

Legal Barriers And Institutional Challenges Of Land Use Rights For Foreign Investors In Myanmar: A Focus On The 2016 Investment Law And Land Policy Reforms

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Abstract

Myanmar's land governance system is shaped by layered historical legacies, colonial-era statutes, post-independence nationalization reforms, and modern investment-focused legislation. For foreign and domestic investors, land use rights represent a foundational yet legally complex pillar of doing business in the country. This paper examines the legal framework governing land use for investors in Myanmar, with a primary focus on key laws—the 2016 Myanmar Investment Law, 2012 Farmland Law, 2012 Vacant, Fallow and Virgin (VfV) Lands Management Law, and the 2016 National Land Use Policy. It analyzes core challenges, including the constitutional principle of state land ownership, tensions between statutory rights and customary land tenure, overlapping institutional jurisdictions, and regulatory inconsistencies that hinder secure land access for investors. The study further evaluates legal barriers such as foreign land ownership prohibitions, limited lease security, and inadequate dispute resolution mechanisms. It argues that while recent reforms aim to streamline investment and land administration, structural gaps and implementation deficits persist. Finally, the paper proposes targeted legal and institutional reforms to clarify land rights, align conflicting regulations, and balance investor interests with community land security and sustainable development.

Keywords; Myanmar, Land Use Rights, Investors, Foreign Investment, Land Law, Investment Law 2016, National Land Use Policy 2016, Customary Land Tenure, State Land Ownership, Land Dispute Resolution

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I. Aims And Objectives Of The Study

Aims

The main aim of this study is to **legally examine and critically analyze the land use issues faced by investors in Myanmar**, and to propose practical legal solutions to address existing problems, so as to promote a fair, transparent and stable land investment environment in Myanmar.

Objectives

1. To identify and analyze the **existing legal framework** governing land use rights for investors in Myanmar.
2. To explore the **main legal and practical difficulties** that investors encounter when accessing and using land.
3. To examine the **conflicts between statutory land law and customary land rights** in Myanmar.
4. To investigate the **root causes** of land use disputes and legal uncertainties for investors.
5. To provide **legal and policy recommendations** to improve land governance and protect investors' legitimate rights.

Significance of the Study

Theoretical Significance

This research adds valuable insights to the body of legal scholarship on land and investment law in Myanmar, offering a clear, structured analysis of how state ownership, statutory rules, and customary systems interact. It addresses gaps in existing literature by providing a focused legal examination of investor-related land issues, which can serve as a foundation for future academic research and legal reform discussions. The findings also contribute to broader regional studies on land governance in developing countries where formal and informal tenure systems coexist.

Practical Significance

Practically, this study offers clear, understandable guidance for both foreign and domestic investors seeking to operate in Myanmar by outlining legal risks, common challenges, and best practices for land acquisition and use. It helps investors navigate complex regulations and reduce uncertainty when entering land-based projects. At the same time, the research provides clear, actionable suggestions for Myanmar's policymakers and legal

authorities to improve land laws, streamline administrative procedures, and strengthen coordination between government bodies. By highlighting the importance of balancing investment needs with the protection of local communities' customary land rights, the study also supports fairer, more sustainable development that respects both economic growth and social stability.

Research Questions

This study seeks to explore the legal complexities and practical challenges surrounding land use rights for investors in Myanmar, by addressing the following key research questions:

1. What is the current legal framework governing land use rights for both domestic and foreign investors in Myanmar?
2. What major legal and practical obstacles do investors face when acquiring and utilizing land in the country?
3. How do statutory land laws conflict with customary land tenure systems in Myanmar?
4. What are the underlying causes of land-related disputes and legal uncertainty for investors?
5. What feasible legal and institutional reforms can improve land governance and protect investors' legitimate interests?

II. Introduction

Land is the primary asset and foundational factor for economic activity, and its secure and predictable governance directly determines a country's investment attractiveness and development trajectory. For Myanmar, a nation transitioning from decades of isolation to an open economy, land assumes dual roles: it sustains over 70% of the rural population's livelihoods, while also serving as a critical resource for industrialization, infrastructure construction, agricultural modernization, and tourism development¹. Since the launch of political and economic reforms in 2011, Myanmar has enacted a series of laws and policies to attract domestic and foreign investment, with land access emerging as one of the most contentious and legally fraught issues for investors². Despite policy liberalization, land-related risks—including unclear titles, conflicting regulations, community disputes, and weak legal protection—remain persistent, hindering investment growth and social stability³. This small research paper conducts a focused legal analysis of land use issues for investors in Myanmar, exploring the legal framework, core challenges, underlying causes, and preliminary reform proposals, with the aim of clarifying legal complexities and providing practical insights for investors and policymakers alike.

Myanmar's land governance system is deeply shaped by its layered historical evolution, which creates inherent tensions in regulating modern investor land use. From the Bagan Dynasty to the Konbaung Dynasty, feudal Myanmar operated under a system where the king held ultimate land ownership, with land classified into royal lands (*Ayadaw Mye*), service lands for officials, ancestral lands (*Bobapaing Mye*), and religious lands (*Wuttankan Mye*)⁴. Ancestral lands, in particular, granted heritable and transferable use rights to local communities, forming the basis of customary land tenure that persists in rural and ethnic areas today⁵.

