

**BUILDING MYANMAR CLIMATE STRATEGY THROUGH
PROTECTING INDIGENOUS LANDS**



NAW EH HTEE WAH

**MASTER OF ARTS
IN PUBLIC POLICY**

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CHIANG MAI UNIVERSITY

MAY 2024

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PROTECTING INDIGENOUS LANDS**

NAW EH HTEE WAH

**AN INDEPENDENT STUDY SUBMITTED TO CHIANG MAI UNIVERSITY
IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR
THE DEGREE OF MASTER OF ARTS
IN PUBLIC POLICY**

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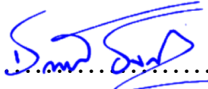
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NAWEH HTEE WAH


THIS INDEPENDENT STUDY HAS BEEN APPROVED TO BE A PARTIAL
FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF
MASTER OF ARTS
IN PUBLIC POLICY


Examination Committee :

Advisor :


.....Chairman.....
(Asst.Prof.Dr.Theerapat Ungsuchaval)


.....
(Asst.Prof.Dr.Warathida Chaiyapa)


.....Member
(Asst.Prof.Dr.Warathida Chaiyapa)


.....Member
(Asst.Prof.Dr.Piyapong Boossabong)

30 May 2024

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Naw Eh Htee Wah

หัวข้อการค้นคว้าอิสระ	การพัฒนายุทธศาสตร์ด้านสภาพภูมิอากาศของเมียนมาโดยการปกป้องที่ดินชนพื้นถิ่น
ผู้เขียน	นางสาวนอร์ เอ๊ะ ที วา
ปริญญา	ศิลปศาสตรมหาบัณฑิต (นโยบายสาธารณะ)
อาจารย์ที่ปรึกษา	ผู้ช่วยศาสตราจารย์ ดร. วรธิดา ไชยปะ

บทคัดย่อ

งานวิจัยนี้วิเคราะห์ช่องว่างที่สำคัญในนโยบายของเมียนมาเกี่ยวกับสิทธิในที่ดินของชนพื้นเมืองและความพยายามในการอนุรักษ์และให้คำแนะนำเฉพาะสำหรับการแก้ไขช่องว่างเหล่านี้ งานวิจัยศึกษาการพัฒนา นโยบายที่เกี่ยวข้องกับที่ดินของชนพื้นเมืองในเมียนมาตั้งแต่ปี 2554 จนถึงปัจจุบัน ผ่านการวิเคราะห์เอกสารด้านนโยบาย รายงานของรัฐบาล และกรอบกฎหมายอย่างละเอียด การวิเคราะห์จะขึ้นอยู่กับหลักการของความยุติธรรมด้านสภาพภูมิอากาศ แร่งบันดาลใจจากความสำเร็จของประเทศฟิลิปปินส์ในการบูรณาการความพยายามในการอนุรักษ์เข้ากับสิทธิในที่ดินของชนพื้นเมืองและความริเริ่มต่างๆ เช่น สวนสันติภาพสาละวินในเมียนมา การศึกษาครั้งนี้จึงพยายามที่จะดึงบทเรียนจากประสบการณ์ที่เทียบเคียงได้ การศึกษานี้เผยให้เห็นความล้มเหลวของเมียนมาในการรับรองชนพื้นเมืองอย่างเป็นทางการนั้น ชัดแจ้งโดยตรงกับวัตถุประสงค์ของ “การสร้างยุทธศาสตร์ด้านภูมิอากาศของเมียนมาผ่านการปกป้องดินแดนของชนพื้นเมือง” ด้วยเหตุนี้ ชุมชนเหล่านี้ถูกปฏิเสธสิทธิขั้นพื้นฐานที่ระบุไว้ในมาตรฐานสากล เช่น ปฏิญญาสหประชาชาติว่าด้วยสิทธิของชนเผ่าพื้นเมือง ประเทศเมียนมาแตกต่างประเทศอื่นๆ ในภูมิภาค เช่น ฟิลิปปินส์ อันเนื่องมาจากเมียนมาขาดความคุ้มครองทางกฎหมายในการปกป้องชุมชนที่เป็นชนเผ่าพื้นเมืองจากการถูกบังคับให้ย้ายถิ่นฐานและการบุกรุกที่ดินของพวกเขา นอกจากนี้ ยุทธศาสตร์การอนุรักษ์ระดับชาติในเมียนมามองข้ามบทบาทสำคัญที่ชุมชนอันเป็นชนเผ่าพื้นเมืองที่มีต่อการอนุรักษ์ความหลากหลายทางชีวภาพภายในพื้นที่อนุรักษ์ชนเผ่าพื้นเมืองและชุมชน เพื่อแก้ไขปัญหาเหล่านี้ การศึกษานี้ได้เสนอการยอมรับทางกฎหมายของพื้นที่อนุรักษ์ชนเผ่าพื้นเมืองและชุมชน และการพัฒนา นโยบายที่สอดคล้องกับมาตรฐานสิทธิมนุษยชนระหว่างประเทศ นอกจากนี้ ยังเน้นย้ำถึงความสำคัญของการผสมผสานหลักการของการยินยอมโดยเสรี การแจ้งล่วงหน้าและการแจ้งให้ทราบ เข้ากับกระบวนการ

ตัดสินใจในการใช้ที่ดิน ซึ่งสิ่งนี้จะรับประกันได้ว่าเสียงของชนเผ่าพื้นเมืองจะได้รับการพิจารณาและรวมเข้าไว้ในการตัดสินใจเกี่ยวกับการจัดการทรัพยากรอย่างมีประสิทธิภาพเพื่อปกป้องสิทธิของชนเผ่าพื้นเมืองและส่งเสริมแนวปฏิบัติในการจัดการที่ดินอย่างยั่งยืน ซึ่งเมียนมาสามารถก้าวไปสู่แนวทางที่เท่าเทียมและครอบคลุมมากขึ้นในการถือครองที่ดินและการอนุรักษ์ โดยจัดการกับช่องว่างเหล่านี้และดำเนินการตามการเปลี่ยนแปลงที่แนะนำ

คำสำคัญ: เมียนมา การเปลี่ยนแปลงสภาพภูมิอากาศ ชนพื้นเมือง การถือครองที่ดิน การจัดการป่าไม้ ความยุติธรรมด้านสภาพภูมิอากาศ การวิเคราะห์นโยบาย



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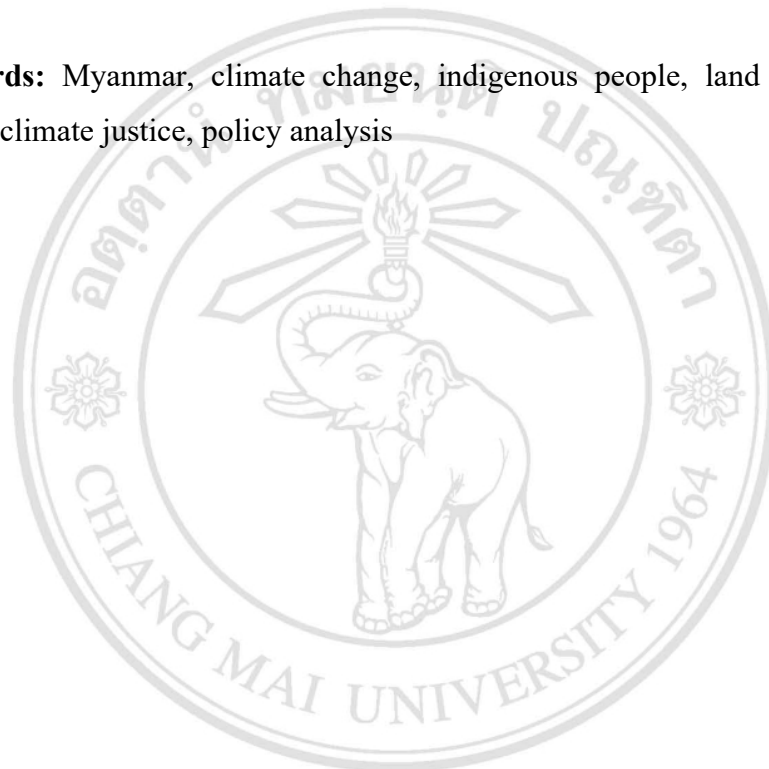
Independent Study Title Building Myanmar Climate Strategy Through Protecting Indigenous Lands
Author Ms. Naw Eh Htee Wah
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ABSTRACT

