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# Contested Frontiers: Indigenous Mobilization and Control over Land and Natural Resources in Myanmar's Upland Areas

Rainer Einzenberger

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Over the past two decades, Myanmar's upland areas have gradually turned into formally administered, legible, and governable state-territory. Following decades of armed conflict, a series of ceasefire agreements since the 1990s opened the door for the central state's expansion of territorial control in the upland areas through the exploitation of natural resources and land concessions. New civil society coalitions are being formed inside Myanmar to resist the states strategy of accumulation by dispossession in conjunction with enclosures and the formation of state territory. This paper provides a brief outline of an ongoing research project which takes a socio-spatial perspective on state building processes and links the concept of the resource frontier with emerging discourses on indigenous rights in Myanmar.

**Keywords:** Frontier; Indigenous Movements; Land; Myanmar; State Building

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## INTRODUCTION

This contribution provides an outline of an ongoing research project in its early stage. Against the backdrop of current political and economic transformation processes in Myanmar, the research takes a socio-spatial perspective on state building in the periphery or frontier areas, that is, the vast upland areas along its borders. The project aims to investigate the practices (technologies), strategies, and discourses of different actors to produce frontiers in ceasefire areas of Myanmar's uplands through the integration into state territory and the national (capitalist) economy. Furthermore, I seek to understand how actors on different scales respond to the extension and production of state space in the frontier areas and the corresponding processes of enclosures of land and natural resources. The first part of this article provides some (historical) background on the formation of Myanmar's resource frontiers. After a brief outline of the theoretical framework, some preliminary insights are discussed.

### STATE BUILDING AND THE RESOURCE FRONTIER IN MYANMAR

Myanmar's upland areas – inhabited by over 40% of the country's population and covering about 50 to 60% of its territory – are among the most ethnically diverse and resource-rich regions in Southeast Asia (Buchanan, Kramer, & Woods, 2013;

Food Security Working Group, 2011). With many armed ethnic groups still fighting the central government, these frontier areas became notorious for the world's longest running civil wars (South, 2008, 2011). In October 2015, a national ceasefire agreement was signed just before the general elections. Yet, it was neither a national agreement (since only a few armed groups signed it), nor did it end all hostilities (Ye Mon & Lung Min Mang, 2015).

According to Scott (2009), the upland areas – now officially part of Myanmar state territory – were part of a vast non-state space which he termed *Zomia*.<sup>1</sup> Encompassing the uplands of mainland Southeast Asia and Southwest China, *Zomia* provided a sanctuary for diverse groups of people who wanted to evade state building projects in the valleys. However, since the second half of the 20th century *Zomia* has experienced major transformations, described as the “last enclosure” (Scott, 2009, p. 10): “The sovereign nation-state is now busy projecting its power to its outermost territorial borders and mopping up zones of weak or no sovereignty” (Scott, 2009, p. xii). Under British colonial rule, Burma's uplands (then also called “frontier areas” or “excluded areas”) were politically divided from the lowlands (“Burma proper”) and put under different systems of administration (Seekins, 2006; Taylor, 2009; Thant Myint-U, 2001). After independence from the British Empire in 1948, large parts of these upland areas remained under the control of traditional rulers and headmen (Smith, 1991). A failed attempt to integrate the frontier areas into the Union of Burma during a brief democratic period resulted in the outbreak of several revolts by ethnic armed groups and communist insurgents. In 1962, General Ne Win staged a military coup and declared the country a Socialist State run by a military government and later the *Burma Socialist Program Party* (BSPP) (Seekins, 2006). What followed was a violent period of war-induced state building (Callahan, 2003).

The situation in the frontier areas changed profoundly following the nationwide pro-democracy uprising in 1988 and the collapse of the *Communist Party of Burma* and its armed resistance in 1989 (Seekins, 2006). After the violent oppression of the uprising, the new regime changed its name (*State Law and Order Restoration Council*, SLORC) and its strategies from the early 1990s onwards. Deals with major armed ethnic groups were brokered, offering legal concessions for the extraction of natural resources and other lucrative business in the frontier zones in return for ceasefire agreements (Jones, 2014; Schaffar, 2008; Woods, 2011). The ceasefires “weakened and co-opted much of the opposition” (Jones, 2014, p. 780) and allowed the military regime to re-focus on its major political reform in the center and layout a roadmap for a ‘disciplined democracy’ to safeguard its interests (Jones, 2014). This finally led to the adoption of the 2008 Constitution (introducing a nascent federal system) and the implementation of the 2010 general elections (and subsequent 2015 elections) which set the stage for a semi-democratic government under strong military control (Kyaw Yin Hlaing, 2012).