British colonial rule (1885–1948) dismantled feudal structures, introducing formal private land ownership through laws such as the 1876 Lower Burma Land and Revenue Act and 1889 Upper Burma Land and Revenue Regulation, while also establishing state control over vast “waste lands”⁶. These laws prioritized colonial economic exploitation, disrupting customary systems and creating unequal land distribution⁷. Post-independence, Myanmar's 1953 Land Nationalization Act abolished private agricultural ownership, vesting all land in the state—a principle reaffirmed in the 2008 Constitution, which declares the Union as the ultimate owner of all land and natural resources, limiting individuals and investors to statutory land use rights only⁸. This historical layering—feudal custom, colonial law, socialist nationalization, and modern market reforms—has resulted in a fragmented, contradictory legal landscape for investor land use⁹.

¹ Ministry of Agriculture, Livestock and Irrigation (MoALI), *2023 Myanmar Agricultural Development Report*, Naypyitaw, 2023, p.15.

² Myanmar Investment Commission (MIC), *2024 Investment Environment Report*, Yangon, 2024, p.22.

³ Myanmar Centre for Responsible Business (MCRB), *Land Rights and Investment Risks in Myanmar*, Yangon, 2023, p.18.

⁴ Kan Hla, *History of Land Administration in Myanmar*, Yangon: Myanmar Historical Society, 2005, p.65.

⁵ Zaw Min U, *Bobapaing Lands and Conflicts under Land Laws*, Yangon: Myanmar Legal Research Institute, 2016, p.32.

⁶ John Nisbet, *Burma under British Rule and Before*, London: Archibald Constable & Co., 1901, p.270.

⁷ Scott Leckie & Ezekiel Simperingham, *Housing, Land and Property Rights in Burma*, Geneva: Displacement Solutions, 2009, p.25.

⁸ Republic of the Union of Myanmar, *Constitution of the Republic of the Union of Myanmar 2008*, Article 37.

⁹ Tomasz Michalowski & Kerstin Ewers, *Land Tenure and Customary Land Rights in Myanmar*, Yangon: Myanmar Development Resource Institute, 2016, p.15.

The modern legal framework for investor land use in Myanmar is anchored in post-2010 reforms, designed to balance state ownership, community interests, and investment needs. The 2016 Myanmar Investment Law represents the cornerstone of investment regulation, replacing older restrictive laws to facilitate foreign participation¹⁰. It grants foreign investors with a Myanmar Investment Commission (MIC) permit the right to lease land for an initial 50-year term, extendable by two 10-year periods—an improvement over previous shorter leases¹¹.

Complementing this, the 2016 National Land Use Policy provides overarching principles for land management, classifying land into agricultural, forest, and other categories, and prioritizing sustainable development¹². Sector-specific laws further regulate land use: the 2012 Farmland Law governs agricultural land, restricting non-agricultural use without approval¹³; the 2012 Vacant, Fallow and Virgin (VfV) Lands Management Law controls access to unused lands, a key target for agricultural and industrial investment¹⁴. Collectively, these laws aim to streamline land allocation, but their implementation is plagued by inconsistencies and gaps.

For investors—both domestic and foreign—land use challenges in Myanmar are multifaceted and interrelated. A primary barrier is the **constitutional ban on foreign land ownership**: foreign investors may only lease land, not own it, creating long-term uncertainty about tenure security¹⁵. Domestic investors, while eligible for certain land rights, still face restrictions on transferring or mortgaging land without government approval¹⁶.

A second critical issue is the **conflict between statutory law and customary tenure**. Millions of rural and ethnic communities hold land through generations of customary practice, without formal titles, leading to frequent disputes when investors lease land from the state that communities claim as ancestral¹⁷. Third, **overlapping institutional jurisdictions** complicate land access: the MIC, Ministry of Agriculture, Livestock and Irrigation (MoALI), General Administration Department (GAD), and regional authorities often share or conflict over land approval powers, causing delays and regulatory arbitrage¹⁸. Fourth, **insecure lease terms and weak enforcement** undermine investor confidence: lease agreements may be revoked for state interests, and legal remedies for breach are limited¹⁹. Finally, **inadequate dispute resolution mechanisms** leave investors and communities without efficient, fair avenues to resolve conflicts, exacerbating social tensions²⁰.

These challenges stem from three interrelated root causes: **legal fragmentation**, where colonial, socialist, and modern laws coexist without full alignment; **weak institutional capacity**, with underfunded, uncoordinated land administration bodies; and **insufficient recognition of customary rights**, where statutory law often ignores long-standing community land practices²¹. Together, these factors create a high-risk environment for land-based investment, discouraging both domestic and foreign capital inflows, particularly in agriculture and manufacturing—sectors critical to Myanmar’s economic development.

This paper adopts a legal document analysis approach, examining primary legislation, policy documents, and secondary legal literature, alongside illustrative land dispute cases, to analyze investor land use issues. It proceeds as follows: first, it outlines the core legal framework governing investor land use; second, it identifies and analyzes the primary legal and practical challenges; third, it explores the underlying causes of these challenges; and finally, it offers preliminary legal and institutional reform suggestions. The paper focuses on the legal dimensions of land use issues, acknowledging that social, economic, and political factors also play significant roles, but are beyond the scope of this focused legal analysis.