This research analyses important gaps in Myanmar's policy regarding indigenous land rights and conservation efforts and provides specific recommendations for addressing these gaps. It studies the development of indigenous land-related policies in Myanmar from 2011 to the present through a thorough analysis of policy documents, government reports, and legislative frameworks. The analysis is based on the principles of climate justice. Inspired by the Philippines' achievements in integrating conservation efforts with indigenous land rights and initiatives like the Salween Peace Park in Myanmar, this study seeks to draw lessons from comparable experiences. This study reveals that Myanmar's failure to formally recognize indigenous peoples is in direct contradiction to the objective of "Building Myanmar Climate Strategy Through Protecting Indigenous Lands." As a result, these communities are being denied basic rights outlined in international standards, such as the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). Unlike other countries in the region, like the Philippines, Myanmar lacks legal safeguards to protect indigenous communities from forced relocation and encroachment on their lands. Additionally, national conservation strategies in Myanmar overlook the crucial role that indigenous communities play in preserving biodiversity within Indigenous and Community Conserved Areas (ICCAs). To address these issues, the study proposes the legal recognition of ICCAs, CADC, CADT, and the development of policies aligned with international human rights standards. Furthermore, it emphasizes the importance of incorporating the principles of Free, Prior, and Informed Consent (FPIC) into land-use decision-making processes. This will guarantee that

indigenous voices are effectively considered and incorporated into decisions about resource management. To protect indigenous rights and promote sustainable land management practices, Myanmar can move towards a more equitable and inclusive approach to land tenure and conservation by addressing these gaps and implementing the suggested changes.

Keywords: Myanmar, climate change, indigenous people, land tenure, forest management, climate justice, policy analysis



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Chapter 1

Introduction

Myanmar stands as one of the country's most severely impacted by climate change, and its vulnerability to future natural disasters remains a grave concern (MIMU, 2022). The consequences of climate change and the resulting natural disasters extend beyond the loss of lives, livelihoods, and property, as they also bear significant economic implications. These events have been estimated to cost up to 3% of Myanmar's annual GDP, with the potential for even more profound long-term effects. The increasing frequency and severity of natural hazards in Myanmar can be attributed to the ongoing climate change and environmental degradation (Climate, Environmental Degradation and Disaster Risk in Myanmar: A MIMU Analytical Brief (May 2022) - Myanmar | ReliefWeb, n.d.). While climate change is felt across Myanmar, particularly as approximately 70% of people are dependent upon agriculture (FAO, 2022), indigenous peoples are among the most vulnerable due to the close relationship with the environment that they hold to land and their surrounding environment.

Over the years, indigenous communities in Myanmar have been the primary defenders of the country's forests. However, their conservation efforts are now being threatened by various challenges such as resource extraction, conflict, top-down conservation initiatives, and climate change mitigation programs. The situation in Myanmar highlights the significant impact that governance, natural resource management, and conflict have on the vulnerabilities associated with climate change. Decades of authoritarian rule, land disputes related to agriculture, and ongoing armed conflicts have greatly hindered the ability of local communities to effectively address climate change. Additionally, the destruction of the environment by military-linked forces and businesses is exacerbating the long-term impacts of climate change.

Myanmar took a significant step in global climate policy by signing the Paris Agreement in 2015, amidst the escalating impact of climate change worldwide. This agreement binds countries to the goal of limiting global warming to below 1.5

degrees Celsius above pre-industrial levels. As a signatory, Myanmar has been actively formulating and executing climate strategies to fulfill its international responsibilities. Myanmar has pledged to combat climate change through its nationally determined contributions (NDCs) under the Paris Agreement and has also committed to biodiversity conservation through the Aichi Biodiversity Targets under the Convention on Biological Diversity. Myanmar submitted its INDC to the UNFCCC Conference of Parties in Paris in 2015 and most recently in July 2021. By 2030, the country desires to get 30% of its land area set up as Permanent Forest Estates and 10% as protected areas (The Republic of the Union of Myanmar, 2021). As a result, the Myanmar government officially prioritizes forest conservation across the country to reach the target. Protected Area proposals have been implemented without Free Prior Informed Consent (FPIC) of local communities that would be directly affected. Many people continue to be unaware of the proposals that threaten their access to resources and land. On the other hand, the climate strategy restricts indigenous people's rights to use their land and allows top-down conservation projects that violate their rights. In the context of environmental governance, there are concerning cases of human rights violations against indigenous and local communities that continue to rise under the name of top-down conservation projects. This has resulted in a worldwide trend in which countless of indigenous people face the imminent threat of displacement. Furthermore, governmental entities have a history of overlooking and ignoring these marginalized communities' customary land rights (Conservation Alliance of Tanawthari, 2018). Therefore, it has become a kind of green grab, allocating land and resources in the name of environmental conservation. Moreover, global natural conservation, state authority and control expand into a political forest under the control of insurgents as a counter-insurgency strategy (Woods, 2019).

Indigenous people are connected to their environment and they rely on the ecosystem for shelter, sustenance, and cultural significance. Land represents a deep connection that is necessary for survival, cultural reproduction, spiritual beliefs, and economic value to them. Nevertheless, accounting for a small percentage of the global society, Indigenous communities defend around 80 percent of the planet's ecological diversity (Fleck, 2022). However, they are suffering from the impacts of global warming, deforestation and pollution. These environmental threats exacerbate

existing injustices, resulting in the loss of traditional knowledge and threatening the survival of some indigenous communities (Anderson, 2023). Land tenure is an essential component in the development and implementation of a targeted climate strategy for Myanmar's Indigenous people. Secure and recognize land tenure rights are serious for Indigenous communities' well-being, resilience, and sustainable practices, particularly in the frame of global warming. Therefore, there is a connection between land management, which involves land tenure rights and environmental degradation is integrally connected (Correa and Jansen, 2022).

In that context, it is important to understand the landscape of forest conservation and land tenure in Myanmar. This study aims (1) to analysis the tranformation of inigneous land related polices in Myanmar, (2) to understand the perspectives of Indigenous people in these changes and (3) to propose legal recognition towards a sustainable land and forest management and equality for Indigenous and local community.

The Philippines has made significant strides in incorporating environmental preservation and indigenous land rights into national policies, setting a strong example for other countries to follow. By implementing legislative frameworks such as the Indigenous Peoples' Rights Act (IPRA) and the Certificate of Ancestral Domain Claims or Certificate of Ancestral Domain Title, the Philippines has shown a commitment to securing land tenure and promoting sustainable development while recognizing and defending the rights of Indigenous peoples. The establishment of the Salween Peace Park in Myanmar further demonstrates the effectiveness of an indigenous-led grassroots approach to environmental preservation and rights defense, highlighting the importance of local involvement in managing and protecting their territories.

