest Law, all citizens wishing to protest must submit an application to do so five days in advance⁸⁰. Failure to do so could lead to one year in prison. However, in a move to protect the right of citizens to protest without interference, there is also a two-year prison charge for anyone who disrupts a ‘permitted/legal’ peaceful protest. Additionally under the new law authorities are obliged to accept the applications to protest unless they feel that doing so would pose a ‘serious’ threat to the security or harmony of the State (a clause that is wide open to interpretation). However, the Asian Branch of Human Rights Watch reports that villagers around the Letpadaung area claimed to have “submitted an application 11 times [to the local authorities] but it was never approved”⁸¹. This is a new law and its application is only now being tested. With applications being refused and the government unused to handling peaceful protests positively, this law is still in its infancy. As such it would be unwise and unfair to prosecute those who do not abide by it fully, to the full extent of this law. Doing so will only harden feelings and weaken the legitimacy of the law. That there need be a registration process for protests around the country at this delicate juncture of the country’s development can be accepted from a pragmatic point of view, however, this type of law can only be temporary if the government is serious about including the people in the State’s development.

With mounting anti-China sentiments in the country, Wanbao Mining Company’s Geng Yi, the Managing Director of the Myanmar operations, held a mid-October press conference in Yangon⁸². Critics of the project have gone so far as to compare it to the legendary Mytison Dam case. These negative sentiments have been reinforced by statements such as those made by Burmese minister Aung Min, who has been well reported as saying “we [Myanmar] are afraid of China” and “[i]f they feel annoyed with the shutdown of their projects and resume their support to the communists, the economy in border areas would backslide. So you’d better think seriously”⁸³. However there have been efforts to curb this trend, made by Aung San Suu Kyi, a favourite of the media, who told gathered villagers that “we [Myanmar] have never regarded the People’s Republic of China as our benefactor. But it is our neighbouring country so we want to be a friend”⁸⁴.

Resistance to the expansion project, its land grabs and environmental damage, have included several law suits (filed by both sides). The first round of legal action was taken between the 5th and 9th of October. When both parties filed suit in Sarlingyi Township, villagers aimed to sue both UMEHL and Wanbao. The second round was on October 18th, when the Monywa Mine company officers “filed a defamation lawsuit” against several

⁸⁰ It should be noted that under the 2008 Constitution the people’s right to peaceful protest is enshrined: “to assemble peacefully without arms and holding procession” Art. 354(b).

⁸¹ Burma: Investigate Violent Crackdown on Mine Protesters - By Human Rights Watch | December 1, 2012

⁸² Myanmar Times, *Chinese Mining Firm Threatens Legal Action*, 22 October 2012, available at: <http://www.mmtimes.com/index.php/national-news/2603-chinese-mining-firm-threatens-legal-action.html>, accessed 22 March 2013.

⁸³ Kyaw Phyto Tha, *Fear of China Keeps Copper Mine Open: Aung Min*, The Irrawaddy, 26 November 2012, available at: <http://www.irrawaddy.org/archives/19816>, accessed 22 March 2013.

⁸⁴ AFP, *Suu Kyi demands apology for crackdown on protestors*, Democratic Voice of Burma, 30 November 2012, available at: <http://www.dvb.no/news/suu-kyi-demands-apology-for-crackdown-on-protestors/25066>, accessed 22 March 2013.

activists involved in the protest and another, that it withdrew, against the DVB for falsely reporting their destruction of a pagoda on their site⁸⁵. The issue of the ‘pagoda destruction’ was a case that clearly demonstrated the power of the media and its responsibility, as the outrage that immediately swept through the predominantly Buddhist nation held even after the news that it had been a false report. But those feelings of outrage, and the protests they spurred in the centre of the country, were the precursors to those seen after the November 29th crackdown.

Another method that the protesters employed was to encourage an already existing trend; and that was to universalize their resistance, to make their protest a platform from which to begin to discuss other ills plaguing the nation. On the 18th of October the first Letpadaung People’s Conference was held. It attracted over 40 organizations and their support from all over Myanmar. Their committee organized and educated those wanting to protest or looking for ways to aid them, as well as helping all involved look beyond their own struggle⁸⁶.