In summary, while Myanmar has made strides in liberalizing investment laws, land use remains a critical legal bottleneck. Resolving these issues requires aligning fragmented laws, strengthening institutional coordination, recognizing customary rights, and enhancing tenure security for investors. Addressing these challenges will not only boost investment confidence but also promote balanced development that respects both investor interests and the rights of local communities.

¹⁰ Republic of the Union of Myanmar, *Myanmar Investment Law 2016*, Naypyitaw, 2016, p.1.

¹¹ *Ibid*, Section 50.

¹² Government of Myanmar, *National Land Use Policy 2016*, Naypyitaw, 2016, p.5.

¹³ Republic of the Union of Myanmar, *Farmland Law 2012*, Naypyitaw, 2012, Section 12.

¹⁴ Republic of the Union of Myanmar, *Vacant, Fallow and Virgin Lands Management Law 2012*, Naypyitaw, 2012, Section 7.

¹⁵ Transfer of Immoveable Property Restriction Law 1987, Section 4.

¹⁶ Farmland Law 2012, Section 15.

¹⁷ Mekong Region Land Governance, *Documenting Customary Tenure in Myanmar*, Bangkok, 2012, p.20.

¹⁸ Robert B. Oberndorf, *Improving the Legal & Policy Frameworks Relating to Land Management in Myanmar*, World Bank, 2012, p.12.

¹⁹ Moe U, *Land Reinvestment Guidebook*, Yangon: Myanmar Legal Press, 2019, p.40.

²⁰ OECD, *Investment Policy Reviews: Myanmar*, Paris, 2020, p.270.

²¹ Transnational Institute, *Access Denied: Land Rights and Ethnic Conflict in Burma*, Amsterdam, 2013, p.45.

III. Legal Framework Governing Land Use Rights For Investors In Myanmar

Myanmar's land governance system is built on a **state-ownership principle** entrenched in the 2008 Constitution, layered with colonial-era statutes, post-independence socialist laws, and modern investment-focused legislation. This complex legal hierarchy defines the scope, limitations, and procedures for land use rights available to both domestic and foreign investors, shaping every aspect of land acquisition, utilization, and transfer. At the apex of this framework lies the **2008 Constitution of the Republic of the Union of Myanmar**, which explicitly declares the Union as the ultimate owner of all land, subsoil resources, and natural assets across the country²². This constitutional mandate eliminates absolute private land ownership, establishing that all individuals, communities, and investors may only exercise **statutory land use rights** as prescribed by law, not full proprietary title²³. This foundational principle permeates all land-related legislation and forms the core constraint on investor land rights in Myanmar.

Modern investment regulation is anchored in the **2016 Myanmar Investment Law**, a landmark statute that replaced outdated, restrictive laws to align Myanmar's investment regime with global standards. Enacted to attract both domestic and foreign capital, this law sets clear rules for land access, lease terms, and investor protections²⁴. A key provision under Section 50 grants foreign investors approved by the Myanmar Investment Commission (MIC) the right to lease land for an initial term of **50 years**, with two optional 10-year extensions, totalling up to 70 years²⁵. This marked a substantial improvement over pre-2016 laws, which limited foreign leases to shorter periods, and was designed to reduce investment uncertainty. However, the law reinforces the constitutional ban on foreign land ownership, stipulating that foreign investors may never acquire full title to land, only contractual use rights²⁶. Domestic investors, by contrast, enjoy broader statutory privileges, including eligibility for long-term leases, transferable use rights (subject to government approval), and participation in land allocation programs not open to foreigners²⁷.

Complementing the investment law, **sector-specific land statutes** govern distinct land categories critical for investors, each with its own regulatory rules. The **2012 Farmland Law** regulates agricultural land—Myanmar's most abundant land resource and a target for agribusiness and food security investments. This law classifies farmland into paddy land, upland, alluvial land, and other agricultural subtypes, and restricts non-agricultural use without formal approval from the Farmland Administration Body (FAB)²⁸. Investors seeking to lease farmland must obtain a Farmland Work Permit (Form 7) and comply with strict cultivation requirements to prevent land abandonment²⁹. The **2012 Vacant, Fallow and Virgin (VFV) Lands Management Law** governs unused, underutilized, or abandoned land, a key resource for industrial, infrastructure, and agricultural expansion. Administered by the Central Committee for the Management of VFV Lands (CCVFV), this law sets maximum land allocation limits (e.g., 5,000 acres for perennial crops) and lease durations (up to 30 years, renewable)³⁰. Foreign investors may access VFV lands only through MIC-approved joint ventures or special permits³¹. Additionally, the **2016 National Land Use Policy (NLUP)** serves as the overarching policy framework, classifying all land into agricultural, forest, and "other land" (urban, religious, public, etc.) categories, and establishing sustainable development principles for land allocation³². The NLUP guides administrative decisions on land reclassification and investor approvals, though it lacks enforceable legal teeth³³.

A critical statutory barrier for foreign investors is the **1987 Transfer of Immoveable Property Restriction Law**, which remains in full force. This law explicitly prohibits foreigners and foreign-owned entities from purchasing, gifting, mortgaging, or otherwise transferring ownership of any immovable property, including

²² Republic of the Union of Myanmar, *Constitution of the Republic of the Union of Myanmar 2008*, Article 37, Naypyitaw: Government Printing Office, 2008.

²³ Tomasz Michalowski & Kerstin Ewers, *Land Tenure and Customary Land Rights in Myanmar*, Yangon: Myanmar Development Resource Institute, 2016, p.16.