Chapter 2

Conceptual Framework

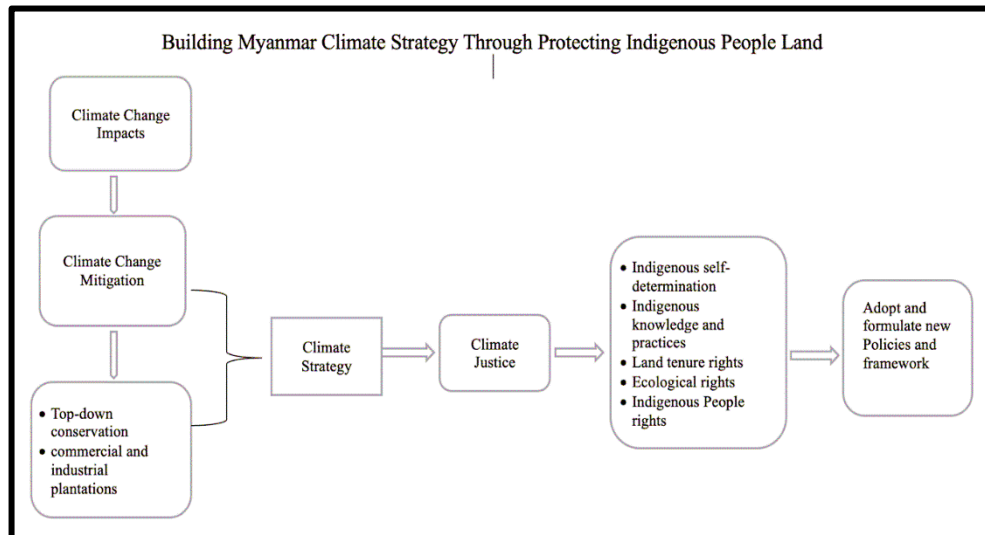


Figure 1: the concept to safeguard Indigenous people land while building Myanmar climate strategy

Climate change's effect on land and terrestrial ecosystems, according to information in the IPCC's 2019 Special Report on Climate Change and Land, creates serious risks to human populations and ecosystems around the world. Among these countries, Myanmar is the second most vulnerable to climate change, as evidenced by 2021 Global Climate Risk Index. In response to the impacts of climate change, Myanmar has made international commitments under the Paris Agreement to tackle climate change through its nationally determined contributions (NDCs) and others related laws and strategies, which includes top-down conservation system and the approval of commercial and industrial plantations within Permanent Forest Estate (PFE) areas under forest law, has affected indigenous and local communities who are in ancestral domain. These actions have led to circumstances of climate injustice. Consequently, there is a critical need to recognize and respect Indigenous self-determination, Indigenous knowledge and practices, land tenure rights, ecological rights and Indigenous people rights. To achieve this, the adaptation and formulation

of new policies and frameworks are necessary to protect indigenous land while proceeding Myanmar climate strategy and mitigating climate change.

Climate justice is based on the acknowledgement that while climate change affects everyone, it disproportionately affects the poor and vulnerable (Jafry et.al. 2019). Climate justice seeks to address the disproportionate impact of climate change on communities that are marginalized, especially Indigenous Peoples and Local Communities (IPLCs), and to ensure their autonomy and the resources they need to thrive. It is tightly connected to the principles of self-determination, visibility, decision-making space, territorial rights, and livelihood capabilities (Nuñez, 2018). Since IPLCs have traditionally managed their environments sustainably, protecting their territories from exploitation and degradation is made possible by their ability to recognize territorial rights. For equitable policy-making, it is essential that IPLCs are visible in the climate conversation and play a significant role in decision-making processes that impact their lands and way of life. Ensure that IPLCs have access to essential resources, protecting their traditional ways of life, and securing their livelihoods are all important aspects of improving their capacity to live healthy and meaningful lives. Effective climate justice necessitates strong partnerships between IPLCs and governments, based on mutual respect, recognition of rights, and collaborative governance. IPLCs can make sure their opinions are heard and taken into consideration when creating climate action plans by engaging in politics in both national and international platforms. They can advance climate justice by incorporating these principles into climate policies and practices. This will ensure that climate action is equitable, inclusive, and sustainable, benefiting both people and the environment, while also mitigating the effects of climate change and upholding the rights and dignity of IPLCs (Nuñez, 2018).

While approaches to climate justice vary greatly, a vast majority focus on how the impacts of climate change affect vulnerable communities. This approach doesn't address many ways in which efforts to mitigate climate change impact vulnerable communities, which this paper argues should also be incorporated into discussions on climate justice. Climate mitigation policies and projects across the globe have had adverse impacts upon indigenous and local communities, who depend upon land and forests for their livelihoods. The creation of protected areas and conservation zones that displace and exclude indigenous peoples from their lands have had detrimental impacts, resulting in the creation of potentially millions

of conservation refugees (Dowei, 2009). These numbers are due to increase greatly with current global 30x30 plans that aim to enclose and protect 30% of the earth's land cover, a process which would result in the dispossession of millions of indigenous peoples across the globe (Gifford et al 2023).

Approaches to conservation have shifted in recent years due to continuous efforts of indigenous activists, who have shown both that indigenous communities are the most adept at protecting biodiversity, and that conventional approaches to conservation have disastrous human rights impacts. This paradigm shift has led to some changes in global policy, creating new definitions of conservation areas such as indigenous community conserved areas (ICCAs). This movement, while in its early stages, has forged unlikely relationships between conservation organizations and indigenous peoples, breaking down colonial dichotomies between nature and culture, and finding ways in which conservation and climate mitigation efforts can work towards the goals of indigenous self-determination and forest protection in harmony. Indigenous people are connected to their environment and they rely on the ecosystem for shelter, substance, and cultural significance. Land represents a deep individual connection that is necessary for survival, cultural reproduction, spiritual beliefs, and economic value to them. Then, land and climate change are interconnected with changes in one often amplifying or mitigating effects on the others. Indigenous peoples around the world have land use systems that in line with their culture and ecological scenarios. These systems include agricultural, community forest areas, wildlife conservation area, herbal medicine forest area, watershed protection area and others particular land use categories. These structures represent a sacred connection between them and their lands, rivers and forest. It is deeply entwined with their spiritual and cultural heritage. They have rules and regulation that ethically and regally bind them. Nevertheless, accounting for a small percentage of the global society, Indigenous communities defend around 80 percent of the planet's ecological diversity (Anderson, 2023).

Land tenure is an essential component in the development and implementation of a targeted climate strategy for Myanmar's Indigenous people. Secure and recognize land tenure are serious for Indigenous communities' well-being, resilience, and sustainable practices, particularly in the frame of global warming. Therefore, there is a connection between land management, which involves land tenure and environmental degradation is integrally connected (Correa

and Jansen, 2022). Adhya (2023) mentions that the issue of extractive and commodity-driven development increasing in Indigenous territory is a major concern which is becoming a challenge for Indigenous Peoples and the ecosystems they protect. It is also important for the conservation of biodiversity and climate change mitigation. The Nature Conservancy's research organization finds out about the importance of promoting Indigenous stewardship and adopting alternative ways, a rights-based conservation approach, the risk of changing Indigenous people's lands, and the significance of accepting and safeguarding Indigenous land tenure rights.

2.1 Who are Indigenous People in Myanmar?

Myanmar is an ethnically and ecologically diverse country with a great diversity of indigenous peoples. Indigenous is a contested concept in Myanmar, with different definitions held by different communities. In Myanmar language, for example, the term 'taingyintha', literally translated as sons of the nation, is commonly used to refer to indigenous or ethnic peoples (Khant, 2024). There are 135 officially recognized taingyintha in Myanmar, encompassing a majority of citizens in the country. In Karen language however, the term 'pwa thoo lay poe' is used to refer to indigenous peoples, translated as peoples who have lived in the same place since time immemorial. This term reflects the relationships that people have with land, biodiversity and resources, and is not, like the term taingyintha linked to ethnicity. According to this definition, anyone with ancestral links and relations with a particular place could be considered to be indigenous.

The All-Burma Indigenous Peoples Alliance, a network of over 40 indigenous organizations and communities across Myanmar concurs with a definition of indigenous peoples as a group of people with historic relations to a territory. In their 2022 policy they define Indigenous people as a group of people identified by self- ascription and ascription by others, who have continuously lived as an organized community on communally bounded and defined territory, and who have, under claims of tenure since time immemorial, occupied, possessed and utilized such ancestral territories, sharing common bonds of language, customs, traditions and other distinctive cultural traits, or those who retain some or all of their own social, economic, cultural, spiritual and political institutions, but who may have

been displaced from their ancestral domains or who may have resettled outside their ancestral domains. The indigenous peoples are rooted and connected with their ancestral territories, and use their territories sustainably, balancing between human utilization and protection of all the resources. (ABIPA, 2024). In this policy briefing, I will use this definition to refer to indigenous peoples.



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Chapter 3

Methods

This study took 4 weeks to analyse the transformation of Indigenous land related policies in Myanmar, to understand the perspectives of Indigenous people in these changes and to propose legal recognition towards a sustainable land and forest management and equality for Indigenous and local community.