Alongside its ceasefire strategy, the junta abandoned its ‘Burmese Way to Socialism’ in favor of a ‘Burmese Way to Capitalism’ and adopted a market-oriented open-door policy to enlarge its economic base and maintain its power (Mya Maung, 1995).

1 The term *Zomia* was originally coined by Willem Van Schendel (2002) and refers to Zomi which is translated as highlander. The term is also used as an endonym by some groups in the Western uplands of Myanmar, however, the exact translation is contested (Vumson, 1986).

The valuable resources in Myanmar's frontier regions (e.g., timber, jade, rubies, minerals, water resources) as well as its 'maritime frontier' – rich in natural gas fields – played an important role in securing foreign exchange. According to official data, recent Foreign Direct Investment (FDI) in Myanmar has been concentrated in the oil/gas and hydropower sectors followed by the mining sector (Allan & Einzenberger, 2013). The military government began to export natural gas to Thailand in the late 1990s with the construction of the *Yadana* and *Yetagun* pipelines.

Another pipeline from Myanmar to China was completed in 2013, increasing the export revenues from oil and gas sales (Shwe Gas Movement, 2013). Recent reports suggest that the oil and gas sector payments contributed around 40% of the estimated government fiscal revenues in 2013/2014 (Bauer, Shortell, & Delesgues, 2016). However, unofficial reports place the value of mineral exports even higher than those of oil and gas. Officially reported at USD 1.5 billion (Moore Stephens LLP, 2015), an independent Global Witness report values the jade production in Myanmar up to USD 31 billion in 2014 alone (Global Witness, 2015, p. 5). This would amount to almost half of Myanmar's GDP in 2014 (World Bank, 2016). Jade is almost exclusively exported to China, most of it informally (Global Witness, 2015). Other major minerals produced and exported are copper, lead, silver, zinc tin, tin-wolfram, and coal (Moore Stephens LLP, 2015). Furthermore, the export of timber from the frontier areas still provides an important source of revenue which amounted up to an estimated USD 1.5 billion in 2013 (Woods, 2015, p. iii). According to Mya Maung (1995), the willingness of the neighboring countries to invest in Myanmar and exploit its rich resources was "the single most important factor that has helped the junta to rule against the will of the Burmese people" (pp. 678-679). The frontier regions provided these rich resources.

The political transition after the 2010 general elections and the inclusion of the main opposition party – the *National League for Democracy* (NLD) – in the political process paved the way for the further opening of Myanmar's economy following the lifting of international economic sanctions (Jones, 2013). Termed the "last frontier" by international business pundits (Kent, 2012), Myanmar has become a new investment opportunity for transnational capital. The "highly rapacious and coercive" (Jones, 2013, p. 167) mode of capitalist development continues to focus largely on resource extraction in the ethnic frontier areas with significant environmental and social impacts (Buchanan et al., 2013). Investor-friendly legislation adopted by the semi-civilian government since 2012 such as the FDI law and new land laws (Buchanan et al., 2013; Ferguson, 2014; Transnational Institute, 2014) facilitate a new regime of accumulation which is mainly based on enclosures and dispossession (De Angelis, 2001; Glassman, 2006; Sevilla-Buitrago, 2015). According to some critical voices, "indigenous people's practices of customary laws and use of local common natural assets are mostly disregarded. Indigenous peoples are increasingly driven off their common land and further marginalized" (Myo Ko Ko, 2014). Customary ways of land use and agriculture such as shifting cultivation and the use of natural commons (e.g., community forests, water resources, communal land) are mostly ignored in government policies. Current state policies prioritize formal land titles and private property in accordance with the policies of modern capitalist economies (Buchanan et al., 2013; Cairns, 2015; Transnational Institute, 2014).

