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OUR FOREST, OUR LIFE

PROTECTED AREAS IN TANINTHARYI REGION MUST RESPECT THE RIGHTS OF INDIGENOUS PEOPLES



CONSERVATION
ALLIANCE OF
TANAWTHARI (CAT)



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ABOUT CAT

Conservation Alliance of Tanawthari (CAT) was founded in 2014 as a coalition of Karen community organizations working in the region. CAT aims to promote conservation of biodiversity together with people, and protect the rights of indigenous communities. CAT members organizations:

1. Tenasserim River & Indigenous People Networks (TRIP NET)
2. Community Sustainable Livelihood and Development (CSLD)
3. Tarkapaw Youth Group (TKP)
4. Candle Light (CL)
5. Southern Youth (SY)
6. Karen Environmental and Social Action Network (KESAN)
7. Tanintharyi Friends (TF)

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LIST OF ACRONYMS

CAT	Conservation Alliance of Tanawthari
FFI	Flora and Fauna International
FPIC	Free Prior Informed Consent
GEF	Global Environmental Facility
ICCA	Indigenous Community Conserved Area
IDP	Internally Displaced Person
INGO	International Non-Governmental Organization
KNU	Karen National Union
KWS	Kaserdoh Wildlife Sanctuary
LNR	Lenya Nature Reserve
MBR	Myinmolekat Biosphere Reserve
MONREC	Ministry of Natural Resources and Environmental Conservation
NCA	National Ceasefire Agreement
NLUP	National Land Use Policy
NWCD	Nature Wildlife and Conservation Division
PAS	Protected Area System
PPF	Protected Public Forest
PFE	Permanent Forest Estate
RF	Reserved Forest
SEZ	Special Economic Zone
SI	Smithsonian Institute
SLORC	State Law and Order Restoration Committee
TFC	Tanintharyi Forest Corridor
TNR	Tanintharyi Nature Reserve
UNDRIP	United Nations Declaration on the Rights of Indigenous People
VFV	Vacant, Fallow, Virgin lands
WCS	Wildlife Conservation Society



EXECUTIVE SUMMARY

Tanintharyi Region, in South East Myanmar, is home to one of the largest remaining intact areas of low-elevation evergreen forest in South East Asia, an area that supports a vast biodiversity and a range of vulnerable and endangered species. For generations, indigenous Karen communities have protected these areas under customary tenure systems, which have enforced rules to promote sustainable resource use and prevent outside incursions into community territories. These forests hold enormous spiritual and cultural importance for indigenous communities, as well as providing for the livelihoods of tens of thousands of forest-dependent communities.

As ceasefires and emerging political dialogue could end decades of civil war, and Myanmar has opened its borders to international investment and trade, Tanintharyi Region is enduring a period of rapid and unprecedented change. The onset of rapacious resource extraction, agribusiness expansion and special economic zone (SEZ) development in recent years has propelled the forest department and International Non-Governmental Organizations (INGOs) to prioritize conservation efforts in the area, proposing a host of Protected Areas to conserve Tanintharyi's forests. The Tanintharyi Nature Reserve is currently the only terrestrial protected area in Tanintharyi Region occupying an area of 420,000 acres, however two proposed protected areas; Lenya National Park and Tanintharyi National Park would cover a further area of over 1.3 million acres. Further still, plans to connect these areas through a Tanintharyi Nature Corridor would occupy a total of 2.5 million acres, constituting almost a quarter of all land in Tanintharyi Region.

Despite the vital importance of biodiversity protection in Tanintharyi, Protected Areas in the region have failed to respect the rights of indigenous people and threaten to cut communities off from their lands, resources and livelihoods. This has serious implications both for the rights of indigenous communities and for achieving lasting and sustainable peace.

As a ceasefire has been in place between the Karen National Union (KNU) and the Myanmar government over the past five years, IDPs and refugees who have been living along the Thai-Myanmar border have started to return, many finding that their lands are now proposed or classified as Protected Areas. The establishment of conservation zones in post-conflict areas denies displaced communities the right of return.

Protected Area proposals have been carried out without the Free Prior Informed Consent (FPIC) of local communities who would be directly affected. Many still have little or no knowledge of the proposals that stand to extinguish their access rights to resources and land. Furthermore, the establishment of large protected areas under the control of the central government in disputed territories undermines the terms of the 'interim arrangements' of the National Ceasefire Agreement (NCA) and threatens the fragile peace process in the region.

In order to protect the rights of local communities and the prospects for future peace, these protected area proposals must be halted until a comprehensive peace deal is signed, laws and policies respect customary tenure rights, and the right of return to Internally Displaced Persons (IDPs) and refugees has been guaranteed. Further, indigenous communities must be properly consulted in line with FPIC principles, and must be able to lead and actively participate in the planning and implementation of conservation activities.

While the current conservation model fails to respect the rights of indigenous people and to recognize the importance of local communities as forest defenders, alternative approaches to centralized conservation are emerging in Tanintharyi Region. An Indigenous Community Conservation Area in Kamoethway and plans to establish the Salween Peace Park are examples of this alternative model that promotes a people-centered approach to conservation, supporting local people and institutions to strengthen traditional methods of forest protection. This bottom-up model of community-led conservation is proving extremely successful both in Tanintharyi and other parts of the globe¹, signaling an important paradigm shift for conservation. Within this model indigenous communities can be recognized as the owners, managers and protectors of resources with positive results for both human rights and biodiversity conservation.

Conservation Alliance of Tanawthari (CAT) calls for the Myanmar government and international organizations to support this alternative vision for conservation in Tanintharyi Region. This new approach must be led by local communities, be grounded in principles of FPIC and local participation, supporting and strengthening local forms of conservation rather than imposing top-down conservation zones that dispossess communities from their lands and criminalize forest users.

1 Borrini-Feyerabend G et al (2012) *Bio-cultural diversity conserved by indigenous peoples and local communities— examples and analysis*, Cenesta: Tehran



INTRODUCTION

In recent years, Tanintharyi Region has emerged as a global priority for environmental conservation. Tanintharyi Region is home to 2.5 million hectares of intact Sudanaic lowland forest, the largest in the Indo-Burma Biodiversity Hotspot.² This forest is home to numerous endangered species such as tigers, elephants, tapir, pangolin, and the endemic bird Gurney's Pitta. Tanintharyi forests also store high amounts of carbon, and so conserving them is crucial for fighting climate change.³ Previously off-limits due to civil war and political isolation, Tanintharyi's forests are now facing serious threats from illegal logging, mega-mining, palm oil plantations, and large-scale infrastructure development. In order to protect the forest from these threats, several international conservation organizations are working with Myanmar's government to establish new protected areas in Tanintharyi Region.

Proposed protected areas are located within the ancestral territory of indigenous Karen communities, called *Tanawthari* in the Karen language. This is no coincidence. An estimated 80% of the world's remaining healthy ecosystems are located within the territories of indigenous people.⁴ As such there is a growing consensus that the most effective way to protect biodiversity is to secure indigenous tenure claims and legally recognize the rights of local indigenous communities to manage their own lands and resources.⁵ Environmental conservation plays a central role in the traditions of Karen communities, and for generations Karen people in *Tanawthari* have served as stewards of their forests. **Without these communities, the globally important forests of Tanintharyi Region would have disappeared long ago.**

In order to succeed, forest conservation in Tanintharyi Region must respect the rights of indigenous people to continue managing their territory according to sustainable, traditional practices. However, the current model of top-down, large-scale protected areas proposed by international conservation organizations and the Myanmar government fail to recognize these rights. Instead, these proposals risk violating human rights by evicting Karen communities from their ancestral lands, restricting access to the forest for traditional livelihood activities, and excluding local people from decision making about and management of their own territories.

2 Baskett J P C (2015) *Myanmar oil palm plantations: a productivity and sustainability review. Report no.2u of the Tanintharyi Conservation Programme, a joint initiative of Fauna and Flora International and the Myanmar Forest Department, FFI: Yangon.*

3 WWF (2016) *Natural Connections: How natural capital supports Myanmar's people and economy. WWF: Myanmar.*

4 Sobrevila C (2008) *The role of indigenous people in conservation: the natural but often forgotten partners.* The World Bank: Washington DC, US.

5 Oxfam, International Land Coalition, Rights and Resources Initiative., (2016) *Common Ground. Securing Land Rights and Safeguarding the Earth.* Oxfam: Oxford, UK.

This report was researched and written by the Conservation Alliance of Tanawthari (CAT), a coalition of seven Karen community organizations advocating for indigenous peoples' rights and environmental conservation in Tanintharyi Region. It is based on two years of research, on-the-ground work with local communities living in proposed protected areas, and engagement with multiple stakeholders including the Myanmar government, KNU, and international conservation NGOs. The report aims to:

1. analyze the past mistakes of existing protected areas in Tanintharyi Region;
2. examine the risks posed to Karen communities by proposals for protected area expansion, and;
3. explore alternative approaches for forest conservation, informed by community conservation initiatives underway throughout the region.

CAT believes there is a unique opportunity to do conservation the right way in Tanintharyi Region, and to learn from past mistakes elsewhere in the country and the world where protected areas have created conflict with local communities. We are eager to work together with all stakeholders to ensure that conservation projects will be implemented successfully.