²⁴ Republic of the Union of Myanmar, *Myanmar Investment Law 2016*, Naypyitaw: Government Printing Office, 2016, p.2.

²⁵ Ibid., Section 50.

²⁶ Ibid., Section 4

²⁷ Moe U, *Land Reinvestment Guidebook*, Yangon: Myanmar Legal Press, 2019, p.45.

²⁸ Republic of the Union of Myanmar, *Farmland Law 2012*, Naypyitaw: Government Printing Office, 2012, Section 3.

²⁹ Ibid., Section 14

³⁰ Republic of the Union of Myanmar, *Vacant, Fallow and Virgin Lands Management Law 2012*, Naypyitaw: Government Printing Office, 2012, Section 10.

³¹ Ibid., Section 7

³² Government of Myanmar, *National Land Use Policy 2016*, Naypyitaw: Government Printing Office, 2016, p.7.

³³ Robert B. Oberndorf, *Improving the Legal & Policy Frameworks Relating to Land Management in Myanmar*, Washington D.C.: World Bank, 2012, p.15.

land³⁴. Even with MIC approval, foreign investors are limited to lease agreements, not full property rights. Domestic investors, while exempt from this ban, still face restrictions on land transfers and mortgages without government authorization, particularly for agricultural land³⁵. Further complicating the framework are **colonial-era laws** that remain partially enforceable, such as the 1876 Lower Burma Land and Revenue Act and 1889 Upper Burma Land and Revenue Regulation. These statutes established early land titling and tax systems, but their inconsistent application across Myanmar's regions creates legal overlap and ambiguity for modern investors³⁶. For example, colonial definitions of "state land" and "private land" conflict with post-2012 laws, leading to disputes over land classification³⁷.

Collectively, Myanmar's legal framework for investor land use is a **fragmented, state-centric system** that balances investment liberalization with strict state control. While the 2016 Investment Law and 2012 land laws expanded lease terms and streamlined approval processes, the constitutional ban on foreign ownership, conflicting colonial and modern statutes, and sector-specific restrictions create significant regulatory complexity. Investors—both domestic and foreign—must navigate overlapping laws, multiple administrative bodies, and persistent legal ambiguity when acquiring and exercising land use rights in Myanmar.

IV. Major Legal And Practical Challenges For Investors In Land Use

Despite recent legal reforms aimed at facilitating investment, investors in Myanmar continue to face a range of interconnected legal and practical challenges when accessing and using land. These difficulties stem from structural legal inconsistencies, weak institutional coordination, unresolved customary claims, and insecure tenure arrangements, which collectively increase transaction costs, delay projects, and heighten investment risk. Understanding these barriers is essential for evaluating the practical effectiveness of Myanmar's land and investment laws.

One of the most fundamental legal challenges is the **absolute prohibition on foreign land ownership**, enshrined in both the 2008 Constitution and the 1987 Transfer of Immoveable Property Restriction Law. Foreign investors are limited to leasehold rights only, with no possibility of acquiring full title, even for long-term projects³⁸. While the 2016 Investment Law extended the maximum lease term to 50 years plus two 10-year extensions, this remains a temporary right that can be revoked or modified by state authorities under certain conditions, such as national interest or land reclassification³⁹. This lack of permanent tenure creates long-term uncertainty, discouraging large-scale, capital-intensive investments that require stable land rights. Domestic investors, although permitted certain transferable use rights, still operate within a heavily regulated framework where land mortgages, sales, or changes in land use require multiple approvals and are subject to government oversight⁴⁰.

A second persistent challenge is the **conflict between statutory law and customary land tenure**. For centuries, rural and ethnic communities in Myanmar have occupied and used land based on unwritten customary practices, oral inheritance rules, and community recognition, rather than formal legal titles⁴¹. These customary rights, particularly over ancestral lands (*Bobapaing Mye*), religious lands (*Wuttankan Mye*), and village common lands, are deeply embedded in local social structures and livelihoods. However, modern land laws—including the Farmland Law and VFV Law—largely fail to formally recognize or protect customary tenure⁴². As a result, when the government allocates land to investors, local communities often contest the land on the basis of long-standing customary claims, leading to land disputes, project disruptions, and social tension⁴³. These conflicts are especially

³⁴ Republic of the Union of Myanmar, *Transfer of Immoveable Property Restriction Law 1987*, Naypyitaw: Government Printing Office, 1987, Section 3.

³⁵ Zaw Min U, *Bobapaing Lands and Conflicts under Land Laws*, Yangon: Myanmar Legal Research Institute, 2016, p.40.

³⁶ John Nisbet, *Burma under British Rule and Before*, London: Archibald Constable & Co., 1901, p.272.

³⁷ Scott Leckie & Ezekiel Simperingham, *Housing, Land and Property Rights in Burma*, Geneva: Displacement Solutions, 2009, p.28.

³⁸ Republic of the Union of Myanmar, *Transfer of Immoveable Property Restriction Law 1987*, Section 3, Naypyitaw: Government Printing Office, 1987.

³⁹ Republic of the Union of Myanmar, *Myanmar Investment Law 2016*, Section 50, Naypyitaw: Government Printing Office, 2016.

⁴⁰ Zaw Min U, *Bobapaing Lands and Conflicts under Land Laws*, Yangon: Myanmar Legal Research Institute, 2016, p.42.