## FRONTIER, STATE BUILDING, AND INDIGENEITY

The research project employs the concept of frontier as an analytical framework to capture the process of (capitalist) state expansion through territorial control and resultant contestations in the periphery. Originating from historical studies (Turner, 1921), the concept has been adjusted and applied in social sciences in recent years to explain conditions at the “fuzzy edges” (Geiger, 2009, p. 195) of states (Barbier, 2010; Fold & Hirsch, 2009; Kelly & Peluso, 2015). Peluso and Lund (2012) understand frontiers as spaces “where authorities, sovereignties, and hegemonies of the recent past have been or are currently being challenged by new enclosures, territorializations and property regimes” (p. 669). Geiger (2009) calls this process the “politics of nationalizing space” (p. 195). Yet, the frontier concept cannot sufficiently explain the underlying mechanisms of state building or the ‘nationalization of space’.

A pioneering work interrogating the relationship between states, (socially produced) space, and territory was laid out by Lefebvre (1991). According to him, space is socially produced, that is, space has a material as well as a social and discursive dimension that is linked to specific societies and modes of production. The capitalist nation state produces a very particular space that is different from non-capitalist spaces or non-state spaces. It is an abstract space that is homogenous and devoid of any difference. Abstract space enables the process of capital accumulation and privileges the exchange value over the use value. It is instituted by the state and is a political instrument towards territorial control (Lefebvre, 2009, p. 187). For Lefebvre, the production of social space is an inherently political and contested act.

Whereas the state and capital attempt to ‘pulverize’ space into a manageable, calculable and abstract grid, diverse social forces simultaneously attempt to create, defend or extend spaces of social reproduction, everyday life and grass-roots control (*autogestion*). (Brenner & Elden, 2009, p. 367)

Following the work of Lefebvre, Poulantzas (1978/2000) has examined in his state theory the interrelation of global and national capitalist expansion and the production of state frontiers. He considers the frontier as the very space where the state inscribes its “spatio-temporal matrix” in order to extend the reproduction of capital and the separation of labor and capital (p. 116). The nation state monopolizes the organization of state space and seeks to homogenize it and its inhabitants in order to unify the national market and economy (Poulantzas, 1978/2000, p. 107). However, the state is not a homogenous actor or institution but a social relation or a strategic terrain where social classes compete for power and control over resources (Poulantzas, 1978/2000, p. 73). These power relations between certain classes, class fractions, and power blocks are materialized amongst others within the state, its infrastructure, and its apparatus. Thus, by analyzing the conflicting spatial strategies and socio-spatial relations between different actors, it is also possible to unravel ongoing state building processes. The concept of *indigeneity* provides a useful analytical category in order to grasp these conflicting dynamics around state building processes at the

margins of states.<sup>2</sup> While looking onto a long political tradition in the Americas, the concept of indigeneity as a political and legal tool has slowly gained traction in Southeast Asia in recent years (Erni, 2008; Hall, Hirsch, & Li, 2011; Li, 2010). Since important elements of indigeneity are the attachment to ancestral territories as well as the idea of self-determination, the concept serves as a suitable collective resistance identity in the context of contested territories in the frontier areas (Baird, 2011; Castree, 2004; Erni, 2008). Despite its strong linkage to the local scale, the idea of indigeneity has also a strong transnational dimension. It is directly linked to UN institutions such as the *United Nations Permanent Forum on Indigenous Issues* (UNPFII) as well as international legal standards such as the *UN Declaration on the Rights of Indigenous Peoples* (UNDRIP) (MIPENN, 2015).