LEGAL FRAMEWORK OF PROTECTED AREAS IN MYANMAR

Forestland comprises 44.3% of land cover in Myanmar. Of this, roughly 70% (31% of land cover) has been incorporated into the Permanent Forest Estate (PFE), which falls directly under the purview of the Forest Department, one of five departments in the Ministry of Natural Resources and Environmental Conservation (MONREC).⁶ Forestland that has been delineated into the Permanent Forest Estate is administered according to three management categories; Reserved Forests (RF), Protected Public Forests (PPFs) or the Protected Area System (PAS). Technically within Myanmar's forest estate, local access rights have been annulled, however in reality there are often many communities living inside these areas, who continue to use resources outside the confines of the law. Many of these communities have lived, practiced agriculture, and harvested forest products on their lands for many generations before the Forest Department incorporated them into the PFE.

In Tanintharyi Region, forestland accounts for approximately 62% land cover, the PFE comprising half of this.⁷ Despite these large territorial claims over Tanintharyi's forests, Forest Department maps and data rarely reflect the reality on the ground. Further, many of these areas have been severely degraded from commercial logging, mining and mono-crop plantations by crony companies.⁸ In recent years, however, the Forest Department, with the help of international NGOs, has shown increasing interest in demarcating and managing PFE land in Tanintharyi Region, with a strong priority of expanding the land under the Protected Area System.

Permanent Forest Estate (PFE):

Reserved Forest (RF): land designated as Reserved Forest under the 1992 Forest Law. Reserved Forests were established for environmental protection and to produce a sustained yield of valuable hardwoods, accounting for 18% of land cover.

Protected Public Forest (PPF): land designated as PPF under the 1992 Forest Law, which usually contain lower value timber, often for domestic supply, accounting for 6.05% of land cover.

Protected Areas (PAs): land designated by under the 1994 Protection of Wildlife and Conservation of Natural Areas Law, which is exclusively for conservation and biodiversity protection, accounting for 5.75% of land cover.

Unclassified Forests: Forests that exist outside the PFE, managed under the Ministry of Agriculture, Livestock and Irrigation (MOALI), usually as Vacant, Fallow and Virgin (VfV) land, accounting for 21.8% of land cover.

6 Kissenger G (2017) *Background report identifying the drivers of deforestation and forest degradation in Myanmar*, UNEP and the Myanmar Ministry of Natural Resources and Environmental Conservation: Bangkok, Thailand

7 Woods K (2015) *Commercial Agriculture Expansion in Myanmar: Links to Deforestation, Conversion Timber, and Land Conflicts*. Forest Trends: Washington DC, USA.

8 Ibid.

Protected Areas (PA) are exclusionary zones, delineated by the Forest Department with the explicit purpose of wildlife and biodiversity conservation. PAs in Myanmar span wide areas and cover an expansive range of habitats and ecosystems that support a diverse biodiversity. There are currently 39 established protected areas that collectively account for 5.75% Myanmar’s land cover, with a further seven proposed areas that would cover an additional 1.09% of land cover.⁹ However, this is expected to further increase over the coming years, as the government has embarked upon a target to expand this figure to 10% of land cover by 2030 as stipulated in Myanmar’s National Forestry Masterplan.¹⁰

Protected Areas are governed under the Nature Wildlife and Conservation Division (NWCD), a division within the Forest Department. The 1994 Protection of Wildlife and Conservation of Natural Areas Law is used to both designate these areas and enforce strict resource access and use restrictions. According to the law, local communities have no access rights to forest resources within the boundaries of protected areas, however it does provide for PA authorities to establish buffer zones in which subsistence resource use can be permitted. While buffer zones are featured in the plans of several PAs in Myanmar, they are rarely implemented and there is often a lack of clarity over where boundaries lie. People caught practicing traditional livelihood activities, such as agriculture, hunting, or harvesting timber and non-timber forest products are often levied with heavy fines or arrested, rendering the traditional lifestyles and livelihoods of indigenous communities untenable. **Protected Areas in Tanintharyi must not infringe on the rights and traditional livelihoods of local communities.**

9 Instituto Oikos and BANCA (2011) *Myanmar protected areas: context, current status, and challenges*. Milano, Italy: Ancora Libri

10 Forest Department and IUCN (2015) *National Biodiversity Strategic Action Plan 2015–2020*, Nay Pyi Taw, Myanmar



HISTORY OF PROTECTED AREAS IN TANINTHARYI

Protected Areas in Tanintharyi Region present a range of complex challenges to Karen communities recovering from decades of armed conflict. Conservation in the region is tightly entwined with the recent history of conflict, from which the scars on the lives and livelihoods of local communities have yet to heal. Currently, Tanintharyi Nature Reserve is the only terrestrial Protected Area in Tanintharyi Region, encompassing a large area of land, which was deeply impacted by armed conflict in the late 1990s. As such, the boundaries of the park envelop the customary lands of local communities and the absentee lands and properties of IDPs and refugees, who are now starting to return to their homes. In this respect, protected areas have impinged upon the rights, lives and livelihoods of conflict-affected communities, extinguishing their land and resource rights, violating the rights of displaced people to return and obstructing communities from pursuing their traditional livelihood practices.

KASERDOH WILDLIFE SANCTUARY AND MYINMOLETKAT BIOSPHERE RESERVE

The Kaserdoh Wildlife Sanctuary (KWS) lies in the Tenasserim valley, along the Thai-Myanmar border and contains three large tributaries of the Tenasserim River. The sanctuary is home to the majestic Kaserdoh Mountain, which peaks at more than 6,000 feet and is a place of cultural and spiritual significance for Karen people in Tanintharyi Region. Because of its variation in elevation and geography, the area hosts a diverse set of ecosystems, ranging from mineral springs and meadows to evergreen forest and high-altitude montane forests. This unique range of habitats supports a wide array of wildlife, including several endangered and vulnerable mammal species such as tigers, Malaysian tapirs and Asian elephants. Further, as an area of rich tropical forest, Kaserdoh Wildlife Sanctuary hosts a plethora of plant life, much of which has never been scientifically recorded.

The KWS was proposed by the KNU in 1986 and was subsequently approved by the KNU in 1987. The KWS actively encouraged the participation of communities living inside the reserve and was opposed to threats posed by logging and resource extraction operations. However, in 1989 logging concessions were granted to Thai companies by the State Law and Order Restoration Council (SLORC) government in KNU controlled territories, cutting large areas of pristine forest along the Tenasserim valley. By 1992 logging had extended to the Kaserdoh Wildlife Sanctuary. While the KNU forest department attempted to halt activities they did not have enough human resources to do so.

In 1996, the SLORC government announced a proposal for the establishment of the 2.5 million acre Myinmolekat Biosphere Reserve (MBR), which would have been one of the largest protected areas in the region, engulfing the Kaserdoh Wildlife Sanctuary.¹¹ Proponents of the project claimed it would serve to protect the forest and endangered wildlife, and aimed to list the area as a UNESCO World Heritage Site.¹² The Wildlife Conservation Society (WCS) and the Smithsonian Institution

11 U Tun Yin (1997) Myinmoetkat Nature Reserve – a great potential for future tourism in Myanmar. <http://www.burmalibrary.org/reg.burma/archives/199709/msg00376.html>

12 From unpublished documents at the Karen Environmental and Social Action Network (KESAN)

(SI) worked on the project at a time when most international organizations were boycotting engagement with Myanmar's repressive military regime.¹³ As a result, they were heavily criticized for their complicity in the regime's human rights violations. If realized, this protected area would have divorced tens of thousands of conflict-affected indigenous Karen people from the land, with potentially catastrophic consequences for the rights of local communities and future peace between the KNU and the Myanmar government. In the end, the ambitious MBR proposal was never implemented, but was instead downsized to become a 103,146-acre PPF in 2013.

TANINTHARYI NATURE RESERVE (TNR)

TNR is the only existing terrestrial protected area in Tanintharyi Region. Established in 2005, it covers almost 420,000 acres in Yebyu and Dawei townships, bordering Mon State and Thailand. The reserve is managed by the Myanmar government, with technical support from WCS. It is funded by French oil and gas company Total and Thai company PTT Exploration and Production (PTTEP). The project is part of a Corporate Social Responsibility (CSR) program for the controversial Yadana natural gas pipeline, which together with the Yetagun and Zawtika pipelines, passes through the northern part of the reserve and crosses overland to Thailand.¹⁴

Although TNR has been promoted as a successful model of forest conservation for the region, the reserve has a troubling history of human rights violations. Research by CAT has found that Tanintharyi Nature Reserve was established – without consent or consultation – on customary land belonging to Karen communities. Further, the impact of the civil war meant that many communities displaced by the conflict were absent when the park was proposed. The land rights of refugees and IDPs – who had only recently fled – were not taken into account and, as they have started to return, they are now realizing that they have been dispossessed of their lands and are unable to resettle. The establishment of TNR in a conflict zone has violated the Karen indigenous peoples' rights to control, manage and access their customary territory and natural resources.

In the past, Karen villagers lived in dispersed settlements in the hills around and in the current boundaries of the TNR, earning their livelihoods primarily through shifting cultivation and small betel nut or fruit orchards, and relying on the forest for food, medicine, water and shelter. During the 1980s and 1990s, as part of the government's 'Four Cuts' counterinsurgency strategy, these villagers were relocated to resettlement villages along the Ye-Dawei highway. Many of their old villages, paddy fields and orchards were destroyed. Those villagers who did not resettle to government-controlled areas were forced to run and hide as IDPs in other villages or in the forest, or as refugees across the border in Thailand.