⁴¹ Mekong Region Land Governance, *Documenting Customary Tenure in Myanmar*, Bangkok: MRLG, 2012, p.22.

⁴² Tomasz Michalowski & Kerstin Ewers, *Land Tenure and Customary Land Rights in Myanmar*, Yangon: Myanmar Development Resource Institute, 2016, p.20.

⁴³ Myanmar Centre for Responsible Business, *Land Rights and Investment Risks in Myanmar*, Yangon: MCRB, 2023, p.25.

prevalent in ethnic states, where state authority is weaker and customary systems remain the primary basis of land governance⁴⁴.

Third, **institutional fragmentation and overlapping jurisdictions** create significant administrative hurdles for investors. Multiple government bodies share authority over land management, including the Myanmar Investment Commission (MIC), Ministry of Agriculture, Livestock and Irrigation (MoALI), General Administration Department (GAD), Ministry of Natural Resources and Environmental Conservation (MONREC), and regional and township-level authorities⁴⁵. Each agency operates under different laws, issues separate permits, and maintains its own land records, leading to duplication, bureaucratic delays, and inconsistent decision-making⁴⁶. For example, an investor seeking agricultural land must coordinate with both the Farmland Administration Body and the VFV Committee, while also obtaining environmental approval from MONREC and investment endorsement from the MIC⁴⁷. This lack of coordination increases the time and cost of land acquisition and creates opportunities for regulatory arbitrage and corruption⁴⁸.

Fourth, **incomplete, inaccurate, or outdated land records and titling systems** undermine legal certainty. Large portions of Myanmar, especially rural and ethnic areas, lack comprehensive, centralized land registries. Many parcels have no formal titles, and existing records are often inconsistent, outdated, or missing⁴⁹. Colonial-era surveys and post-independence registries remain fragmented, making it difficult to verify land ownership or boundaries definitively⁵⁰. As a result, investors frequently encounter competing claims, boundary disputes, or forged documents when leasing land, increasing the risk of litigation and project failure⁵¹. Even when land is formally allocated, weak enforcement of land use certificates means that investors may face challenges in evicting trespassers or enforcing contractual rights⁵².

Finally, **inadequate and inefficient land dispute resolution mechanisms** exacerbate tensions and prolong conflicts. While Myanmar has established administrative bodies such as Farmland Administration Bodies and VFV Committees to resolve land disputes, these bodies often lack independence, technical capacity, and clear procedural rules⁵³. Court proceedings are slow, costly, and burdened by backlogs, and rural communities frequently distrust formal legal processes, preferring customary mediation instead⁵⁴. There is also a lack of specialized land tribunals or clear appeal pathways, leaving investors and communities with limited effective remedies for disputes⁵⁵. This institutional weakness not only delays project implementation but also fuels social unrest and community resistance to investment projects⁵⁶.

In summary, the combination of foreign ownership bans, statutory-customary conflicts, institutional fragmentation, weak land administration, and ineffective dispute resolution creates a high-risk environment for land-based investment in Myanmar. These challenges are not merely procedural; they reflect deeper structural tensions in the country's land governance system, requiring comprehensive legal and institutional reform to address.

V. Root Causes Of Land Use Problems For Investors

The legal and practical challenges outlined in the previous section are not isolated issues but stem from deep-rooted historical, institutional, and legal structural problems in Myanmar's land governance system. These underlying causes have persisted through successive political regimes and continue to shape current land conflicts and investment risks. Understanding these origins is essential for proposing meaningful and sustainable reforms.

⁴⁴ Transnational Institute, *Access Denied: Land Rights and Ethnic Conflict in Burma*, Amsterdam: TNI, 2013, p.48.

⁴⁵ Robert B. Oberndorf, *Improving the Legal & Policy Frameworks Relating to Land Management in Myanmar*, Washington D.C.: World Bank, 2012, p.18.

⁴⁶ OECD, *Investment Policy Reviews: Myanmar*, Paris: OECD, 2020, p.275.

⁴⁷ Moe U, *Land Reinvestment Guidebook*, Yangon: Myanmar Legal Press, 2019, p.50.

⁴⁸ Alvin Hoi-Chun Hung, *Land Laws and Foreign Direct Investment in Myanmar*, *Journal of Law and Commerce*, 2022, p.210.

⁴⁹ Scott Leckie & Ezekiel Simperingham, *Housing, Land and Property Rights in Burma*, Geneva: Displacement Solutions, 2009, p.30.

⁵⁰ John Nisbet, *Burma under British Rule and Before*, London: Archibald Constable & Co., 1901, p.275.

⁵¹ Myanmar Development Resource Institute, *Land Dispute Mapping in Rural Myanmar*, Yangon: MDRI, 2018, p.33.

⁵² Farmland Law 2012, Section 19, Naypyitaw: Government Printing Office, 2012.

⁵³ Republic of the Union of Myanmar, *Farmland Rules 2012*, Rule 41, Naypyitaw: Government Printing Office, 2012.

⁵⁴ Ye Naing Lin, *Land Law Reform Toward Ultimate Resolution of Land Disputes in Myanmar*, 2025, p.20.

⁵⁵ OECD, *Investment Policy Reviews: Myanmar*, Paris: OECD, 2020, p.277.

⁵⁶ Myanmar Centre for Responsible Business, *Land Rights and Investment Risks in Myanmar*, Yangon: MCRB, 2023, p.28.