Serious sit-ins began from around the 18th of November, with protesters located in 4-6 major camp sites within the ‘project grounds.’ Others, according to Irrawaddy eyewitnesses, set-up “in front of the Myanmar-Wanbao Mining Company office on the Monywa-Pathein Road, and ... at the Lelti [Ledi] Sayadaw Buddhist Building near Kyawyar Village”⁸⁷. It was from this time that the mining operations ceased. However, as protests began to heat up, and articles focused less and less on the underlying issues of land grabbing, compensation and environmental damage, a parliamentary decree called for the creation of an investigatory commission. It was announced just when larger protests were gathering for marches in the capital cities of Yangon and Naypidaw. With the announcement of the creation of the commission came an ultimatum: a midnight deadline of the 27th November was ordered by the Government for the end to protests; failure to do so would mean ‘*legal action*’⁸⁸. An announcement to which most reacted by evacuating the sites. However, some stayed, along with around one hundred monks⁸⁹.

⁸⁵ Mizzima, *Both sides file suits in mine protest*, 11 October 2012, available at:

<<http://www.mizzima.com/news/inside-burma/8208-both-sides-file-suits-in-mine-protest.html>. March 22nd 2013>, accessed 22 March 2013.

⁸⁶ Issues such as the Kachin and Rakhine conflicts, the SEZs, and other land grabs were all discussed at this conference.

⁸⁷ Nyein, Nyein, *Monywa Copper Mining Protest Resumes*, The Irrawaddy, 20 November 2012, available at: <<http://www.irrawaddy.org/archives/19339>>, accessed 22 March 2013.

⁸⁸ Burma Partnership, *Authorities Arrest Mine Activists*, 27 November 2012, available at:

<<http://www.burmapartnership.org/2012/11/authorities-arrest-mine-activists/>>, accessed 22 March 2013.

⁸⁹ Actual figures vary widely, from 100 – 300.

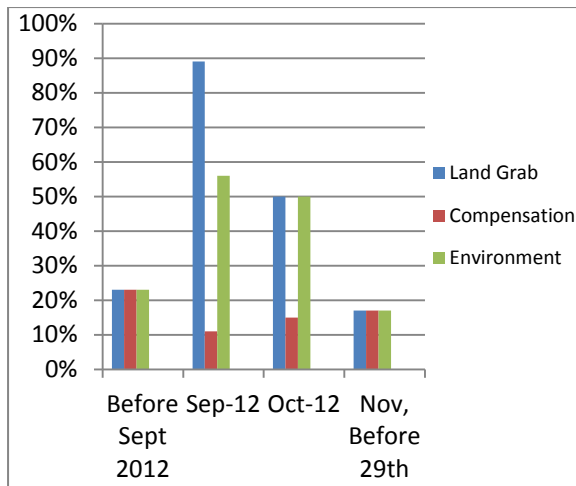


Figure 9. Theme Trend Pre 29th November 2012

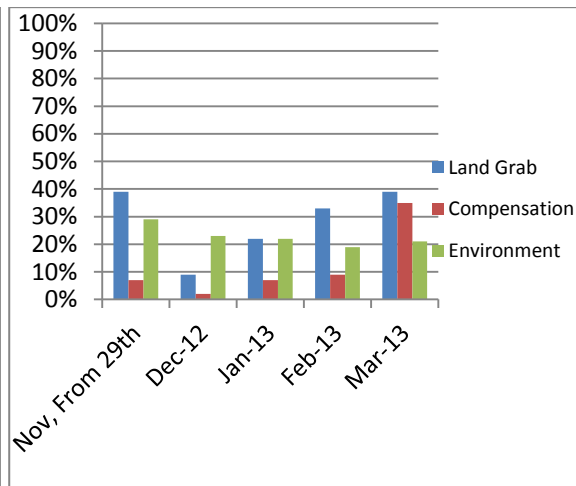


Figure 10. Theme Trend Post 29th November 2012

B. NOVEMBER 29TH DAWN BREAK-UP OF THE PROTEST

A turning point in the events, and in the discourse, surrounding the Letpadaung project came on November 29th 2012, when the riot police violently raided the remaining six protest camps (see Figures 9 and 10 for change in trend). By the early weeks of November, this land grab issue had become a national topic of interest. The Letpadaung case came to symbolize all land grab related struggles around the country, with the protest effort setting standards for peaceful resistance in a new political era.