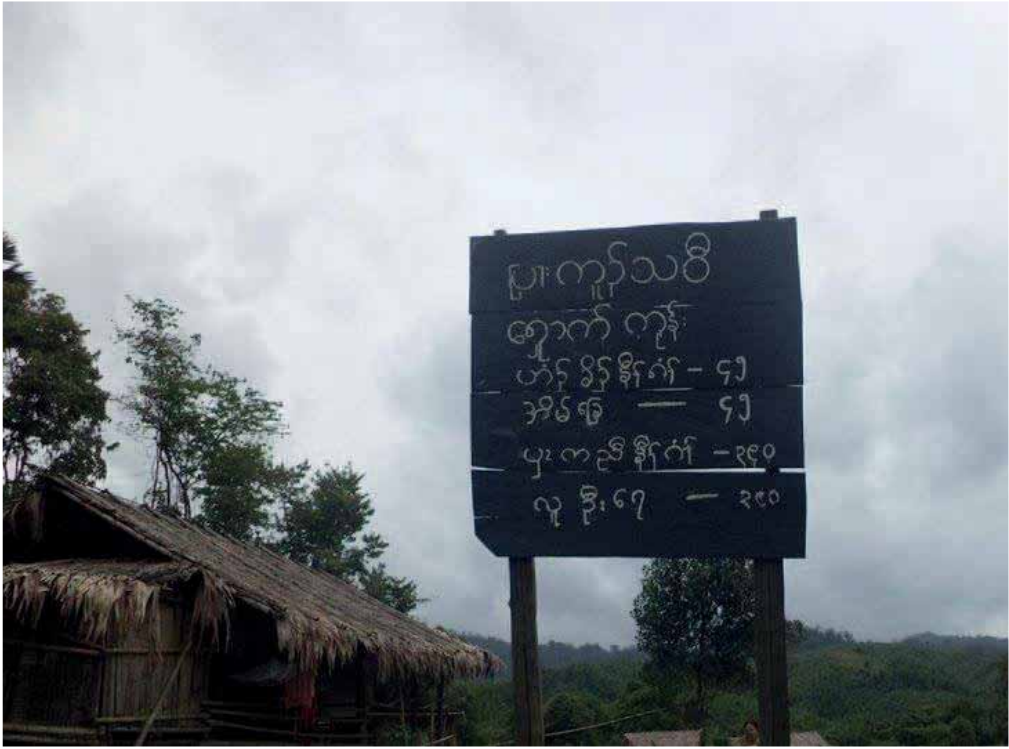
Over the next two decades, those villagers who had been forcefully resettled to government controlled areas suffered grievous and far-reaching human rights abuses. During this period, villagers faced extreme difficulty in earning their livelihoods, as they had lost access to the forest and their agricultural lands. Many of their old livelihood areas were destroyed during conflict, and they were not allowed to return to their lands for extended periods of time. They were forced to rely on daily wage labor or rice rations from the government to survive, and have since become cut off from their customary land and traditional livelihood strategies.

It was during this period of hardship that the Tanintharyi Nature Reserve was established. Land clearances through the civil war created spaces of temporarily

13 Harrison D, Scott-Clark and Levy A (1997) 'Wildlife groups collide with Burma's slaughtering Junta'. The Observer

14 Pollard E H B, Win Hlaing S and Pilgrim J D (2014) *Review of the Tanintharyi Nature Reserve Project as a conservation model in Myanmar*. Cambridge, UK: Unpublished report of The Biodiversity Consultancy

vacated land. This land was neither vacant nor virgin, but the land of IDPs and refugees who would soon return to reclaim their homes and agricultural lands. **In this way, Tanintharyi Nature Reserve legalized the forced exclusion of Karen people from their customary lands under the guise of conservation. New protected areas in the region must not repeat this same human rights violation.**



Village signboard in Tanintharyi Nature Reserve



REFUGEES AND IDPS HAVE THE RIGHT TO RETURN

'Pinheiro Principle 2.1: All refugees and displaced persons have the right to have restored to them any housing, land or property of which they were arbitrarily or unlawfully deprived...'

Approximately 80,000 people have been displaced from Tanintharyi Region due to civil war.¹⁵ Since the 2012 ceasefire, Karen refugees and IDPs have been returning, on their own, in small numbers to reclaim their lands. Larger-scale returns are anticipated in the future. These refugees and IDPs have an internationally-recognized right to return to their land and to restitution of their property. These rights are recognized and described in detail in the United Nations-endorsed Pinheiro Principles and also recognized by the KNU Land Policy and Myanmar National Land Use Policy (NLUP).¹⁶ They provide that all refugees and IDPs have the right to return to their old land voluntarily, in safety and dignity – and that the government must not prevent them from returning.¹⁷

There is a serious risk that proposed protected areas will prevent refugee and IDP communities from exercising their right to return. Land-use mapping carried out by international conservation NGOs for proposed protected areas have failed to account for land claims of displaced villagers. Instead, returnees are often viewed as a threat to conservation efforts rather than a community whose rights must be secured. The experience of returned refugees around Tanintharyi Nature Reserve illustrates the importance of respecting the right to return for conservation planning.

Case Study 1: Tanintharyi Nature Reserve Hinders Refugee Return

Kyee Zu Daw is a Karen village that was founded more than 100 years ago along the banks of the Heinzel River, in what is now Yebyu Township, Dawei District. In the past, the villagers there earned their livelihoods through shifting cultivation, paddy rice and orchards where they grew betel nut, cashew, durian and coconut. The villagers also relied on the forest for hunting, fishing, gathering vegetables and collecting medicinal plants. They never had to travel far because plants and wildlife were abundant.

Starting in 1982, Kyee Zu Daw villagers were displaced many times due to the civil war. They were forced to move at least seven times over the course of 30 years, hiding in neighboring villages or in the jungle before returning home when it was safe. In 1992, the village was totally destroyed, and in 1997, villagers crossed the border and became refugees in Thailand. Finally, in 2012, 27 refugee families were able to return from Ban Don Yang camp back home to Kyee Zu Daw village.

However, in 2005, while villagers were still living in the refugee camps in Thailand, the Myanmar government established the Tanintharyi Nature

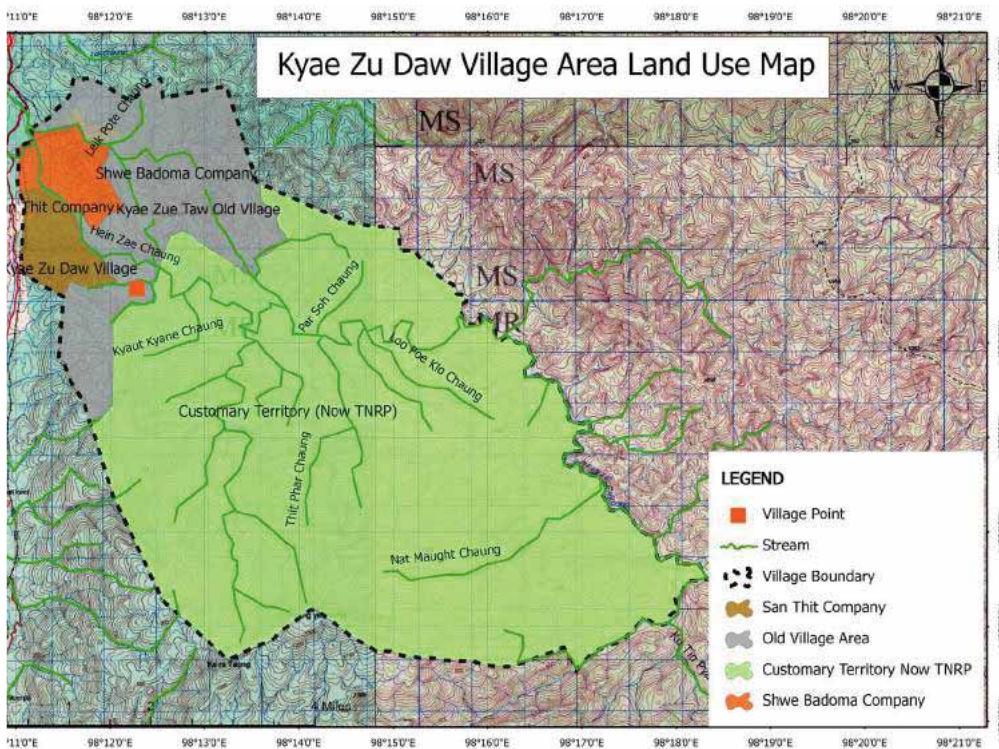
15 According to data from The Border Consortium (TBC) in 2012 there were 9,367 refugees and 71,650 IDPs from Tanintharyi Region

16 The full name of the Pinheiro Principles is the 'UN Principles on Housing and Property Restitution for Refugees and Displaced Persons'

17 Pinheiro Principles 10.1 and 10.2

Reserve (TNR). TNR confiscated a large portion of Kyee Zu Daw's customary land, and returned refugees are now denied access to the forest they had previously stewarded and relied on for survival. The forest department has even placed a signboard at the site of the old, burned-down village that reads: 'Conservation Area, Do Not Enter.'