Through this policy analysis, it includes a review of related policy documents, government reports, and laws from the 2011–2021 democratic transition to the present. Then, the research employed the approach of climate justice, which highlights the challenges that Indigenous and local communities are facing regarding land tenure security and the goal of the national target, which ignores Indigenous people and local communities who live in the forest areas. Then, this investigated how indigenous communities are represented in policy frameworks which include their cultural traditions and the various factors that influence their bond with the land as well as their contribution and effort towards climate mitigation.

To capture the perspectives of Indigenous communities, this study employs desktop reviews, and unstructured interview with indigenous leaders, communities, and activists. In the study, a total of 14 participants were included, ranging in age from 30 to 60 years. Among these participants, there were 6 females and 8 males. These participants represented diverse regions, including Kachin State, Naga, Shan State, Karen State and Tanintharyi Region. These interviews investigated their experience with policy changes, the impacts on their livelihoods and their views on legal reforms and collective actions. Based on the findings from policy analysis, discussion and learning from Philippines, the study will develop recommendations for legal recognition of indigenous land and forest rights through recognizing their territory and self-determination. To understand the transformation of indigenous land-related policies in Myanmar which is highlighting the perspectives of affected and providing actionable recommendations for legal and policy reforms.

This study aims (1) to analyse the transformation of indigenous land related policies in Myanmar, (2) to understand the perspectives of Indigenous people in these changes and (3) to propose legal recognition towards a sustainable land and forest management and equality for Indigenous and local community.

The following questions are

1. What challenges do indigenous communities face regarding their land and cultural practices within the framework of the Myanmar Climate Strategy?
2. How do Indigenous leaders in Myanmar influence climate change mitigation strategies both through policies and through collective action?
3. How can Myanmar develop its climate strategy by incorporating insights from the Philippines's legal frameworks, specifically the Certificate of Ancestral Domain Claims (CADCs) and Certificate of Ancestral Domain Title, to protect Indigenous land rights and enhance climate resilience?



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Chapter 4

Findings and discussion

4.1 Understanding the transformation of Indigenous Land-related policies under climate change strategy in Myanmar

Climate change and land are linked politically, as policy decisions on land management significantly impact upon climate resilience and emissions reduction strategies. During the period of 'democratic transition' (2011-2021), Myanmar took action to address the urgent concerns of deforestation and forest degradation by implementing a range of forest and environmental policies. These policies encompassed the Forest Law (2018), Myanmar Forest Policy (1995), National Land Use Policy (2016), Conservation of Biodiversity and Protected Areas Law (2018), National Environmental Policy (2019), Myanmar Climate Change Policy (2019), and Environmental Conservation Law (2012) (AFoCO-EML, 2021). In light of Myanmar's efforts to address climate change, including the national target of 40% of the Permanent Forest Estate (PFE), it is imperative to prioritize the recognition and inclusion of indigenous communities in land-related policies to ensure sustainability and equity. Its failure to address these legal gaps presents significant obstacles to achieving climate objectives and safeguarding indigenous rights.

2018 Forest Rules, Chapter II, page 3 and 4 mandates that the Forest Department can declare land as reserved or protected public forest under Section 6, which related to the formation of Reserve Forest (RF) and Public Protected Forest (PPF). However, these declarations do not account for the presence of Indigenous and local communities living within these forest areas. Consequently, the establishment of RF and PPF areas has led to Indigenous Peoples and Local Communities (IPLCs) living in these Permanent Forest Estates (PFE) being classified as trespassers. Then, 2018 Forest Rules, Chapter V, Page 11: In the forest land, the Ministry can approve commercial plantation and industrial plantation. Therefore, Forest Rules, Chapter V, Section 41 and 42 mention that the objectives for establishing forest plantations. In Myanmar, it is legal for businesses with permits for commercial and industrial plantations to harvest trees on forest land. These

companies can profit from both their plantation activities and logging activities, which they are legally allowed to conduct under the cover of plantation development, because of to the multipurpose permit system.

Therefore, the business industries are allowed to establish commercial plantations, industrial plantations, and legal logging within Reserved Forests (RF) and Public Protected Forests (PPF). Due to those circumstances, forest laws show the priorities of logging and commercial plantation activities in forest land and expansion within the permanent forest estate (Springate-Baginski et.al, 2016). The establishment of RFs and PPFs usually takes place on land, such as both agricultural and forest land, that has traditionally been governed by customary tenure. The current legal framework does not accurately recognize or maintain customary land tenure rights in these areas. However, the government has offered Community Forestry certificates and 30-year leases in instead of completely removing these areas from RF and PPF categories and awarding land titles. While businesses have less trouble getting such agreements, most indigenous and local communities find it challenging to comply with the complicated and bureaucratic requirements for getting these agreements.

2018 Conservation of Biodiversity and Protected Areas Law, Chapter IV, section 8, (a) national park (g) categories as “Community Conserved Protected Areas”, according to Indigenous representatives and CSOs prefer the concept of Indigenous Community Conserved Areas (ICCAs), it does mention in by law. However, all of the categories in section 8 defines as protected areas. A framework for the complete acceptance of customary tenure systems, including customary institutions and rights to make decisions connected to all land uses, would be provided by ICCAs. The final laws and rules only created Community Conserved Areas (CCAs), although government consultations embraced the idea of legally recognizing traditionally conserved forests. Indigenous communities, who had pushed for Indigenous Community Conserved Areas (ICCAs) to fully protect their customary tenure and decision-making rights, have not received the full recognition and autonomy they had hoped for in this outcome.

By 2030, the Government of Myanmar aims to designate 40% of the permanent forest estate (PFE) as Reserved Forest (RF) and Protected Public Forest

(PPF), with 30% and 10% respectively, to increase the national land area as forest land. This initiative is part of the Forestry Master Plan (2001-30) (Ministry of Environmental Conservation and Forestry, 2015). However, these targets have raised concerns among indigenous communities as they pose a threat to their ancestral lands and traditional ways of life. Many indigenous peoples have deep connections to these forests, yet they lack official land titles or legal recognition. Consequently, when areas are classified as Permanent Forest Estates (PFE), Reserved Forests (RF), or Protected Areas, they may face displacement. These classifications do not consider the needs of indigenous people, enforce strict regulations, and marginalize their participation in decision-making processes. The revised Law and Rules do not address customary forest tenure, leaving communities near Reserved Forests (RF) and Protected Forests (PF) dependent on the discretion of local forest officers for resource access. The absence of recognition of customary forest tenure rights in the legislation is identified as a significant shortcoming. Although the 2018 Forest Law introduces provisions for community forestry, it only provides temporary management rights and overlooks indigenous tenure. Similarly, the Biodiversity Conservation and Protection Areas law does not acknowledge indigenous rights, offering communities restricted and time-limited management rights (Hunt and Leonard, 2023).

The Vacant, Fallow, and Virgin (VFV) Lands Management Law was implemented with the intention of categorizing unregistered land as "vacant" and leasing it for large-scale domestic and foreign investments. However, the implementation of this law often disregards its regulations, resulting in land grabbing and the displacement of smallholder farmers, particularly in rural areas. The amendments made in 2018 now require farmers to obtain permits in order to use these lands, failure to do so may result in eviction and penalties. Unfortunately, customary tenure practices are not adequately protected, which exacerbates land conflicts and rural insecurities. Ultimately, the VFV Law, despite its aim to promote investment, has negative consequences for Indigenous and local communities, leading to widespread displacement and conflict (Htoo and Scott, 2018). According to Chapters 2 and 3 of the VFV Lands Management Law, individuals have the option to apply to the government for land. Once granted permission by the government, the land can be utilized for various purposes such as agriculture, livestock breeding, mineral production, and other lawful businesses approved by the government. For the

cultivation of perennial plants, an initial permit can be granted for a maximum of 5,000 acres. If 75% of this permitted land is fully utilized, subsequent permits of up to 5,000 acres can be issued incrementally, allowing for a cumulative total of up to 50,000 acres. Furthermore, permits exceeding 5,000 acres can be authorized for enterprises that are deemed to be in the interest of the state, with the approval of the Union Government. However, it is crucial to acknowledge that these lands often belong to Indigenous and local communities and are not unoccupied or freely available (Pyidaungsu Hluttaw Law No. 10/2012 - Vacant, Fallow and Virgin Land Management Act (Burmese and English) - Myanmar Law Library, n.d.)