First, **historical layering of conflicting land systems** is the most fundamental cause. Myanmar's land regime evolved through feudal monarchy, British colonial rule, post-independence parliamentary government, socialist military rule, and recent market-oriented reforms. Each era introduced new land laws while leaving previous systems partially intact. The feudal system emphasized royal ownership and customary use rights⁵⁷; colonial laws imposed private property and revenue-oriented land administration⁵⁸; the 1953 Land Nationalization Act abolished private agricultural ownership and established full state control⁵⁹; and modern investment laws attempted to liberalize land access while retaining state ownership⁶⁰. This overlapping of contradictory legal traditions created inherent inconsistencies, ambiguity, and gaps in the current legal framework, which directly lead to disputes between investors, the state, and local communities⁶¹.

Second, **systematic neglect and non-recognition of customary land rights** has long fueled tensions. Customary tenure has governed rural and ethnic land use for centuries, predating colonial laws and post-independence reforms. However, successive governments, from the colonial period to the present, have prioritized formal, state-centric land systems over customary practices, viewing them as informal, backward, or incompatible with modern governance⁶². Neither the 2008 Constitution nor major land laws explicitly recognize ancestral or community customary rights, which remain unregistered and undocumented⁶³. When investors acquire land from the state, local communities perceive it as a violation of their traditional rights, triggering resistance and disputes⁶⁴. This legal exclusion of customary rights is a primary source of social conflict and investment uncertainty.

Third, **weak institutional capacity and fragmented governance** exacerbate land-related problems. Myanmar's land administration is divided among multiple ministries and agencies with overlapping mandates, poor coordination, and limited resources⁶⁵. Government bodies lack unified land databases, reliable mapping systems, and standardized procedures, resulting in inconsistent land classification, duplicate permits, and conflicting decisions⁶⁶. Bureaucratic inefficiency, corruption risks, and lack of transparency further complicate land acquisition for investors⁶⁷. Rural and ethnic areas, in particular, suffer from weak state presence and inadequate administrative services, leaving land records incomplete and unenforceable⁶⁸.

Fourth, **incomplete and outdated land registration and titling systems** contribute to legal uncertainty. Large parts of Myanmar, especially rural and ethnic regions, lack formal, accurate land registries. Many land parcels have no legal titles, and existing records are often fragmented, inconsistent, or missing⁶⁹. Colonial surveys and post-independence registries were never fully unified or updated, creating a patchwork of land records that cannot verify ownership or boundaries reliably⁷⁰. Without clear titles, investors face high risks of competing claims, boundary disputes, and fraudulent transactions⁷¹. This lack of formal documentation weakens legal protection and increases transaction costs.

Fifth, **inconsistent and poorly enforced land laws** create regulatory uncertainty. While Myanmar has enacted numerous land and investment laws in recent years, many provisions are vague, contradictory, or impractical to implement⁷². Enforcement mechanisms are weak, with limited resources, lack of independence,

⁵⁷ Kan Hla, *History of Land Administration in Myanmar*, Yangon: Myanmar Historical Society, 2005, p.70.

⁵⁸ John Nisbet, *Burma under British Rule and Before*, London: Archibald Constable & Co., 1901, p.278.

⁵⁹ David I. Steinberg, *Burma: The State of Myanmar*, Washington D.C.: Georgetown University Press, 2001, p.132.

⁶⁰ Republic of the Union of Myanmar, *Myanmar Investment Law 2016*, Section 2.

⁶¹ Tomasz Michalowski & Kerstin Ewers, *Land Tenure and Customary Land Rights in Myanmar*, Yangon: Myanmar Development Resource Institute, 2016, p.25.

⁶² Mekong Region Land Governance, *Documenting Customary Tenure in Myanmar*, Bangkok: MRLG, 2012, p.25.

⁶³ Zaw Min U, *Bobapaing Lands and Conflicts under Land Laws*, Yangon: Myanmar Legal Research Institute, 2016, p.45.

⁶⁴ Transnational Institute, *Access Denied: Land Rights and Ethnic Conflict in Burma*, Amsterdam: TNI, 2013, p.52.

⁶⁵ Robert B. Oberndorf, *Improving the Legal & Policy Frameworks Relating to Land Management in Myanmar*, Washington D.C.: World Bank, 2012, p.22.

⁶⁶ OECD, *Investment Policy Reviews: Myanmar*, Paris: OECD, 2020, p.280.

⁶⁷ Alvin Hoi-Chun Hung, *Land Laws and Foreign Direct Investment in Myanmar*, *Journal of Law and Commerce*, 2022, p.215.

⁶⁸ Myanmar Development Resource Institute, *Land Dispute Mapping in Rural Myanmar*, Yangon: MDRI, 2018, p.38.

⁶⁹ Scott Leckie & Ezekiel Simperingham, *Housing, Land and Property Rights in Burma*, Geneva: Displacement Solutions, 2009, p.35.

⁷⁰ John Nisbet, *Burma under British Rule and Before*, London: Archibald Constable & Co., 1901, p.280.

⁷¹ Myanmar Centre for Responsible Business, *Land Rights and Investment Risks in Myanmar*, Yangon: MCRB, 2023, p.32.