By establishing the Tanintharyi Nature Reserve, the Myanmar Forest Department has infringed on the Karen refugees right to return as recognized in the Pinheiro Principles, National Land Use Policy, and KNU Land Policy. As a result, returned refugees in Kyee Zu Daw are struggling to earn a living. Villagers in Kye Zu Daw now live on a small plot of land, cut off from their forest and agricultural lands, and unable to practice their traditional livelihoods. **Proposed protected areas elsewhere in Tanintharyi Nature Region must not repeat the same mistake of violating the right to return.**



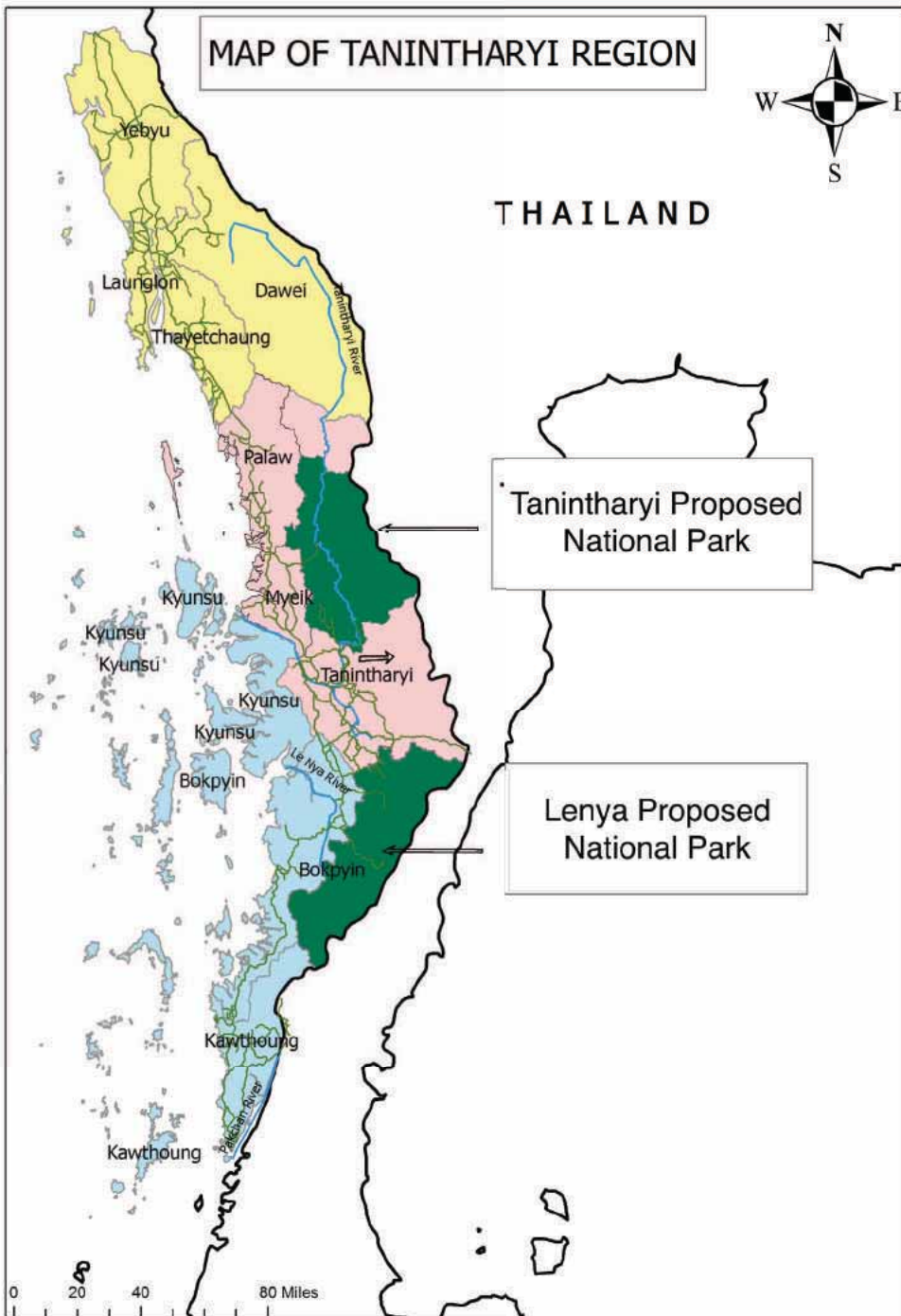
Kyee Zu Daw village map



RISKS OF PROTECTED AREA EXPANSION

Despite the adverse impacts that the Tanintharyi Nature Reserve has had on the lives of current and returning communities recovering from years of armed conflict, a new set of expansive conservation initiatives further threaten indigenous Karen communities in Tanintharyi Region. Plans for conservation areas in Tanintharyi – made with the backing of international conservation organizations – have been made in a flurry of activity around land and resources, propelled by expanding development projects. One of the most ambitious efforts is the Ridge to Reef project, which aims to secure the long-term protection of Key Biodiversity Areas (KBAs) in Tanintharyi Region. Ridge to Reef is a Global Environment Facility (GEF) project with more than US\$21.8 million in funding, and will be implemented by the United Nations Development Program (UNDP) together with Fauna and Flora International (FFI), the Smithsonian Institution (SI), and Myanmar’s Ministry of Natural Resources and Environmental Conservation (MONREC). The main project outcome is to add more than 800,000 acres of protected acres to the region.

While proposed protected areas threaten to cover wide expanses of land, bringing large areas of customary forests and land under the purview of the central government, CAT’s research has shown that a majority of communities who would be directly affected by these proposals are not aware of these plans. Further, protected areas are located within disputed territories and threaten to undermine the fragile peace process between the central government and the KNU. In light of the considerable risks to the lives of local communities and the future of the peace process presented by extensions to the Protected Area System in Tanintharyi Region, CAT urges the government and international conservation organizations to reconsider their plans and approach to conservation.



Proposed National Parks in Tanintharyi Region

TABLE 1 – SUMMARY OF PROPOSED NATIONAL PARKS

Name	Acronym	Township	Proposed	Acres
Lenya National Park	LNP	Bokpyin	2002	43,6480
Lenya National Park Extension	LNPE	Bokpyin	2004	26,5600
Tanintharyi National Park	TNP	Tanintharyi	2002	640,000*
Total:				1,342,080

Source:

* Forest Department, 2017

PROPOSED LENYA NATIONAL PARK

The Lenya Reserved Forest is located in Pyi Gi Man Daing sub-township, Bokpyin Township, Kawthaung District, in the far south of Tanintharyi Region. It was first proposed as a national park in 2002 in order to conserve the endemic Gurney’s Pitta bird. In 2004, it was proposed that Nga Wun reserved forest, to the north of Lenya Reserved Forest, be added as an extension to the national park. Altogether, the proposed Lenya National Park (LNP) would cover 702,080 acres. Although the park was never successfully established, there is currently an increased effort to do so, since LNP contains habitat for many endangered species. However, research by CAT for this report has revealed how establishing LNP poses a high risk for indigenous Karen communities.



Villager walking to his orchard in Proposed Lenya National Park

There are at least 13 villages located inside and around the boundaries of LNP, home to approximately 2,470 people. 13 of these villages have agricultural lands inside the original proposed park boundary and nine of these villages are predominantly Karen. They have lived in LNP for many generations, and the oldest Karen villages were formally established around 200 years ago. People primarily earn their livelihoods through permanent orchards and shifting cultivation. They also rely on the forest to survive by foraging for vegetables, subsistence hunting and fishing, harvesting timber for home building and collecting herbal medicine.

12 villages around LNP were also seriously impacted by the civil war. Villagers suffered human rights violations during armed conflict in 1985 and then again in 1996. Five Karen villages were totally destroyed at one point, while four villages were destroyed twice. Like in the Tanintharyi Nature Reserve, villagers in Lenya fled as IDPs to the jungle or other villages, while some crossed the border as refugees. Since the 2012 ceasefire, villagers have begun tentatively returning to their old lands, but they fear that the establishment of Lenya National Park will make it impossible to do so. Despite numerous visits by conservation group FFI, villagers largely remain unaware of proposal for a national park and how it will impact on their lives. The case of villagers from Nan Ka Pyaung village illustrates the threat the national park poses to their human rights, livelihoods, and right to return to their old lands.

Case Study 2: Indigenous Peoples Not Consulted on National Park Plans

'If they really establish a national park here, then we cannot live here. We will have to move. But there is no place for us to move.'