Conflict, being a “favourite” of media, is both a selling point of media and a cause for media. Thus, as has been discussed, in this case study as protests, “public mobilization,” grew so did media coverage. However, when violence broke into the narrative mass media accelerated their reporting, and international news held the story more consistently.

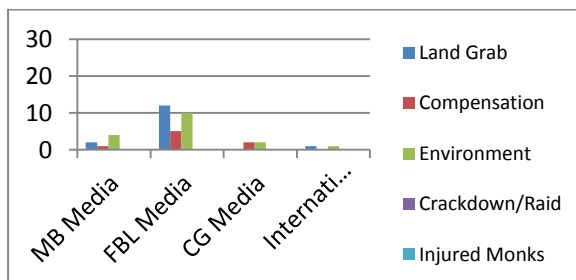


Figure 11. Pre Nov 29th, By Media Type

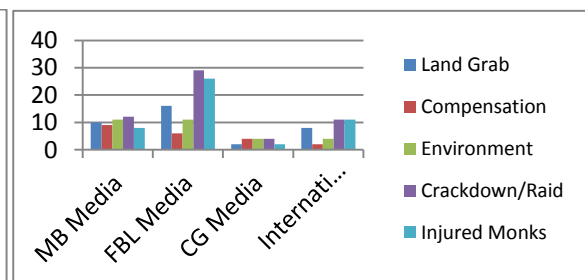


Figure 12. Post Nov 29th, By Media Type

The ‘land grab’ narrative, a less visual and universally emotive issue⁹⁰ was entirely sidelined by the events of November 29th (refer to Figures 11 and 12). At around 3:00 am of the morning that Aung San Suu Kyi was due to arrive and calm the situation with the

⁹⁰ When compared to the theme of state-run violence and injured monks, and considering the knowledge divide between urban and rural residents in terms of the significance of land.

protesters, the riot police raided the remaining six protest camps⁹¹. In the pre-dawn protesters were given five minutes to clear out. The police action turned violent when smoke bombs containing a flammable compound - at the time suspected to be military-grade white phosphorus - burnt camp, protesters and monks alike. Months later it is still unclear who was actually responsible for ordering this raid as the final report released by the Letpadaung Investigation Committee made no mention of this. Over 100 were injured, mostly young monks, with second- and third-degree burns⁹².