Moreover, the disconnect between Myanmar's existing laws – the Forest Law, Land Law, and Virgin and Vacant Land Law – and the goals of the REDD+ strategy presents a significant challenge. Myanmar's legal system lacks acknowledgment of customary land and forest tenure, potentially resulting in adverse outcomes like land grabs and green grabs. The Forest Law, for instance, doesn't recognize forest tenure and the rights of living in forest areas which expose them to the risk of green grab during REDD+ implementation. Most of the forest's existing areas are indigenous home and territory. Similarly, the Land Law fails to explicitly acknowledge customary land tenure, raising concerns about potential land grab in REDD+ projects. The Virgin and Vacant Land Law may also contribute to this misalignment, lacking sufficient provisions for the complexities of customary land tenure and potentially leading to challenges related to land and green grab in REDD+ initiatives. The failure of these laws to recognize customary land and forest tenure creates vulnerability which urging the need to address these legal gaps to ensure Myanmar's legal framework. Then, respecting the rights of local communities and mitigating the associated risks of land and green grabs.

Although there is no specific law in Myanmar that acknowledges the presence of Indigenous people, the country is a signatory to various international declarations and organizations that uphold the rights of indigenous peoples. In 2007, the government of Myanmar/Burma voted in favor of the UNDRIP, demonstrating its commitment to indigenous rights. Additionally, Myanmar/Burma has ratified the UN Convention on Biological Diversity, which legally obligates the country to respect and safeguard traditional indigenous knowledge for environmental conservation (Article 8(J)). The primary objective of the Declaration is to safeguard

the customary systems and cultures of indigenous peoples while affirming their right to self-determination (Article 3). According to the UNDRIP, indigenous peoples have the right to own, use, develop, and control the lands, territories, and resources that they have traditionally owned, occupied, or utilized. States are required to legally recognize and protect these lands, territories, and resources, while respecting the customs, traditions, and land tenure systems of the indigenous peoples involved (Article 26). Furthermore, the UNDRIP emphasizes the importance of consulting and cooperating in good faith with indigenous peoples through their representative institutions to obtain their free and informed consent (FPIC) before approving any projects that may impact their lands, territories, or resources, particularly in relation to the development, utilization, or exploitation of mineral, water, or other resources (Article 32).

Due to the persistent advocacy of indigenous communities, their territories and conservation initiatives are now being acknowledged and embraced both within Myanmar and on a global scale. This has led to a significant shift in mindset and approach. The recognition of Indigenous and Community Conserved Areas (ICCAs) can be observed in various international agreements and national policies, including the Convention on Biological Diversity (CBD), the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the National Biodiversity Strategies and Action Plans (NBSAP), and the Biodiversity Conservation and Protected Areas Law (BCPA). These policies explicitly acknowledge and uphold the rights of indigenous peoples.

Convention on Biological Diversity (CBD) was drafted in 1992 and it was signed by Myanmar in 1995. The Convention recognizes the important aspect of the indigenous communities for conservation and it believes they will be able to establish and manage their territories. It also recognizes the customary management systems of the indigenous communities on conservation of biodiversity and their livelihood practices for subsistence according to their traditional systems.

In 2015, Myanmar announced a strategic action plan and details on implementation of **National Biodiversity Strategies and Action Plans (NBSAP)** to meet CBD's strategies. In the strategic action plan, the Government of Myanmar has promised to support policies and practices for **Indigenous Community**

Conserved Areas (ICCAs) and implementation of ICCAs under the recognition of customary tenure rights.

In 2018, amendments were made to the Biodiversity Conservation and Protected Area Law. These amendments acknowledge the existence of "Community Conservation Areas" as protected areas and make reference to ICCAs in the regulations. Despite the intention to improve the law, it still falls short in recognizing the territories of indigenous peoples and their customary tenure systems, practices, and decision-making processes that govern the management of ICCAs.

An analysis reveals significant legal gaps in Myanmar's recognition and protection of indigenous peoples' rights. National policies do not adequately acknowledge and embrace the rights and customs of indigenous communities, despite international commitments such as the Convention on Biological Diversity (CBD) and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). The main issues include the absence of a specific legal framework for indigenous rights, inadequate implementation of laws supporting Indigenous Community Conserved Areas (ICCAs), and a lack of regulations ensuring Free, Prior, and Informed Consent (FPIC) in development projects. To address these gaps, national policies must align with international standards, and legal safeguards must be established.

4.2 An indigenous and local communities' perspective in policy changes

Myanmar has been subject to many different kinds of land conflict including armed conflict, resource exploitation, communal violence, top-down governance, the oppression of laws to the Indigenous and local community who have been practicing in customary land and forest tenure but favor to businessmen. These interlinking and highly complex conflicts have resulted in extensive deforestation and damage to its forests in the years between 2005 and 2015 (Tun, 2021). The complex situation such as top-down conservation efforts, legal oppression, armed conflict, and political instability are all interconnected. Although the government's conservation policies aim to protect biodiversity, they frequently neglect local communities' rights, resulting in tension and displacement. Additionally, legal repression restricts Indigenous and local community from land and forest tenure. The significance of protected areas (PAs) for biodiversity conservation is acknowledged on a global scale. In Myanmar, the National Biodiversity Strategy and Action Plan categorizes

forests within the Permanent Forest Estate (PFE) into various classifications such as reserved forest, protected public forest, and PAs. The majority of the remaining forested areas are located in Indigenous territories, Ethnic arm control areas, and conflict-affected regions. In order to align with Myanmar Climate Strategies and international commitments, the establishment of additional PAs is recommended to achieve conservation goals and safeguard crucial biodiversity hotspots. Addressing the root causes of deforestation in Myanmar necessitates a comprehensive approach that includes conservation initiatives, community participation, legal reforms, and sustainable resource management practices.

The 420,000-acre Tanintharyi Natural Reserve Project (TNRP) is located between the Ye Phyu and Dawei Townships. During the midst of the civil war, in 2005, the Protected Area was established. The TNR was established on land that had been temporarily displaced by communities that had fled as refugees and internally displaced people. Kye Zu Daw village, founded 150 years ago with 200 population relying on orchard, cultivation, and forest products. In 2012, after a ceasefire between the KNU and Myanmar's central government, the Karen Ethnic Minister announced the conflict had ended, allowing villagers to return and rebuild their community and livelihoods. The Kye Zu Daw villagers found out that their land and forests had been turned over to private companies for agribusiness, such as planting of 1000 acres for rubber and palm oil, and had been included into the Tanintharyi Nature Reserve (TNR) when they returned in 2012. They were cut off from important resources that were necessary for shifting cultivation, fishing, and the collection of forest products. They reached a compensation agreement with company, but there were still unresolved conflicts and legal problems which including three court cases involving locals (Tanintharyi Friends, 2018).

In 2018, Myanmar's government and international conservation organizations are establishing Protected Areas to preserve the region's ecosystems, including through the "Ridge to Reef Integrated Protected Area which was Land and Seascape Management Project." This project cover over 1.4 million hectares of land, national parks, low land evergreen rainforests, mangroves in the Myeik archipelago, and islands and marine systems which are important resources for Indigenous and local communities in Tanintharyi Region, southern part of Myanmar. While conserving Tanintharyi Region's rich biodiversity is crucial, the Ridge to Reef project raises four major concerns for local communities. The project employs a top-

down conservation approach, putting Indigenous Karen communities, who have sustainably managed the area for generations, at risk and violating their right to free, prior, and informed consent (FPIC). It threatens to sever these communities from their livelihoods and traditional way of life and violates the right of return for refugees and internally displaced persons forced from their lands during the civil war. The project endangers future peace prospects by violating the ceasefire agreement that ended the armed conflict; its decision-making structure excludes the Karen National Union (KNU), one of the groups required to jointly make decisions for the region. It fails to recognize and support Indigenous, community-driven initiatives to protect territories, strengthen local institutions, and conserve forests and resources within the project area. In response, communities affected by Ridge to Reef are advocating for their rights to be respected in conservation efforts. The US\$21 million Ridge to Reef project, implemented by the United Nations Development Programme (UNDP) with funds from the Global Environment Facility (GEF) and support from Myanmar's government, Fauna and Flora International, and the Smithsonian Institution, faces severe risks. Conservation Alliance of Tanawthari (CAT) and Karen Indigenous and local community has raised concerns to UNDP. On behalf of 612 community members, CAT submitted a complaint to the GEF in August 2018 which calling for the suspension of the project until a comprehensive FPIC process is conducted and guarantees are provided for the safe and voluntary return of those displaced by the civil war. In December 2018, the UNDP Social and Environmental Compliance Unit (SECU) determined that the complaint submitted by CAT was eligible for compliance review and released the final Terms of Reference for a compliance investigation. As part of this investigation, SECU visited communities in the Tanintharyi Region in July 2019. Due to the investigation, the project was suspended until now (Nagar, 2019).