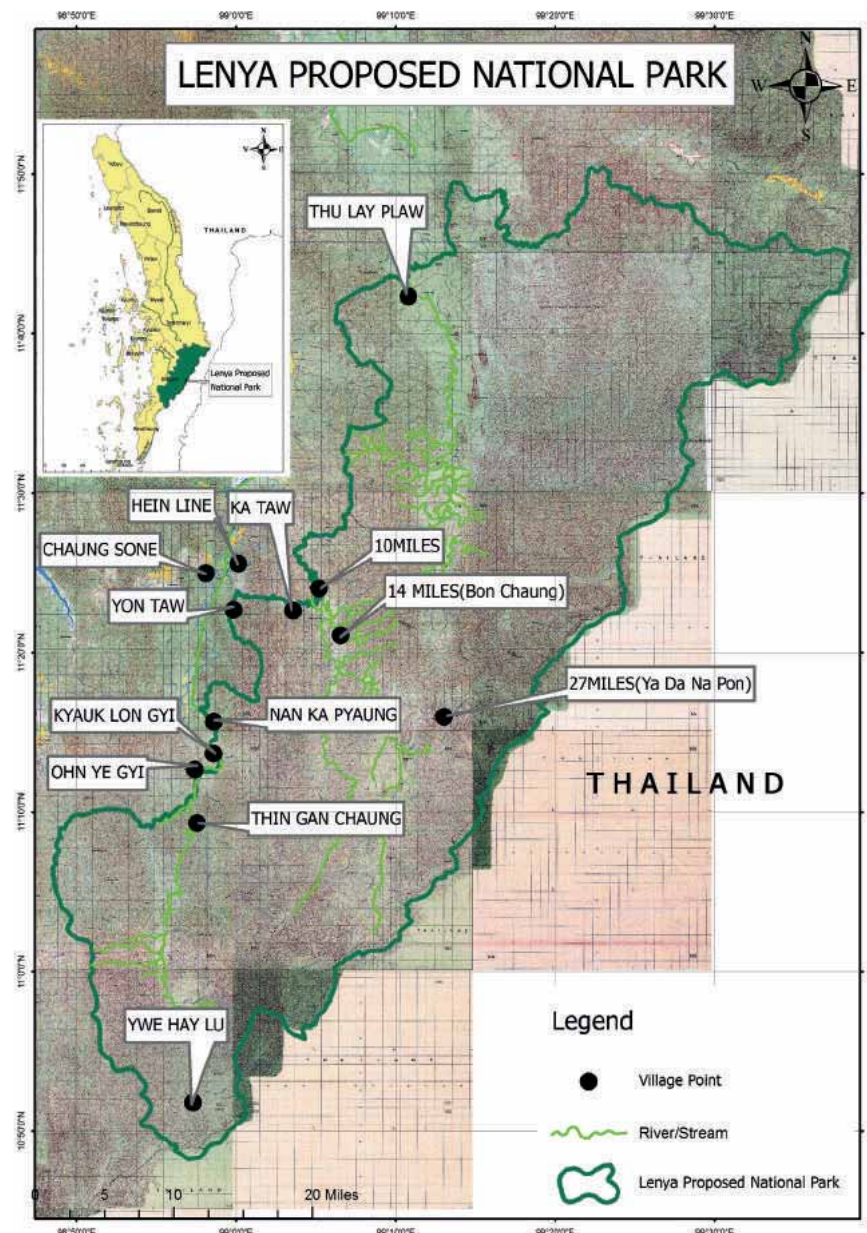
– Chaung Sone Villager

Nan Ka Pyaung is a Karen village established around 100 years ago, located inside the proposed Lenya National Park. The village was destroyed twice during the civil war – first in 1984, and again in 1996. After the village was destroyed for the second time, displaced villagers moved to an area called Lenya and Chaung Mon Chaung, where they hid on bamboo rafts. However, in 1999, Yuzana Company Limited confiscated their land, and destroyed villagers' crops in order to establish a commercial palm oil plantation. With no more land in Lenya and Chaung Mon Chaung, the IDPs were forced to move again – this time establishing three new villages at Hein Line, Chaung Sone and Yone Taw in 1999.

Hein Line, Chaung Sone and Yone Taw are neighboring Karen IDP villages located along the Lenya River, about five miles south of the town of Pyi Gi Man Daing. Currently there are around 70 households and 355 people living in these villages. These three villages are under mixed authority of the KNU and Myanmar government. Villagers earn their livelihoods through shifting cultivation, betel nut orchards and growing seasonal fruit gardens with crops such as banana and durian. Since the 2012 ceasefire the situation for the IDPs living in Hein Line, Chaung Sone and Yone Taw has greatly improved. They are no longer made to do forced labor for the military, can move freely to tend to their agricultural lands, and have benefited from development projects implemented by NGOs.

Although conditions have improved for IDP villagers in Hein Line, Chaung Sone and Yone Taw, their original village of Nan Ka Pyaung – located about 10 miles upstream along the Lenya River – remains largely off-limits because of landmine contamination. Once landmines are cleared, the

KNU plans to invite refugees and IDPs to return and settle again in Nan Ka Pyaung. Even with these dangerous conditions, two IDP households have already returned. Several other villagers have maintained their homes in Chaung Sone and Yone Taw, but have reclaimed their old shifting cultivation and orchard lands in Nan Ka Pyaung. They travel regularly between their IDP village and their original village to tend to these agricultural lands, but the trip is expensive. Villagers say that as the population increases in Yone Taw and Chaung Sone, more people would like to return to their old lands in Nan Ka Pyaung in order to provide for future generations. **Mapping and registering of land claims in Tanintharyi Region must account for the absentee properties of IDPs and refugees, in order to provide refuge and security for those returning to their homes.**



Proposed Lenya National Park and Extension

Based on CAT's research with communities within the proposed Lenya National park boundaries, almost all villagers are unaware of the government's plans to establish Lenya National Park in their area. Although FFI is the main partner helping to establish the protected area, they have never properly consulted local communities about their plans. Instead, when FFI visited Chaung Sone and Yone Taw villages in 2015 for village boundary mapping, they only explained vaguely about forest conservation, without informing the community on plans to establish the park and the implications this may have for them. In 2016, Yone Taw villagers accepted financial assistance for agricultural development from FFI – but again were not informed about FFI's work with the government to establish Lenya National Park. It was not until December 2016 in a workshop with CAT member Southern Youth that villagers learned about the national park and how it may impact on their communities. **This illustrates a serious violation of the indigenous community's right to Free Prior and Informed Consent (FPIC) for the proposed Lenya National Park.**

Free Prior Informed Consent:

Free: from force, intimidation, manipulation or pressure

Prior: Consent is sought sufficiently far in advance of commencement of project

Informed: All relevant and reliable information must be provided

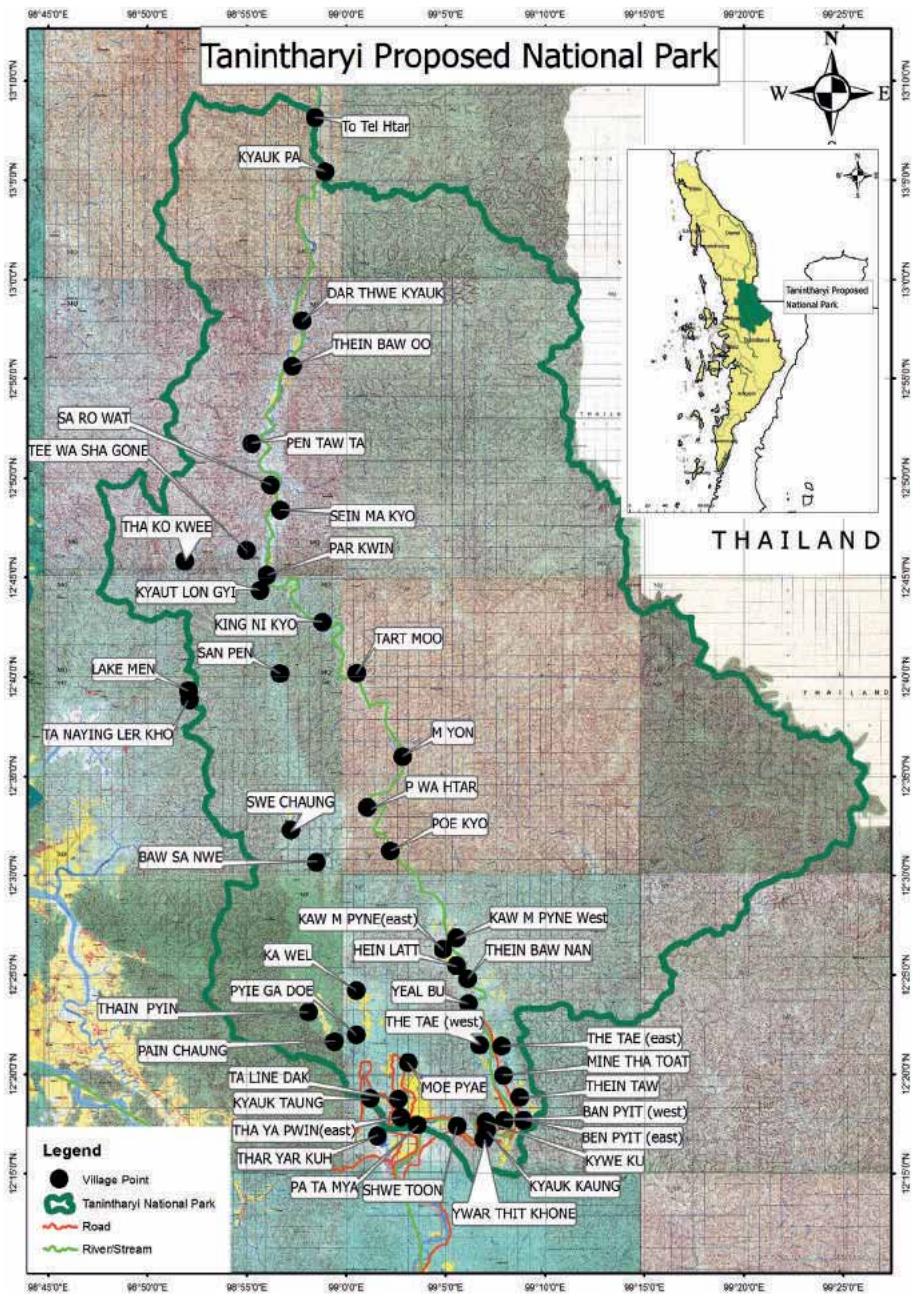
Consent: Communities allowed to say 'Yes' or 'No' at any stage of the project and the decision must be respected.