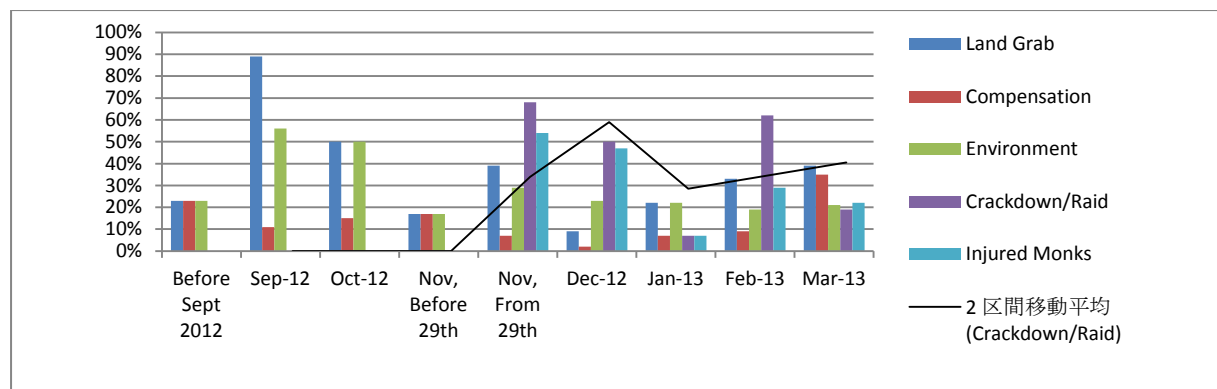


Figure 13. Precedence of the Crackdown Theme post November 2012

Media immediately took up this story, fanning the flames of national outrage as photographs of the injured monks were carried, poster size, by protesters and demonstrators, in numbers previously unseen. Figure 13 shows the spike in the number of articles appearing related to the Letpadaung case after the 29th of November, 68% of them focused on the crackdown and its excessive use of force. The media groups vary greatly in their labelling of the events however. MB media such as *The New Light of Myanmar* reported on the 29th actions as being “riot suppression procedures” and “unavoidably dispersed”⁹³. CG sources similarly refer to them as “disperse action[s]”⁹⁴. In contrast FBL media cite the actions of that night as a “brutal police raid,”⁹⁵ and as a “crackdown”⁹⁶. International media followed along the lines of the FBL, using words like “crackdown” and “break up,”⁹⁷ but in not as damning terms.

On December 30th Aung San Suu Kyi called on the government to express regret for what had happened and for an apology from those involved. The Irrawaddy reported that The Upper Burma Monks organization of Mandalay were calling on the Burmese government to “formally apologize for the action within five days, to provide sufficient health care for those

⁹¹ Recall the administrative order to evacuate the site by the 27th midnight.

⁹² The average amount reported in over forty articles after November 29th 2012.

⁹³ The New Light of Myanmar – 10(225) 1 December 2012.

⁹⁴ Xinhua, “Myanmar police apologizes for wounding some monks among protestors in disperse action,” 2 December 2012.

⁹⁵ Zarni Mann, “Court Rejects Complaint against President over Protest,” Irrawaddy, 11 March 2013.

⁹⁶ Mizzima, “International condemnation for Monywa crackdown,” 2 December 2012.

⁹⁷ Al Jazeera, “Riot police break up Myanmar copper protest Security forces used a water cannon and other weapons to end the three-month protest, injuring 10 monks, two critically,” 29 Nov 2012; & “Myanmar police apologise for mine crackdown Government also forms commission to be headed by opposition leader Aung San Suu Kyi to investigate police raid,” 2 Dec 2012.

who were injured and to release seven monks they say were detained”⁹⁸. On the 1st of December the police apologised to the head monks, but it was not until the middle of the same month that the government officially apologised for the actions taken, after thousands protested at U Pwar and Eaintawyar Pagodas, Pakokku, and hundreds more in Mandalay centre. In a ceremony held on December 15th in Atumashi Monastery in Mandalay’s Aung Myay, Thar San Township, the Myanmar Government officially apologised to the monks for the violent crackdown⁹⁹. This was an unprecedented move that signalled to many that their demands for a show of regret had been heard and respected and that, more importantly, the government was sincere in its claims of reform.

The difference in reporting about the events, however, is at its extreme when comparing the CG and MG news with the LFB media. The Xinhua CG news reported that “the monks have occupied the project’s restricted area since Nov. 18. Despite step-by-step appeal, the demonstrators continued to stay unlawfully up to Nov. 28, forcing the police to unavoidably disperse them”¹⁰⁰. Xinhua, CG backed newspaper and MG backed news are the only ones that mention the “illegality” of the sit-ins, or “boycott camps,” located within “Project” land. They rightly point out the step-by-step process that the government followed in order to end the protest, which began with the announcement of the investigatory committee.

In essence, the situation following the establishment of the Letpadaung Committee is a ‘clean-up’ job, resulting from non-transparent and past dealings between the military backed UMEHL, the then government and the investing Chinese company. However, in response to a proposal put forward to the Pyithu Hluttaw on the 23rd November 2012, concerning the copper mine expansion project and the protests in Salingyi Township, Monywa District, Sagaing Region, and made more urgent by the violent crackdown on the protesters on the 29th of November, the President announced the creation of an Investigation Commission¹⁰¹. On December 1st 2012 the New Light of Myanmar printed that the Investigation Commission¹⁰² was to determine whether the “copper mining should be continued and to find out the true situation about the recent containing of protest in Letpadaungtaung [sic] Copper Mining Project in Salingyi Township, Monywa District, Sagaing Region”¹⁰³. The commission was made up of some 41 members (including Ang San Suu Kyi as Chairman and one secretary), including activists from the 88 generation group, ministers from the Ministries of Environmental Conservation and Forestry, Science and

⁹⁸ Yadana Htun, *Suu Kyi Wants Gov’t Apology for Violent Crackdown*, The Irrawaddy, 1 December 2012, available at: <<http://www.irrawaddy.org/archives/20285>>, accessed 22 March 2013.