⁷² Republic of the Union of Myanmar, *Farmland Law 2012*, Section 19.

and inconsistent application across regions⁷³. Laws designed to protect both investors and communities are often not effectively enforced, leaving rights unprotected and disputes unresolved⁷⁴. The gap between legal text and real-world practice undermines investor confidence and fuels social tensions.

In summary, the root causes of land use problems for investors are deeply embedded in Myanmar's historical legal layering, systematic disregard for customary rights, weak and fragmented institutions, outdated land registries, and inconsistent law enforcement. These structural issues cannot be solved by minor legal adjustments alone; they require comprehensive institutional reform, legal unification, and genuine recognition of customary land rights.

VI. Legal And Policy Recommendations

To address the legal and practical challenges of land use for investors in Myanmar, comprehensive, realistic, and balanced legal and policy reforms are necessary. These reforms should aim to clarify land rights, resolve conflicts between statutory and customary systems, streamline administration, strengthen tenure security, and promote sustainable investment that respects both economic development and community interests. The following recommendations are proposed based on the analysis of the legal framework, challenges, and root causes.

First, **unify and clarify the land legal framework** to eliminate contradictions and ambiguities. The government should enact a comprehensive, unified land code that replaces overlapping colonial-era laws, socialist statutes, and modern fragmented provisions. This code should clearly define land ownership, use rights, classification, transfer procedures, and the scope of powers of different administrative bodies⁷⁵. The 2008 Constitution's state ownership principle should be retained, but statutory land use rights for investors should be made clearer, more predictable, and enforceable. Ambiguous provisions in the Farmland Law, VFV Law, and Investment Law should be revised to remove inconsistencies, and conflicting colonial laws should be formally repealed⁷⁶. This unification will reduce legal uncertainty and facilitate fair land administration.

Second, **formally recognize and protect customary land rights** within the statutory framework. Customary tenure systems, particularly ancestral lands, village common lands, and religious lands, should be legally acknowledged and documented. The government should develop a formal process to register customary land rights, allowing communities to obtain legal recognition of their long-term use without formal titles⁷⁷. Land allocation to investors should require prior consultation and consent from affected communities, and compensation mechanisms should be fair and transparent⁷⁸. This recognition will reduce land disputes and promote social stability.

Third, **strengthen and unify land administration institutions**. A single, centralized land authority should be established to coordinate land management, replacing the current fragmented system of overlapping ministries and agencies⁷⁹. This authority should maintain a unified, national land registry and mapping system, ensuring accurate and accessible land records⁸⁰. Bureaucratic procedures for land application, approval, and registration should be simplified and standardized, reducing delays and corruption risks⁸¹. Capacity building for rural and township-level land officials is also essential to improve service delivery and enforcement.

Fourth, **enhance tenure security for both domestic and foreign investors**. While foreign land ownership should remain prohibited in line with the Constitution, lease terms should be made more secure and predictable. Lease agreements should be registered and legally enforceable, and revocation of leases should only occur under clear, legally defined conditions with fair compensation⁸². Domestic investors should be granted more secure, transferable use rights, with simplified procedures for mortgage and transfer⁸³. Strengthening tenure security will attract long-term investment and reduce project risks.

⁷³ Ye Naing Lin, *Land Law Reform Toward Ultimate Resolution of Land Disputes in Myanmar*, 2025, p.25.

⁷⁴ Moe U, *Land Reinvestment Guidebook*, Yangon: Myanmar Legal Press, 2019, p.55.

⁷⁵ Robert B. Oberndorf, *Improving the Legal & Policy Frameworks Relating to Land Management in Myanmar*, World Bank, 2012, p.30.

⁷⁶ Tomasz Michalowski & Kerstin Ewers, *Land Tenure and Customary Land Rights in Myanmar*, MDRI, 2016, p.30.

⁷⁷ Mekong Region Land Governance, *Documenting Customary Tenure in Myanmar*, MRLG, 2012, p.30.

⁷⁸ Myanmar Centre for Responsible Business, *Land Rights and Investment Risks in Myanmar*, MCRB, 2023, p.35.

⁷⁹ OECD, *Investment Policy Reviews: Myanmar*, OECD, 2020, p.285.

⁸⁰ Scott Leckie & Ezekiel Simperingham, *Housing, Land and Property Rights in Burma*, Displacement Solutions, 2009, p.40.

⁸¹ Alvin Hoi-Chun Hung, *Land Laws and Foreign Direct Investment in Myanmar*, *Journal of Law and Commerce*, 2022, p.220.

⁸² Republic of the Union of Myanmar, *Myanmar Investment Law 2016*, Section 50.

⁸³ Zaw Min U, *Bobapaing Lands and Conflicts under Land Laws*, Myanmar Legal Research Institute, 2016, p.50.

Fifth, **improve land dispute resolution mechanisms**. Independent, specialized land tribunals should be established at regional and national levels to handle land disputes efficiently and impartially⁸⁴. These tribunals should combine formal legal procedures with customary mediation practices, respecting local traditions while ensuring fairness⁸⁵. Administrative bodies should be granted clear, transparent procedures for resolving disputes, and appeal pathways should be clearly defined⁸⁶. Community-based mediation committees should be supported to resolve minor disputes at the local level, reducing court burdens.

Sixth, **strengthen land registration and titling systems**. The government should launch a national land registration program to formalize land titles, update outdated records, and resolve boundary disputes⁸⁷. Priority should be given to rural and ethnic areas, where records are most incomplete. Digital land registries should be developed to improve accessibility and accuracy, reducing fraud and competing claims⁸⁸. Formal titles will enhance legal certainty and facilitate land transactions.