While villagers support forest conservation, they are worried that if implementation of the national park continues without their participation, they will lose access to the forest where they collect forest products and continue their indigenous livelihood activities. 13 villages inside the boundaries of the proposed area and a further 25 villages on the peripheries of the park are dependent on the forest for their survival. They go into the forest to forage for wild vegetables, subsistence fishing and hunting, harvest timber for their houses and collect medicinal herbs. They are not collecting these products to make a profit, but only to support their own families. Shortcomings of Myanmar law mean that park buffer zones or community forestry areas would not be able to support the array livelihood activities that indigenous communities depend on to survive. Furthermore, villagers are concerned that they may be dispossessed of their lands to make way for the national park. Establishing the park would also hinder the right of IDPs and refugees to return to their original lands in Nan Ka Pyaung. **In order to avoid these unacceptable negative impacts on the local Karen communities, plans for Lenya National Park must not move forward without the Free, Prior and Informed Consent of the local people.**

PROPOSED TANINTHARYI NATIONAL PARK (TNP)

Lenya is not the only proposed national park in the region. Tanintharyi National Park (TNP) has also been proposed since 2002, but has not yet been established. Located in Tanintharyi Township, Myeik District, the park would cover 640,000 acres and presents a contiguous forested area with Kaeng Krachan National Park in Thailand. Plans to establish TNP have recently stalled, and the park was dropped from the Ridge to Reef Project. However, if TNP plans are revived, it would pose another threat to the land rights of Karen indigenous communities, similar to that posed by Lenya and the Tanintharyi Nature Reserve.

According to CAT’s research, there are 42 villages, home to approximately 14,181 people located inside and adjacent to the original proposed boundaries of TNP. 30 of these villages are predominantly Karen, and some are more than 200 years old. 33 villages in the area were abandoned at one point due to the civil war, with 26 villages totally destroyed at least once. Since 2014, some IDPs have started returning to their old lands, and many more may do so in the future. Villagers rely on a combination of shifting cultivation, paddy farming, livestock raising and permanent orchards for their livelihoods, although shifting cultivation is becoming less common. Like in Lenya, they also depend on the forest to survive. Yet 33 out of 42 villages in the area have never been properly informed about plans for a national park.



Proposed Tanintharyi National Park

TABLE 2 – VILLAGES IMPACTED BY PROPOSED NATIONAL PARKS

	VILLAGES WITHIN PARK BOUNDARIES	POPULATION	VILLAGES IMPACTED BY CIVIL WAR	VILLAGES DESTROYED DURING CIVIL WAR	NEW VILLAGES FOUNDED BY IDPS
Lenya	13*	2,470	12	12	4
Tanintharyi	42	14,181	33	26	5
Total	55	16651	45	38	9

Source:

* There are an additional 25 communities that are located on the peripheries of the proposed park boundaries that stand to lose large areas of their agricultural lands

Case Study 3: Karen Communities are the Real Forest Defenders

Customary land and resource management practices amongst Karen and other indigenous communities have proven effective in sustainably managing and protecting forests.¹⁸ Amongst the Karen, the customary land management system is known as ‘Kaw’. This system is grounded within the culture and traditions of Karen communities, who have long protected the forests that they depend upon for their lives and livelihoods. Within this system, village based institutions make rules and regulations for resource use, monitor resource use, impose sanctions on those who break these rules, and resolve disputes over land and resources within the community where they occur. These locally based systems are flexible and adaptive to new situations, and have proven extremely successful in sustainably managing resources, and protecting high conservation value forests from internal resource exploitation or external incursions.

While some may argue that establishing government-controlled national parks is the best way to prevent deforestation, there is little evidence to support this in Myanmar. For example, establishment of the Hukaung Valley Tiger Reserve in 2004 in Kachin State has failed to prevent deforestation from crony companies carrying out illegal logging, extensive gold mining and large-scale agribusiness plantations. Indawgyi Wildlife Sanctuary has failed to curtail illegal gold mining operations on the banks of the lake, causing considerable issues for biodiversity protection in the area.¹⁹ Similarly, proposed protected status did not prevent the Myanmar government from granting a devastating 38,000-acre palm oil concession inside Tanintharyi National Park in 2011, 9 years after the area was proposed as a national park.²⁰ On the other hand, **in areas where Karen communities control and manage their own forests, they have been able to successfully stop companies from entering.**

18 Ethnic Community Development Forum (2016) *Our Customary Lands: Community-Based Sustainable Natural Resource Management in Burma*

19 Vogt R J (2016) ‘Golden promises turn sour in Indawgyi’, Myanmar Times. <https://www.mmtimes.com/national-news/21525-golden-promises-turn-sour-in-indawgyi.html>

20 Tarkapaw, TRIP NET, Southern Youth, Candle Light, Khaing Myae Thitsar, Myeik Lawyer Network and Dawei Development Association (2016) *Green Desert: Communities in Tanintharyi Renounce the MSPP Oil Palm Concession*. Tarkapaw, TRIP NET, Southern Youth, Candle Light, Khaing Myae Thitsar, Myeik Lawyer Network and Dawei Development Association: Myeik.

Case Study 4: Paper Parks and Protected Areas in Myanmar

The Hukaung Valley Tiger Reserve:

The Hukaung Valley Tiger Reserve is the world's largest tiger reserve, located between Tanai in Kachin State, and Namyun and Hkampti Townships in Sagaing Region. The area was established in 2001 with the help of the Wildlife Conservation Society (WCS), and spans an area of almost 2.5 million acres. Despite the establishment of the protected area, threats from agribusiness and mining expansion have persisted. In 2004, three years after the establishment of the reserve, Yuzana Company Limited was granted a 200,000-acre agricultural concession for cassava and sugar cane in and along the tiger reserve area.²¹ This has resulted in the clear cutting of large expanses of high conservation value forest, as efforts to protect the endemic biodiversity have lapsed.

Communities that once tended to agricultural lands in the valley have lost their access to land and resources through the establishment of the reserve. They have now seen their forests transformed into mono-crop plantations. While the status of protected area should, in fact, safeguard forests against industrial and agricultural expansions, the Forest Department has failed to prevent or halt agribusiness and gold mining in the Hukaung Valley. This has resulted in a considerable loss of biodiversity, increasing the vulnerability of the endangered tiger population, increasing conflict in the area and the loss of lands and livelihoods of local communities in the area.

Illegal Mining in Indawgyi Wildlife Sanctuary:

Indawgyi Wildlife Sanctuary, also based in Kachin State, has the largest lake in South East Asia. The area is a mix of deciduous forest and wetland, and supports a diverse range of bird and mammal species including the Hoolock gibbon. The Wildlife Sanctuary was established in 2004, spanning an area of 200,400 acres and has been managed with the assistance of FFI.

One of the largest challenges in protecting biodiversity in the area is a large number of illegal small-scale gold mining operations on the southern bank of the lake. The mining operations have significantly degraded the primary forest area, as well as causing large levels of siltation and mercury pollution in the lake. Despite the zonation of the area as a wildlife sanctuary, the park authorities have consistently failed to suspend mining activities in the park area. Where one park warden temporarily shut down the operations, the warden was swiftly relocated, and destructive mining activities have again persisted. This again shows the ineptitude of protected areas in protecting forests from external incursions and destructive extractive operations.

State-Owned Resources and Local Management of Forest Resources

The classification of locally-managed resources as state forests can have potentially catastrophic results for forest conservation. Experiences from a proposed PPF in the Naga Hills²² have shown how forest resources managed under customary institutions are subject to degradation when incorporated into government-managed forest reserves. As forest resources that had previously been customarily managed are brought under the purview of the government, customary institutions, which enforce rules determining who can access resources and how resources can be extracted are transformed or

21 Kachin Development Networking Group (2007) Tyrants, tycoons and tigers: Yuzana company ravages Burma's Hukawng Valley, KDNNG: Chaing Mai.

22 RRtIP (forthcoming) The Naga customary tenure system: Case studies from Layshi. RRtIP: Yangon.

even dismantled. As government monitoring systems often lack the resources to monitor large areas of remote forestland, what were previously closed-access locally-managed resources effectively become open-access resources liable to over-exploitation and exhaustion.²³ The loss of community ownership over the forest caused local management practices and systems to break down, creating a governance vacuum, where people from other villages can exploit forest resources. This shows how government forest management systems are often incompatible with customary systems that previously managed and protected forests.

One good example of Karen people serving as frontline defenders of the forest is in Htee Wa Sha Gone (Para Ku), a village of 36 households located inside the proposed Tanintharyi National Park. In 1997, all the villagers from Htee Wa Sha Gone were forced to flee because of civil war, and they hid in the jungle for more than a month. Even after they returned home, they continued to suffer a range of serious human rights violations. Since the 2012 ceasefire, the situation has moderately improved for villagers. They are now able to move more freely, but they are worried that the civil war could resume again at any time.

However, the ceasefire has brought a new set of challenges, as outsiders began to come to their village areas to do agribusiness. In 2014 Myanmar Maha Da Na company proposed to plant 68,000 acres of palm oil and rubber. Then in 2015, Myeik A Mya Pai company, owned by U Hla Than, proposed a 100,000-acre biofuel plantation. In both cases, the villagers united in opposition to the project, and so the company was not able to implement its plan. The community also follows traditional rules for protecting wildlife and they manage a community conservation area and watershed area. **Conservation organizations working in Tanintharyi have so far failed to acknowledge the importance of Karen communities as forest defenders in protecting forest resources from outside incursions.**

Case Study 5: Forest Defenders in Kamoethway

Indigenous communities are often the best forest protectors, acting on the front lines to protect their forests from outside incursions that threaten the resources that support their lives and livelihoods. In protected areas such as Indawgyi and the Hukawng valley park authorities were unable to prevent or exclude damaging mining operations and agribusiness expansion. However, in Kamoethway community actions have been successful in rejecting environmentally destructive mining operations and preserving the forest.