⁹⁹ Phy o Wai Kyaw and Than Naing Soe, *Myanmar makes apology to monks over copper mine crackdown*, 24 December 2012, available at: <<http://www.mmtimes.com/index.php/national-news/mandalay-upper-myanmar/3650-union-ministers-apologise-to-monks-over-november-29-raid.html>>, accessed 22 March 2013.

¹⁰⁰ Xinhua, *Myanmar clarifies copper mining project incident*, Xinhua English News, 1 December 2012, available at: <http://news.xinhuanet.com/english/world/2012-12/01/c_132012688.htm>, accessed 22 March 2013.

¹⁰¹ The New Light of Myanmar, 10(246), 26 December 2012.

¹⁰² Notification No. 92/2012 of 3rd Waxing of Tazaungmon (National Calendar marker) 1374 ME

¹⁰³ The New Light of Myanmar, 10(251), 24 December 2012.

Technology, Health, Mining, and five representatives from the Sagaing district and affected townships. The report was submitted on the 11th of March 2013¹⁰⁴. It was found that the project had improperly confiscated 1,900 acres (769 hectares) of land which the report recommended should be returned and the expansion plans re-drawn. Additionally it recognized that there had been improper methods (intimidation, threats) used to ‘acquire’ consent to use lands and relocate villagers.

Before the report was completed Aung San Suu Kyi reportedly said at a press conference on December 10th that “[i]t’s certain that we can’t come up with an answer that will satisfy everyone. There will be some people who are satisfied and some who are not. It is not the commission’s duty to make everyone happy. However, we will try to give the best answer in the interests of the state and people in the long term”¹⁰⁵. At the time of writing it appeared that the government had already decided to allow the expansion project to continue, calling for the “amending [of the] contract signed between Myanma Economic Holdings Co Ltd and Wanbao Company” in its press release of March 11th 2013¹⁰⁶. In order to implement the recommendations of the report a committee was established on the 12th of March, which has already begun the work of righting some of the wrongs done to those affected by the land grabs. However, not all those affected were satisfied with the results and clashes with police forces occurred again as protests continued around the company site.

VII. CONCLUSION

The media discourse shifted its focus throughout the time period in a way that reflected the changing legal and political situation in the country. As the protest grew, their reporting followed and new themes were prioritized. The conflict was originally centered on land grabs, compensation and environmental concerns. But as legislation developed to permit freedom of demonstration and of press, protesters are emboldened and media follows in their wake. The Letpadaung Mine land grab morphed from a struggle for the protection of citizens’ right to land and work, to one for their right to free expression without fear of repression. International media then picked up the narrative and exported the issue as a test case for a reforming Myanmar regime. This trajectory was altered by the November 29th crackdown. Violence being a ‘simple,’ and universally recognized motif one that can be immediately denounced, media coverage prioritized this theme.

However, although potentially less identifiable themes, the original concerns of protesters over the land grabs and environmental damage were not entirely subsumed by the later more ‘dramatic’ elements. Support for the protesters spread initially as their case resonated with other national land grab events. The increase in coverage volume, nationally,

¹⁰⁴ After two delays, 31st December and the 1st of February were the first deadlines, with an interim report given to the President on the 31st of January 2013.

¹⁰⁵ Ei Ei Toe Lwin, *Commission will find fair solution, says NLD leader*, The Myanmar Times, 10 December 2012, available at: <<http://www.mmtimes.com/index.php/national-news/3545-commission-will-find-fair-solution-says-nld-leader.html>>, accessed 22 March 2013.