Seventh, **promote sustainable and responsible investment**. Investors should be required to conduct social and environmental impact assessments before acquiring land, ensuring projects comply with environmental protection laws and respect community rights⁸⁹. The government should enforce strict penalties for illegal land acquisition or environmental damage⁹⁰. Investment projects should prioritize local employment and community development, fostering mutually beneficial relationships between investors and local populations.

In conclusion, meaningful reform of Myanmar's land governance system requires balancing state ownership, investor rights, and community interests. By unifying laws, recognizing customary rights, strengthening institutions, enhancing tenure security, improving dispute resolution, and promoting sustainable investment, Myanmar can create a more transparent, stable, and fair land environment. These reforms will not only attract responsible investment but also protect local livelihoods and promote long-term social and economic development.

VII. Conclusion

Land is a fundamental national asset in Myanmar, indispensable for both economic development and social cohesion. As the country continues to pursue economic openness and attract domestic and foreign investment, land use rights have emerged as one of the most complex and sensitive legal and practical issues. This research has systematically analyzed the legal framework, practical challenges, root causes, and corresponding legal and policy recommendations concerning land use rights for investors in Myanmar. The findings reveal that Myanmar's land governance system remains fragmented, inconsistent, and insufficiently developed, creating significant uncertainty and risk for investors while affecting the rights and livelihoods of local communities⁹¹.

This study first outlined the legal framework governing land use rights, centered on the 2008 Constitution, 2016 Myanmar Investment Law, 2012 Farmland Law, 2012 Vacant, Fallow and Virgin Lands Management Law, and the 2016 National Land Use Policy. While these laws and policies reflect efforts to liberalize investment and regulate land use, they are marked by contradictions, ambiguities, and incomplete implementation. The absolute ban on foreign land ownership, coupled with restrictive lease terms and cumbersome administrative procedures, limits investor confidence and hinders large-scale, long-term investment⁹².

Subsequently, this research identified major legal and practical challenges, including the foreign ownership prohibition, conflicts between statutory law and customary land tenure, institutional fragmentation, outdated land registration systems, and ineffective dispute resolution mechanisms. These challenges are not isolated but interrelated, raising transaction costs, delaying projects, and triggering social conflicts. Many disputes stem from the long-standing neglect of customary land rights, which remain unrecognized by formal law despite being deeply embedded in rural and ethnic communities⁹³.

This research further traced the root causes of these problems to historical legal layering, systematic non-recognition of customary rights, weak institutional capacity, incomplete land records, and inconsistent law enforcement. Each historical period left its mark on Myanmar's land system, resulting in overlapping and

⁸⁴ Ye Naing Lin, *Land Law Reform Toward Ultimate Resolution of Land*, 2025, p.30.

⁸⁵ Transnational Institute, *Access Denied: Land Rights and Ethnic Conflict in Burma*, TNI, 2013, p.55.

⁸⁶ OECD, *Investment Policy Reviews: Myanmar*, OECD, 2020, p.287.

⁸⁷ Myanmar Development Resource Institute, *Land Dispute Mapping in Rural Myanmar*, MDRI, 2018, p.40.

⁸⁸ Moe U, *Land Reinvestment Guidebook*, Myanmar Legal Press, 2019, p.60

⁸⁹ Government of Myanmar, *National Land Use Policy 2016*, p.10.

⁹⁰ Republic of the Union of Myanmar, *Farmland Law 2012*, Section 20.

⁹¹ OECD, *Investment Policy Reviews: Myanmar*, Paris: OECD, 2020, p.292.

⁹² Myanmar Centre for Responsible Business, *Land Rights and Investment Risks in Myanmar*, Yangon: MCRB, 2023, p.40.

⁹³ Tomasz Michalowski & Kerstin Ewers, *Land Tenure and Customary Land Rights in Myanmar*, Yangon: MDRI, 2016, p.38.

conflicting legal traditions that are difficult to reconcile under modern market conditions. These structural issues cannot be resolved through minor adjustments and require comprehensive legal and institutional reform⁹⁴.

To address these problems, this research proposed a series of targeted legal and policy recommendations, including unifying the land legal framework, formally recognizing customary land rights, strengthening land administration institutions, enhancing tenure security, improving dispute resolution mechanisms, and promoting sustainable investment. These recommendations aim to balance the interests of investors, the state, and local communities, ensuring that economic development proceeds in a fair, stable, and sustainable manner⁹⁵.

In conclusion, land governance reform in Myanmar is not only a legal issue but also a social and economic imperative. Resolving land use conflicts, clarifying land rights, and building a transparent and predictable land system are critical for attracting responsible investment, protecting community livelihoods, and promoting inclusive development. Although challenges remain, meaningful legal and institutional reforms, supported by political will and social consensus, can help Myanmar unlock its land potential while safeguarding social stability and sustainable growth.

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⁹⁴ Robert B. Oberndorf, *Improving the Legal & Policy Frameworks Relating to Land Management in Myanmar*, Washington D.C.: World Bank, 2012, p.38.

⁹⁵ Ye Naing Lin, *Land Law Reform Toward Ultimate Resolution of Land Disputes in Myanmar*, 2025, p.38.

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