Like other areas in Myanmar's borderlands, Kamoethway in Tanintharyi Region is rich in mineral resources. While in the past, mining was mostly carried-out by rudimentary artisanal miners, there is now a growing threat of larger, internationally-backed mines entering the area. Previously, companies did not enter Kamoethway because of the conflict. The ceasefire and the road built by Italian Thai Development (ITD) means that access to the area has become relatively easy. Since the ceasefire, four different companies have come to Kamoethway to propose mining operations. However the communities united to reject the proposals through public meetings and petitions, citing the catastrophic impact that nearby Heinda and Wa Gone tin mines have had on the environment. In Kaw Paw village, a Myanmar company with Chinese backing and a Japanese company

23 Other examples and case studies of this phenomena include: India (Gadgil and Iyer 1989), Thailand (Feeny, 1988), Niger (Thompson, 1977)

abandoned their plans to establish mining operation after being rejected by the community. Further, over the past few years, the community has also rallied against a gold mining operation in Keh Gwaw village, which was forced to leave the village after letters from the community, the KNU and the government.²⁴

This shows how supporting local communities to protect their lands is the most successful way of protecting forest resources from damaging harmful investment and extractive operations, and is often more effective than centralized protected areas.

RISKS TO THE PEACE PROCESS

Not only do the proposals for new national parks and a protected forest corridor in Tanintharyi Region threaten the land rights of indigenous Karen communities and returning IDPs and refugees, they also threaten to destabilize the fragile peace process. The nearly 70-year conflict between the Karen National Union (KNU) and Myanmar's central government is often referred to as the world's longest-running civil war. Armed clashes have decreased and civilian security improved after the 2012 bilateral preliminary ceasefire. In 2015, the KNU signed the so-called Nationwide Ceasefire Agreement (NCA), and has been participating in the '21st Century Panglong' national peace talks led by state counselor Daw Aung San Suu Kyi. Even with these developments, Karen communities worry that fighting could break out again at any time, forcing them to flee from their homes once again.

Proposals for protected area expansion in Tanintharyi Region are located in mixed-administration areas where both the KNU and Myanmar government exert some level of authority. The KNU Forest Department has already established a successful network of protected areas and community forests throughout areas under its administration. In Mergui-Tavoy District, the KNU's administered area on the eastern half of Tanintharyi Region, the KNU has managed the Kaser Doh Wildlife Sanctuary since the 1980s. The district also has plans to recognize community forests and establish protected areas in Tanintharyi National Park. Unlike Myanmar government laws, the KNU land and forest policies respect the customary land rights of local communities and do not restrict access to the forest for traditional livelihood activities.

'Government efforts to set national parks and forest reserves in KNU Brigade No.4 area [in the Myeik-Dawei area of Tanintharyi Region] has caused obstacles for the current peace building process'

Padoh Saw Tadoh Moo, KNU spokesman and general secretary, 2017.²⁵

While ceasefire agreements have been signed, there have been no agreements over how mixed-administration areas in Tanintharyi Region will be governed. During the current 'interim period', where talks and negotiations between the KNU and the central government continue, this is particularly pertinent, as future roles and responsibilities are still being defined and trust and confidence building after an extended period of conflict is in flux.²⁶ Within these areas, current processes of government state-building seek to consolidate state control over disputed

24 A fuller version of this story is given in: Tenasserim River and Indigenous Peoples Network and Rays of Kamoethway Indigenous Peoples and Nature (2016) *We Will Manage Our Own Natural Resources: Karen Indigenous People in Kamoethway Demonstrate the Importance of Local Solutions and Community-Driven Conservation*. TRIPNET, RKIPN: Dawei.

25 The Irrawaddy (2017) *Central government infringing administration of KNU leaders, say leaders*. <https://www.irrawaddy.com/news/burma/central-govt-infringing-administration-knu-regions-say-leaders.html>

26 Government of Myanmar and Ethnic Armed Organizations (2015) *Nationwide Ceasefire Agreement: Chapter 6: Future Tasks*. <http://www.mmpeacemonitor.org/images/2015/oct/nca%20contract%20eng.pdf>

territories, as concessions are granted for expanding agribusiness, industrial zone development and mining operations, as well as expanding forest reserves and protected areas. This new landscape of state-designated investment areas and nature conservancies is putting strain on the nascent and tenuous peace agreement between the central government and the KNU. This process is being facilitated both by business actors and international conservation organizations, who assist in the establishment and enforcement of large nature conservancies within disputed territories. **By promoting government-controlled national parks before territorial disputes are resolved, the Forest Department and international conservation NGOs risk creating tension with the KNU, undermining trust in the peace process, and risking a return to armed conflict.**



WE CALL FOR AN ALTERNATIVE APPROACH

Promoting an outdated model of top-down protected areas that violate indigenous rights and exclude local communities, will inevitably also fail to protect the forest. **Conservation Alliance of Tanawthari is calling on the Myanmar government and conservation organizations to embrace an alternative approach to conservation in Tanintharyi Region. This approach must recognize local conservation efforts and support communities to protect their lands and forests, rather than extinguishing their rights. Further, it is imperative that future conservation projects are developed in accordance with FPIC and with the full participation of local communities.**

INTERNATIONAL FRAMEWORKS

This call for an alternative approach to conservation is not new. It has been echoed countless times by indigenous peoples around the world who are excluded and marginalized by protected areas. The rights we advocate for are enshrined in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which Myanmar has ratified. A new approach to conservation is also called for in the Durban Accords, adopted at the IUCN World Parks Congress in 2003. Among other actions, the Durban Accords asserts:

- we urge commitment to involve local communities, indigenous and mobile peoples in the creation, proclamation and management of protected areas
- we urge commitment to recognize, strengthen, protect and support community conservation areas
- we urge commitment to protected area management that shares benefits with indigenous peoples and local communities.

In order to be successful, plans for protected area expansion in Tanintharyi Region must be amended in order to ensure they honor UNDRIP and the Durban Accords.

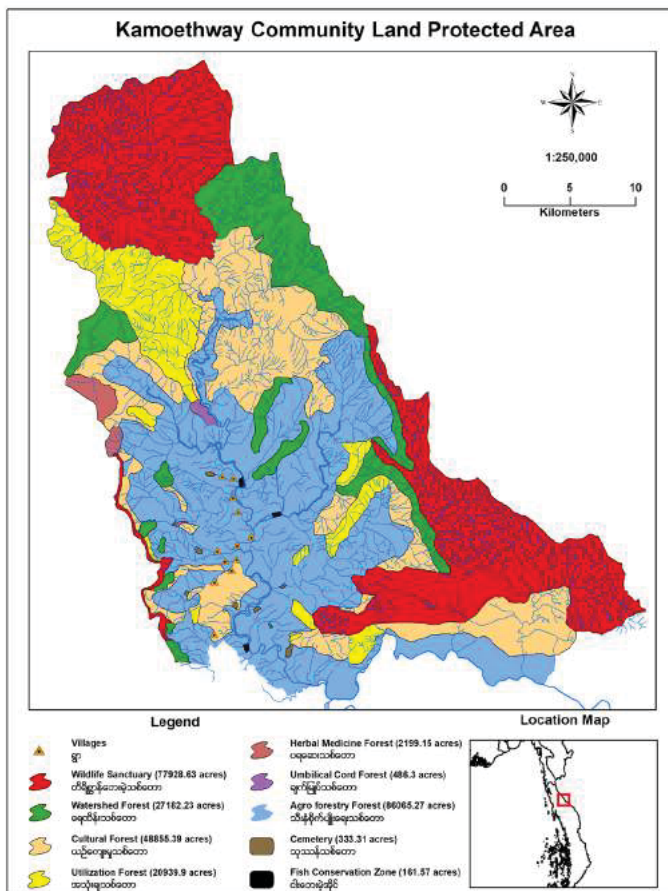
INDIGENOUS COMMUNITY CONSERVED AREAS (ICCAs)

One of the most significant steps towards achieving this new approach in Tanintharyi would be for the Myanmar government and conservation organizations to recognize Indigenous Community Conserved Areas (ICCAs). ICCAs are increasingly recognized for the importance to human rights based, effective conservation efforts. According the ICCA consortium, the defining characteristics of an ICCA are as follows:

1. an indigenous people or local community has a strong and profound connection with a territory, area or species' habitat

2. that people or community is a major player in decision-making and implementation of decisions regarding that territory, area or habitat, implying that a community institution exists and has the capacity of developing and enforcing regulations
3. the people's or community's governance decisions and management efforts lead to the conservation of nature in the territory, area or habitat, and to the associated conservation of cultural values and community well-being.