¹⁰⁶ As reported in The New Light of Myanmar, March 13th 2013.

regionally and internationally that grew with the popularity of the protest demonstrated a trend that may have continued without the catalyst of the November 29th raid. The inventive and organized methods employed by the protesters from the outset pulled in national media interest and then in turn accelerated national support for their conflict. Media news reporting will continue to play a major role in the future of this conflict. However, as each government and non-governmental news source vies for the hearts and minds of its target audience they may choose to prioritize elements that may misdirect attention from the core issues. This re-focusing is to the detriment of those affected by the conflict and places the rest of the narrative out of context.

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Annex A: Letpadaung Investigation Committee Mandates

December 1 st Mandate Notification No. 92/2012	December 3 rd Mandate Notification No. 95/2012
<p>(a) whether the copper mine project adheres to international norms and employ appropriate technologies for environmental conservation;</p> <p>(b) impacts and profits of the copper mine project on social and natural environments;</p> <p>(c) whether the copper mine project will be profitable for the State;</p> <p>(d) <u>causes of protests that demanded the shutdown of the copper mine project;</u></p> <p>(e) <u>review on control of protests and injuries of members of Sangha;</u></p> <p>(f) <u>whether the copper mine project should continue or the foreign investment should be suspended;</u></p> <p>(g) suggestions on development of the country and the rule of law;</p> <p>(h) miscellaneous reviews and suggestions of the commission.”</p>	<p>(a) whether the copper mine project adheres to international norms and employ appropriate technologies for environmental conservation;</p> <p>(b) impacts and profits of the copper mine project on social and natural environments;</p> <p>(c) whether the copper mine project will be profitable for the State, <u>people and generation;</u></p> <p>(d) suggestions on development of the country and the rule of law;</p> <p>(e) regarding the project, facts that should be under investigation deemed by the commission</p> <p>(f) general reviews and suggestions of the commission”</p>

Source: The New Light of Myanmar December 2nd and 4th 2012 [my emphasis]

ANNEX B: The Letpadaung Report Findings

<p>Main Findings of the Letpadaung Committee Report¹⁰⁷:</p> <ol style="list-style-type: none"> 1. “Put the [project] on hold until things calm down and when we have proper democratic principles and standards in place,” which may take a couple of years¹⁰⁸. 2. Amend, and re-sign the Copper mine agreement. 3. Project has negative environmental consequences, if it should go ahead, it will require strict monitoring. 4. Need to conduct thorough EIA, and SIA. 5. Increase taxation on the mining project. 6. Some farmers were forcefully evicted from their lands. 7. More financial compensation, according to today’s market price, as previous compensation was insufficient¹⁰⁹. 8. Return 1,900 acres of farm lands confiscated improperly, and thus change expansion plans of project. 	<ol style="list-style-type: none"> 9. Farmers should sign for 60-year land lease. 10. Sustainable livelihood protection. 11. More job opportunities for locals should be created as the current situation does not¹¹⁰. 12. Outdated/inappropriate laws should be amended to reflect the new democratic principles of the country. 13. Phosphorus¹¹¹ was used. 14. Claimed the police were unaware of the potency of the smoke bomb and should receive training in riot control. 15. Monks should continue to be treated and cared for at the expense of the government. 16. Novices should not join protests. 17. While there are financial benefits now, it must have sustainable benefits for future generations. 18. Unilateral cancellation of project could hurt bilateral relations.
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¹⁰⁷ This is an incomplete list of findings as the official report has yet to be translated.

¹⁰⁸ Bo Htay, commission member.

¹⁰⁹ The compensation at between 5-80 kyat (up to U.S. \$.09) per acre for their appropriated land was based an out-of date act approved in 1984, the panel said. The current rate for land in the area is around 1.5 million kyat (U.S. \$1,730) per acre.

¹¹⁰ Reported in: AFP, *Suu Kyi demands apology for crackdown on protestors*, Democratic Voice of Burma, 30 November 2012, available at: <<http://www.dvb.no/news/suu-kyi-demands-apology-for-crackdown-on-protestors/25066>>, accessed 22 March 2013.

¹¹¹ But not necessarily military grade white phosphorus.