In Myanmar, the rights Indigenous People and Local Community (IPLC) to their land, forest and climate mitigation are ignored which is leaving them vulnerable to exploitation, displacement and law oppression. The IPLC play an important role to protect forest and mitigate climate change as the way of their traditional practices. However, there has been unwillingness to recognize it in national laws and by law. Therefore, there is not laws and rules that to recognize or protect IPLC's collective rights to their land and forest which is leading to human rights abuse (Erni et al, 2018).

4.3 Indigenous initiative new policies development in Myanmar

Due to the challenges that Myanmar Indigenous and local community face climate change mitigation strategy under some of Myanmar existing laws and framework, Myanmar Indigenous people came together since before 2018. This Indigenous movement platform call “All Burma Indigenous People Alliance”. Those Indigenous representatives from across Myanmar collaborated and formed the alliance of All-Burma Indigenous People’s Alliance (ABIPA). ABIPA’s member groups consist of indigenous peoples, community-based organizations and ethnic civil society organizations from all over Myanmar, that are involved in the protection and empowerment of indigenous cultures, traditional knowledge, livelihoods, land rights, indigenous rights, environmental protection and climate change mitigation. The 30 member groups are from Tanintharyi Region, Bago Region, Nagaland (Sagaing), Karen State, Shan State, Chin State, Kachin State, Mon and Karenni (Kayah) have joined the platform. ABIPA member groups believe that the new generations will be able to continue preserving biodiversity, forest and environment in Myanmar through the practice and recognition of indigenous territories, indigenous knowledge and customary governance systems.

In order to achieve recognition and establish a legal framework within policy, the indigenous alliance has proactively taken steps without waiting for government intervention, which they believe would be indefinitely delayed in Myanmar as there is no legitimate government. Consequently, in 2024, this alliance formulated and issued both a declaration and policy. The declaration formulates the right to self-determination for indigenous peoples, while the policy outlines the rights to territorial governance for those indigenous and communities (ABIPA, 2014). In addition, Karen Indigenous people have developed Kawthoolie Climate Action to tackle climate change issues and mitigation. These documents assert Indigenous communities' authority over their territories which promoting sustainable land management, preventing deforestation, conserving biodiversity, and enhancing climate resilience. It aligns with international frameworks such as the United Nations Framework Conservation on Climate Change (UNFCCC) and the United Nations Convention on Biological Diversity (UNCBD) (Unit, 2023). Through their initiatives, Indigenous communities can link up to the UNFCCC and UNCBD through non state actor platform. Non-state actors play important role in linking local actions to the broader objectives of the UNFCCC and UNCBD. These efforts can

reduce of land conflict, ensure smoother implementation of conservation strategies and incorporate indigenous knowledge into national climate policies.

4.4 Indigenous-Led Conservation in Myanmar: The Karen People's Approach to Climate Justice and Sustainable Landscape Management

Myanmar Karen Indigenous People have initiated an alternative approach to achieve climate justice by implementing Indigenous-led conservation practices and ICCAs approach. These practices serve as a prime example of landscape conservation, where interconnected territories managed locally support sustainable livelihoods and safeguard watershed areas, waterbodies, mangrove forests, and wildlife habitats across extensive terrains. The Salween Peace Park in northern Karen State stands out as a prominent location showcasing this type of indigenous landscape conservation. Covering 1.35 million acres of globally significant rainforest and the territories of 149 indigenous communities, this park is governed by customary law, a community-developed charter, and locally based democratic institutions. In the classification of land use within their jurisdiction, 71.5% is as Kaw customary territories, 2.5% as community forest, 8% as reserved forest, 11% as wildlife sanctuary and 7% as undemarcated area. The Salween Peace Park embodies the aspirations of the Karen people for peace and self-determination, environmental integrity, and cultural preservation, highlighting the harmonious relationship between people and nature (KESAN, 2019). Salween Peace Park was formally launched in 2018 and was awarded the Equator Prize in 2020 (Equator Initiative and UNDP, 2020). Moreover, another example is Thawthi Taw-Oo Indigenous Park (Thawthi Taw-Oo Indigenous Park (TTIP), 2023). It encompasses 5754 square kilometers of land and is home to more than 70,000 people and a myriad of flora and fauna. Even under the military coup, they are working on draft charter of Tha Thi Taw Oo Indigenous Park, conducted consultation, demarcate and revitalize their ancestral territory. Despite armed conflict and natural resource exploitation, communities form Thawthi Taw- Oo Indigenous Park, SPP and Tanawthri Land Scape of Life are continuing working on innovative nature and rights-based solution for tackling biodiversity loss and climate change. The Karen People have a land and forest policy (adminkhem, 2016). Their land and forest policies are based on the Karen People's desire to protect and recognize indigenous

land and territory. They understand the importance of recognizing and protecting indigenous communities' rights to manage their own lands sustainably. Their policies reflect this principle, ensuring that indigenous voices are heard and respected in decision about land use and resource management. Without support and recognition from Myanmar government, the Karen Indigenous people taking matters into their own hands. The Karen Indigenous People's implementation of Indigenous-led conservation practices and Indigenous Community Conserved Areas (ICCAs) in Myanmar demonstrates how climate justice can be achieved through local stewardship of ecosystems.

Other ethnic groups in Myanmar also adopt land and forest policies similar to those of the Karen people. Learning on successful models from Karen Indigenous People, the future of Myanmar federal government can create a climate strategy that prioritizes the protection of indigenous lands and territories. Myanmar can foster resilience, promote sustainable development, and protect indigenous peoples' rights and well-being in the face of climate change by adopting legal recognition of indigenous rights, allowing indigenous communities governance rights, and engaging in reconciliation efforts. These measures would not only help to protect the environment, but would also sustain indigenous communities' cultural heritage and traditional knowledge, ensuring meaningful involvement and ownership in climate initiatives.

4.5 Lessons from Indigenous Land Rights in the Philippines

Myanmar can develop its climate strategy by drawing insights from the Philippines' approach to safeguarding indigenous lands. In the Philippines, legal tools such as the Certificate of Ancestral Domain Claims (CADCs) and the Certificate of Ancestral Domain Title (CADT) play a vital role in recognizing and protecting the ancestral lands and domains of indigenous communities. The CADC, established under the Indigenous Peoples Rights Act (IPRA) of 1997, empowers indigenous groups to assert ownership over the lands they have historically inhabited and utilized for sustenance. This certification acts as proof of their entitlement to the land and resources within their ancestral territories.

On the other hand, the CADT is a more comprehensive form of recognition provided under the same law. It not only confirms ancestral domain ownership but

also grants indigenous communities the legal authority to govern and manage their ancestral domains according to their customary laws and traditions. CADTs provide stronger protection and control over ancestral lands, ensuring that indigenous peoples can sustainably manage and develop their resources while preserving their cultural heritage. CADT play a significant role in empowering indigenous communities by legally recognizing their rights to their ancestral lands and domains. These certificates provide a foundation for indigenous peoples to assert their autonomy, protect their territories from encroachment and exploitation, and participate in decision-making processes that affect their lands and resources (Caballero, 2004).