### PRELIMINARY RESULTS

The upland areas of Myanmar can be conceptualized as resource frontiers at the forefront of an ongoing process of state building. This process goes hand in hand with the formation of capitalist state spaces through the production of abstract space. The internationalization and economic transformation of the Myanmar state in recent years and its accumulation strategy based mainly on the enclosure of land and the extraction of resources are the main drivers for the creation of these frontiers. Initial explorative research has shown the growing importance of indigeneity as a new political discourse and platform for certain civil society actors in the current political and economic context of Myanmar.<sup>3</sup> This can be seen as a direct response to the enclosures of land in the frontier areas on the one hand and to the gradual opening of political space on various scales on the other hand. It also constitutes a change from the past, when “ethnic identity was generally not expressed in terms of broader international standards on indigenous peoples’ rights” (MCRB, IHRB, & DIHR, 2014, p. 132). Even though little direct reference to indigenous peoples is made in domestic legislation and the term is not yet widely used, ethnic civil society advocates increasingly identify themselves as ‘indigenous’. They do not identify as (national or ethnic) minorities but as indigenous peoples in order to reinforce their legitimate claim to the lands and their right for self-determination. This political struggle has been a key and continuous demand since the beginning of the state building project. Several indigenous organizations and coalitions have been formed in recent years such as the

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2 There is no universal agreement on the definition of indigenous peoples. Jose R. Martínez Cobo, the former Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, outlined some elements relevant for identifying indigenous peoples: occupation of ancestral lands; common ancestry with the original occupants of these lands; culture; language; residence on certain parts of the country, or in certain regions of the world. On an individual basis, an indigenous person is one that belongs to these indigenous populations through self-identification as indigenous (group consciousness) and is recognized and accepted by these populations as one of its members (acceptance by the group) (Myanmar Indigenous Peoples/Ethnic Nationalities Network [MIPENN], 2015, p. 1)

3 While the term indigenous peoples (*tha-nay tain-yin-tha* in Burmese language) “is not widely understood or generally used in Myanmar . . . indigenous rights activists use the Burmese term *hta-nay tain-yin-tha* for indigenous peoples, and base themselves on the international concept of indigenous, using the criteria of non-dominance in the national context, historical continuity, ancestral territories, and self-identification” (Myanmar Centre for Responsible Business [MCRB], Institute for Human Rights and Business [IHRB], & The Danish Institute for Human Rights [DIHR], 2016, p. 13)



*Myanmar Indigenous Peoples/Ethnic Nationalities Network* (MIPENN, 2015), the *Coalition of Indigenous Peoples in Myanmar/Burma*, and others.

They comprise of a number of ethnic civil society organizations as well as cultural and environmental non-governmental organizations who see an advantage in organizing under the umbrella of indigeneity. The latter submitted a report to the 23rd session of the *Universal Periodic Review Working Group* at the UN in Geneva in November 2015, highlighting the major concerns for indigenous peoples in Myanmar. The most pressing concerns were related to access to land, territory, and resources as well as cultural rights (Coalition of Indigenous Peoples in Myanmar/Burma, 2015; Yen Snaing, 2015). While highlighting specific cases of land confiscation and extractive industry projects in frontier areas, the report asks for “domestic legislation to ensure that it incorporates the collective rights of indigenous peoples to their land, territories, and natural resources, including customary land use practices” (Coalition of Indigenous Peoples in Myanmar/Burma, 2015, p. 14). Ongoing advocacy and lobbying with the government has already achieved some initial results. The *2015 Protection of the Rights of National Races Law*<sup>4</sup> states that “prior to implementing development projects and . . . extracting of natural resources, local indigenous inhabitants are to be informed and be explained in detail about these plans and projects to achieve mutual cooperation” (Article 5, cited in MIPENN, 2015, p. 35). This relates to the concept of *Free Prior and Informed Consent* (FPIC) which is an important element of the UNDRIP. In several rounds of negotiations concerning the hotly debated *National Land Use Policy*, indigenous rights advocates also managed to integrate the recognition of “customary lands” and “customary land use tenure systems” into the latest draft (MIPENN, 2015, p. 41). Several civil society organizations are active in raising awareness on UNDRIP, FPIC, and the National Land Use Policy draft, and conduct participatory community mapping in order to maintain grassroots control over community territory, land, and resources. This clearly illustrates the agency of indigenous movements in Myanmar. It also resembles similar developments in other countries in the region, such as Cambodia and Indonesia (Baird, 2011; Hall et al., 2011). In order to gain further insights into struggles for control over land and natural resources more empirical research is needed, also focusing on selected cases studies on a local and regional scale.



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4 The law is unofficially translated as “The Law Safeguarding the Rights of Indigenous People” (MIPENN, 2015, p. 33).

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