There are already a series of ICCAs operating throughout south-east Myanmar. Within these areas, indigenous communities are protecting and managing forests according to local institutions that are grounded in traditional beliefs and practices. ICCAs in Kamoethway, Ban Chaung and the Salween Peace Park alone constitute 0.97% of land cover in Myanmar. An amount that could contribute to 10% of Myanmar's commitment to expanding areas of forest protection to 10% of land cover by 2030. **Legally recognizing ICCAs would assist in protecting the rights of indigenous and conflict affected communities as well as contributing to national conservation goals. Through supporting indigenous communities to preserve their cultural heritage and secure their tenure claims over lands and forests, conservation can take place with rather than in spite of forest dependent peoples.**



Kamoethway map

Case study 6: Kamoethway, an ICCA in action

One inspiring example of community-based conservation is an ICCA managed by the indigenous Karen community of the Kamoethway River Valley in Dawei Township.²⁷ The Kamoethway community is asserting their rights as indigenous peoples to control their own natural resources and development according to local customary practices and values. The Kamoethway model clearly signals that it is possible to conserve forests while respecting the rights of local communities, and supporting their efforts to manage and protect their lands and resources.

Kamoethway comprises 12 villages, which have been settled in the area for more than 150 years. Indigenous Karen communities have long been practicing traditional livelihoods such as rotational agriculture and betel nut cultivation in the Kamoethway valley, however in 1997 the area was adversely affected by the civil war, with many villagers experiencing serious human rights violations. While fighting has now stopped, a new set of challenges such as mining, road construction, logging and large-scale conservation areas threaten forests of local communities, on which their livelihoods depend. In order to protect their lands and forests from the onset of destructive development projects and to ensure sustainable resource-use practices among local villages, communities in Kamoethway developed a conservation model based on customary and democratic institutions and practices.

Through a democratic and bottom-up process, the 12 villages in Kamoethway decided upon nine forest conservation categories for their territory, based on customary natural resource management, indigenous agriculture and livelihood activities and traditional cultural practices. For example, the herbal medicine forest conserves the area traditionally used by villagers for an annual medicinal herb ceremony during the April full moon. Kamoethway villagers established cultural forest to preserve and promote indigenous rotational agriculture, called *ku*, which is now only practiced by a few people in the community.

Kamoethway Forest Conservation Zones:

1. Wildlife Sanctuary
2. Watershed Forest
3. Herbal Medicine Forest
4. Cultural Forest
5. Umbilical Cord Forest²⁸
6. Utilization Forest
7. Agroforestry Area
8. Fish Conservation Zone
9. Cemetery.

Each conservation zone has detailed rules and regulations decided on by consensus among the community. These rules are based on traditional knowledge and historical practice, and include prohibitions on hunting endangered wildlife or felling trees along the watershed. At the same time, they allow for villagers to continue their agricultural and cultural practices,

27 Tenasserim River and Indigenous Peoples Network and Rays of Kamoethway Indigenous Peoples and Nature (2016) *We Will Manage Our Own Natural Resources: Karen Indigenous People in Kamoethway Demonstrate the Importance of Local Solutions and Community-Driven Conservation*, TRIPNET, RKIPN: Dawei

28 A Karen indigenous practice for community forest protection, which involves traditional ceremonies in which umbilical cords are tied to the trees. In Umbilical Cord forests forest resource extraction and use are prohibited

foraging for vegetables, and collecting Non Timber Forest Products NTFPs in order to survive. In this way, the Kamoethway ICCA is a bio-cultural landscape, a complex mosaic of nature conservation and human use. The Kamoethway represents a clear alternative to top-down protected areas, where indigenous land rights are secured, the forest is successfully protected, and local people control their own natural resources.

Local Karen communities elsewhere in the region, inspired by Kamoethway, have begun to implement similar ICCAs. This includes Indigenous Karen people in *ti mo bwa* and *ta po* areas located inside the proposed Tanintharyi National Park, as well as communities along the Lenya **The Myanmar government, KNU and international conservation organizations must recognize, respect and support local conservation initiatives by formally recognizing ICCAs as a form of conservation, and supporting communities to protect forest resources by securing tenure over customary lands and forests.**



Salween Peace Park, Muttraw District, Karen State

Case study 7: Salween Peace Park

Some conservationists argue that alternative approaches, such as ICCAs, can only be effective on a small scale – at the village or community level. They say that, in order to conserve larger landscapes and prevent habitat fragmentation, Myanmar needs top-down government conservation planning and centralized protected areas. However, the proposed Salween Peace Park demonstrates a ‘bold vision for an indigenous Karen landscape of human-nature harmony’ on a much larger scale.²⁹ The proposed Salween Peace Park pursues a landscape-level approach to the conservation of 1.35 million acres (5,485 km²) of globally important tropical rainforest in

29 Muttraw District KNU and Karen Environmental and Social Action Network (2017) *Salween Peace Park*. KESAN: *Chaing Mai*

Mutraw District (Hpapun), Northern Karen State, seeking simultaneously to preserve and strengthen the livelihoods and culture of the almost 10,000 Karen households living within.

As in many indigenous Karen territories across Myanmar, decades of conflict and the displacement and disenfranchisement of Karen communities have paved the way for deforestation via destructive extractive and agribusiness investments.³⁰ Since the 2012 ceasefire, villagers in Mutraw District have reported a steady increase in the number of these deforestation-inducing projects, alongside growing militarization via the construction of new Burmese military bases.³¹ Furthermore, the proposed 1,200mw Hatgyi Dam – which threatens to displace countless households and submerge acres of endemic and endangered flora and fauna – also hangs on the horizon.

Mutraw's communities, with the support of the Mutraw District KNU and Karen civil society, have mobilized to mitigate these threats, and protect their forest, livelihoods, culture, and homes. Two district-level consultations were held in 2016, with a third in December 2017, where village tract level community representatives from across Mutraw's three townships came together to build a Peace Park Charter. The Charter – which establishes a set of guidelines on what the Salween Peace Park embodies and what constitutes its management – was then brought to village level where further consultations were held. Alongside this process, communities began to map and demarcate their customary territories or 'kaw', using traditional boundary walks together with neighboring kaw communities to clarify boundaries and avoid disputes. Individual kaw communities then began documenting their traditional rules and methods for managing and conserving the forest around them into land-use management plans; created and periodically reviewed through democratic deliberation.

Through these processes, the Salween Peace Park's communities have begun to construct a broad mosaic of customary territories, community forests, wildlife sanctuaries and reserved forests. They seek to unite these into a landscape that conserves and respects the biodiversity within through indigenous cultural practices, and protects the homes, livelihoods, and culture of the Karen communities living both within the park's boundaries and displaced by conflict. The result is a Peace Park that presents a grassroots, people-centered alternative to top-down development and conservation.

The Salween Peace Park reflects the core aspirations of the Karen people: peace and self-determination, environmental integrity and cultural survival. **The Salween Peace Park should inspire alternative efforts towards landscape-level conservation planning in Tanintharyi Region. Such models should protect customary land rights and support local institutions and management practices over land and resources.**

30 Karen Environmental and Social Action Network (2017) *The Salween Peace Park: A Scoping Study*, KESAN: Chiang Mai

31 Karen Human Rights Group (2015) *'With only our voices, what can we do?': Land confiscation and local response in Southeast Myanmar*, KHRG: Chiang Mai



RECOMMENDATIONS

In order to promote a new model of conservation that respects the rights of indigenous and conflict-affected communities, supports and strengthens the institutions and practices of indigenous people to protect their forests, and is sensitive to the fragile nature of the emergent peace process between the KNU and the central government, CAT calls on the government, international conservation organizations and donors to:

- 1. Impose a moratorium on establishing Lenya National Park, Tanintharyi National Park, and any other proposals for protected area expansion in Karen areas of Tanintharyi Region until:**
 - A. a full peace agreement is reached between the KNU and Myanmar government, with clear political agreements on protected area governance in mixed administration areas
 - B. the 1994 Protection of Wildlife and Conservation of Natural Areas Law is amended to recognize the customary land rights of indigenous communities
 - C. the resource rights of indigenous Karen communities are mapped, granted and respected by all parties
 - D. the Myanmar constitution is amended to achieve a democratic, federal union so that protected areas can be managed at the regional and local level, rather than through a centralized ministry.
- 2. The Forest Department and international conservation NGOs should recognize and support the efforts of indigenous communities to conserve and manage forests through the recognition of Indigenous Community Conserved Areas:**
 - A. this would involve supporting indigenous communities to secure tenure over customary forests and recognizing locally developed management plans
 - B. this would assist the government in reaching its conservation targets, while also protecting the rights of indigenous peoples in Myanmar.
- 3. Interim measures should be enforced that prevent continued expansion of agribusiness, industrial and mining projects into indigenous territories:**
 - A. this would involve respecting the terms of the 'interim arrangements' between the KNU and the central government and ensuring that future plans do not upset the tenuous peace process
 - B. recognizing and registering the land tenure claims of indigenous communities and absentee lands of IDPs and refugees
 - C. halting plans for expansions to industrial zones and agribusiness concessions.
- 4. Proposed protected areas must not move forward without the Free Prior and Informed Consent (FPIC) of local communities:**
 - A. an FPIC action plan must be agreed upon, guided by Karen civil society, for seeking FPIC from local communities who would be impacted by protected areas through a democratic and transparent process. This action plan must guarantee that all stakeholders will respect the right of local communities to say no to any part of the protected area plans.

5. **Until the voluntary return in safety and dignity of refugees and IDPs is complete, their former lands must not be designated as new protected areas:**
 - A. a refugee action plan must be agreed upon, guided by Karen civil society, for ensuring that proposed protected areas will not violate the right of refugees and IDPs to return to their original lands. This plan must reflect the priorities and needs of IDPs and refugees themselves.
6. **New protected areas must comply with the Durban accords and UNDRIP, respecting the right of indigenous peoples to self-determination and to control their own territory and natural resources.**



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