The Philippine government acknowledges the significance of preserving and protecting biodiversity for the benefit of current and future generations. This acknowledgment is formally declared in Section 2 of Republic Act 7586, also referred to as "The National Integrated Protected Areas System Act of 1992." Concurrently, the Philippine government upholds and advocates for the rights of Indigenous Cultural Communities (ICCs) or Indigenous Peoples (IPs), the majority of whom reside within protected areas. The Philippine Constitution (Article II, Section 22) recognizes the rights of ICCs/IPs, which are reaffirmed in Section 13 of the NIPAS Act. This recognition is further substantiated by the passage of Republic Act 8371, also known as "The Indigenous Peoples Rights Act of 1997" (IPRA). Enacting IPRA into law marks a significant triumph for the ICCs/IPs who have long fought for the acknowledgment of their rights to their ancestral lands. Both NIPAS and IPRA aim to enhance the welfare and livelihoods of upland smallholders while preserving ecological diversity (Suminguit et al., 2007).

Nine indigenous cultural communities in Bukidnon province have already received Certificates of Ancestral Domain Claims (CADCs). Their applications were processed quickly, owing primarily to the fact that their claims did not fall within a protected area. Despite the existence of NIPAS and IPRA laws that explicitly recognize their rights over their ancestral domains, the application for a tenurial instrument by indigenous cultural communities near and within the Mount Kitanglad Range Natural Park (MKRNP) was denied. For decades, IP activists and scholars have advocated for the recognition of ICC/IP rights to their ancestral domains. The reason for this was that without security of tenure over their ancestral domains,

ICCs/IPs would have no incentive to use the land sustainably because they would not be able to profit from the rewards of their work. Security of tenure (e.g., Certificate of Ancestral Domain Claims or Certificate of Ancestral Domain Title) has been recognized as an important mechanism for preventing further displacement of property rights due to the continued encroachment of damages and other agribusiness interests. The dream of having the government formally recognize ICC/IP rights became a reality with the Philippine 1987 Constitution and the resulting adoption of NIPAS Law (RA 7586) in 1992 and IPRA Law (R.A. 8371) in 1997. Section 22, Article II; Section 4, Article VII; and Section 6, Article XII of the 1987 Constitution recognize and protect indigenous cultural communities' rights to ancestral lands within the context of national unity and development. Section 13 of the NIPAS Law upholds state policy by giving proper recognition to ancestral domains and other customary rights in protected areas. IPRA was signed into law in 1997 to help carry out the constitutional mandate (Suminguit et al., 2007).

Since indigenous communities are the guardians of essential ecosystems and biodiversity that are critical to climate stability, protecting their lands becomes essential to achieving climate justice. The Philippines' developed legal framework could prove very helpful to Myanmar as it develops a climate strategy that importance on protecting indigenous territories. It is powerful steps to safeguard indigenous land rights which offered by the Philippine frameworks for the Certificate of Ancestral Domain Claims (CADCs) and Certificate of Ancestral Domain Title (CADTs). These legal documents support indigenous communities in managing their lands sustainably and show to the legal title to the land which protecting biodiversity and tradition. Myanmar can increase its resilience to climate change by providing secure tenure for indigenous communities over their ancestral lands, similar to the CADC and CADT systems in the Philippines. Indigenous lands frequently contain forests, watersheds, and other ecosystems that serve as carbon sinks which reducing the effects of climate change. As a result, acknowledging and protecting these lands considered strategy for both adaptation and mitigation of climate change. In addition, the key principles of climate justice are in line with integrating of indigenous communities into climate strategy through the legal recognition of their land rights. In general, achieving climate justice and strengthening climate resilience require incorporating indigenous customary tenure land rights into Myanmar's climate strategy, which had been shaped by the Philippine model.

Chapter 5

Recommendations

These suggestions offer a thorough structure for developing Myanmar's climate strategy, with a focus on safeguarding indigenous lands and communities in accordance with global norms and indigenous rights and self-determination principles. Adhering to these recommendations is crucial for the future of Myanmar Federal Democratic Government, Indigenous leaders and Ethnic Resistance Organizations (EROs) to incorporate into their national constitution, state constitutions and policies to ensure the protection of Indigenous and local community lands, thereby supporting Myanmar's climate strategy.

1. Myanmar has yet to fully commit to acknowledging the rights of indigenous peoples and their ancestral lands. There is a clear absence of laws and policy initiatives that align with international norms, such as the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). As a result, the ability of indigenous communities to exercise self-determination and effectively participate in climate mitigation and adaptation strategies is compromised. It is imperative for a future federal democratic government of Myanmar to recognize indigenous peoples and their ancestral territories in accordance with international standards, including the UNDRIP. This recognition should encompass the right to self-determination, ownership, governance, and management over their lands, territories, and resources.
2. To grant indigenous communities' formal recognition and secure tenure over their ancestral lands and territories, it is needed to place ancestral domain at the core of a new constitution from national level and state level for a Federal Democratic Myanmar. This must acknowledge the importance of land to local and indigenous communities by affirming their ultimate ownership of land and resources, while also respecting the authority of

Federal States and Authorities to establish local land regulations in line with local governance systems.

3. In developing new constitutions and other related framework, it is imperative to include indigenous representatives who can provide valuable inputs and share insights grounded in local contexts. These recommendations should be integrated into the policy making process to ensure that the resulting policies are culturally informed, contextually relevant and effectively address the needs and gaps within Indigenous communities to protect their land under climate change strategy and climate mitigation.
4. In building Myanmar's climate strategy through the protection of Indigenous land, Indigenous leaders should continue to take initiative in facilitating the development of new policies and frameworks which ensuring the inclusion of other experts and representatives in the process to comprehensively address existing needs and gaps. Then, it can link up to UNFCCC and CBD's Subnational and local biodiversity strategy and action plan.

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REFERENCES

- [1] ABIPA. Declaration and Policy. 2024, www.abipa.indigenusburma.org/research-report-briefing/. Accessed 21 June 2024.
- [2] Accountability Counsel.” [Www.accountabilitycounsel.org](http://www.accountabilitycounsel.org), 27 June 2019, www.accountabilitycounsel.org/client-case/myanmar-ridge-to-reef-conservation-project/. Accessed 27 May 2024.
- [3] Adhya, Sarah Wakefield. "Amid Industrial Development Threats to Lands, Major Opportunities to Support Indigenous Stewardship." The Nature Conservancy, 2023, www.nature.org/en-us/what-we-do/our-insights/perspectives/indigenous-lands-development-risk-solutions-study/. Accessed 2023.
- [4] Adminkhem. “KNU Issues New Land Policy.” TBC |Theborderconsortium |, www.theborderconsortium.org/reports-survey/knu-issues-new-land-policy/. Accessed 17 May 2024.
- [5] AFoCO-EML. (2021, December 1). Forests and forestry in Myanmar: an overview of forestry laws, policies, and strategies. AFoCO. <https://afocosec.org/newsroom/news/forestry-news/forests-and-forestry-in-myanmar-an-overview-of-forestry-laws-policies-and-strategies/>
- [6] Alan Jarandilla Nuñez. Routledge Handbook of Climate Justice. Routledge, 1 Nov. 2018.
- [7] Anirudha Nagar. “Myanmar: Ridge to Reef Conservation Project | Accountability Counsel

- [8] Caballero, Evelyn. A a a NCESTRAL DOMAIN DELINEATION and RECOGNITION: CADT of AYTAS of BATAAN. 2004.
- [9] Climate, Environmental Degradation and Disaster Risk in Myanmar: a MIMU Analytical Brief (May 2022) - Myanmar | ReliefWeb. (n.d.). Reliefweb.int. <https://reliefweb.int/report/myanmar/climate-environmental-degradation-and-disaster-risk-myanmar-mimu-analytical-brief-may-2022>
- [10] Conservation Alliance of Tanawthari. (2018). Our Forest Our Life. ICCA Consortium.
- [11] Dowie, Mark. Conservation Refugees: The Hundred-Year Conflict between Global Conservation and Native Peoples. Google Books, MIT Press, 25 Feb. 2011, Accessed 27 May 2024.
- [12] Equator Initiative, and UNDP. Salween Peace Park – Equator Initiative. 2020, www.equatorinitiative.org/2020/06/04/salween-peace-park/.
- [13] Erni, Christian, et al. Indigenous People, Land Rights and Forest Conservation in Myanmar. IWGIA, 2018.
- [14] Fabiano de Andrade Correa, and Louisa J.M. Jansen. CLIMATE CHANGE and TENURE RIGHTS Interlinked Challenges in Myanmar Policy Brief. Food and Agriculture Organization of the United Nations, 2022.
- [15] Fleck, Anna. “Infographic: Indigenous Communities Protect 80% of All Biodiversity.” Statista Infographics, 19 July 2022, www.statista.com/chart/27805/indigenous-communities-protect-biodiversity/.
- [16] Gifford, Lauren, et al. “Governing for a Safe and Just Future with Science-Based Targets: Opportunities and Limitations.” Climate and Development, 8 Nov. 2023, pp. 1–10, <https://doi.org/10.1080/17565529.2023.2264255>.

- [17] Htoo, Saw, and Frank Scott. How the Myanmar Government's Repressive Land Laws Are Catalyzing Conflict and Insecurity: An Analysis of the Vacant, Fallow, and Virgin Land Management Law. 2018.
- [18] Hunt, Glenn, and Sonia Leonard. "The Struggle for Forest Tenure in Myanmar: Voices from the 2019 Forest Rules Consultation." *Journal of Land Use Science*, vol. 18, no. 1, 24 Aug. 2023, pp. 296–314, <https://doi.org/10.1080/1747423x.2023.2241456>.
- [19] Kara Anderson. "Indigenous Communities and Climate Change." *Greenly. earth*, 2023, greenly.earth/en-gb/blog/ecology-news/indigenous-communities-and-climate-change
- [20] Khant. "The Quest for Recognition: Redefining Indigenous Identity in Myanmar." *Tea Circle*, 6 Mar. 2024, teacirclemyanmar.com/politics/the-quest-for-recognition-redefining-indigenous-identity-in-myanmar/.
- [21] Ministry of Environmental Conservation and Forestry. Myanmar's Intended Nationally Determined Contribution-IND C. 2015.
- [22] Naing Tun, Zaw, et al. "Patterns and Drivers of Deforestation and Forest Degradation in Myanmar." *Sustainability*, vol. 13, no. 14, 6 July 2021, p. 7539, <https://doi.org/10.3390/su13147539>.
- [23] Pyidaungsu Hluttaw Law No. 10/2012 - Vacant, Fallow and Virgin Land Management Act (Burmese and English) - Myanmar Law Library. (n.d.). www.myanmar-law-library.org.
- [24] Suminguit, V. J., Burton, E., & Canoy, E. S. (2007, September 28). A Study on Ancestral Domain Recognition and Management Within and Around the Mt. Kitanglad Range National Park. Talamdan - Views on Mount Kitanglad, Philippines.
- [25] Tanintharyi Friends. *Between a Rock and a Hard Place: The Struggle of Returning Refugees to Resettle Their Lands in Ye Phyu Township*. 2018.

- [26] Thawthi Taw-Oo Indigenous Park (TTIP). (2023). Unesco.org. <https://www.unesco.org/en/articles/thawthi-taw-oo-indigenous-park-ttip>
- [27] The Republic of the Union of Myanmar NATIONALLY DETERMINED CONTRIBUTIONS. 2021.
- [28] The Salween Peace Park Vision. <https://kesan.asia/wp-content/uploads/2019/01/SPP-Briefer-1.pdf>
- [29] Unit, Biosafety. “Subnational and Local Biodiversity Strategies and Action Plans.” Wwww.cbd.int, 24 Apr. 2023, www.cbd.int/nbsap/related-info/sbsap. Accessed 21 June 2024.
- [30] Woods, K. M. (2019). Green Territoriality: Conservation as State Territorialization in a Resource Frontier. *Human Ecology*, 47(2), 217–232. <https://doi.org/10.1007/s10745-019-0063-x>



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CURRICULUM VITAE

Author's Name	MS. Naw Eh Htee Wah
Place of Birth	Myanmar
Education	2023-2024 M.A., Public Policy, School of Public Policy, Chiang Mai University. 2008-2012 B.A., Geography, University of Dawei, Myanmar
Scholarship	Inclusive, Innovative, Transformative Policy Designer Scholarship, Partial scholarship
Publication	Wah, E., & Aung, C. (2024). Briefer_Women Environmental - WEHRDs.pdf. Wah, Naw Eh Htee. Rethinking Indigenous Leadership amid Climate Change, Conflict and the Coup in Burma. ABIPA, 2023. Wah, Naw Eh Htee. NO FREEDOM to DEFEND: Myanmar's Environmental Defenders Continue to Fight for Environmental and Social Justice in the Face of Authoritarian Junta Control. ABIPA and ICCA Consortium, 2023. Wah, Esther. "ICCA Consortium." ICCA Consortium, 5Mar. 2023, www.iccaconsortium.org/2023/03/05/fight-for-the-forest-indigenous-territories-myanmar-coup/?fbclid=IwAR0vWpUHRv33zWdVsfGsiCLPF00GIjWhkgApjpaP6-a2u3Y8KbE0NxefdMY . Wah, Esther. "Decolonize Conservation: Global Voices for Indigenous Self-Determination, Land, and

a World in Common.” Common Notions Press, 2023, www.commonnotions.org/buy/decolonizing-conservation-global-voices-for-indigenous-self-determination-land-and-a-world-in-common. Chapter 36, Given All of the Obstacles, How Do We Fight for Our Future?

Wah, Esther, and Jack Jenkins Hill. “Countering Climate Collapse: The Spring Revolution Must Centre Indigenous Voices.” New Mandala, 14 Jan. 2022, www.newmandala.org/countering-climate-collapse-the-spring-revolution-must-centre-indigenous-voices/.

Wah, Esther. “Losing the Freedom to Protect: The Shattered Dreams of Environment Defenders.” Frontier Myanmar, 23 May 2022, www.frontiermyanmar.net/en/losing-the-freedom-to-protect-the-shattered-dreams-of-environment-defenders/.

Wah, Esther. “Following Coup, Myanmar’s Indigenous Vow to Protect Forests “until the End of the World” (Commentary).” Mongabay Environmental News, 27 Sept. 2021, news.mongabay.com/2021/09/following-coup-myanmars-indigenous-vow-to-protect-forests-until-the-end-of-the-world-commentary/.

Wah, Esther. “The Fate of Our Forests Is in the Balance.” Frontier Myanmar, 1 Apr. 2021, www.frontiermyanmar.net/en/the-fate-of-our-forests-is-in-the-balance/.

Wah, Esther. “Why Indigenous Land Rights Matter in Myanmar.” Myanmar Now, 2021, myanmar-now.org/en/news/why-indigenous-land-rights-matter-in-myanmar/. Wah, Esther. “No Government to Turn To.” The Kite Tales, 2021, kite-tales.org/en/article/no-government-turn.

Wah, Esther. “For Some the Nightmare Has Returned, but for Ethnic People the Nightmare Never Stopped.” Myanmar Now, Myanmar Now, 2021, myanmar-now.org/en/news/for-some-the-nightmare-has-returned-but-for-ethnic-people-the-nightmare-never-stopped/.

Wah, Esther. Understanding the Importance of Myanmar’s Indigenous Women as Leaders in Developing Climate Change Solutions STRONG ROOTS. IWGIA, 2020. Chapter 1, Behind Sustainability Stands the Supernatural Power of Indigenous Women.

Experiences Governance, All Burma Indigenous People Alliance (ABIPA), 2018 – present
Honorary Member and Country Focal, ICCA Consortium, 2019 – present
Founder, Myanmar Women Environmental and Human Right Defender Working Group, 2021 - Present
Analyst, Ethnic Governance of Land and Resources, 2020 – 2023
Coordinator, Conservation Alliance Tanawthari, 2018 -2020

Project Coordinator, Tarkapaw Youth Group, 2014 -
2017

Township Officer, Forest Law Enforcement
Governance and Trade (FLEGT), 2014



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