Master's Thesis

Marie Knakkergaard

State-building and authority in a legal plural setting in Karen State, Myanmar

Abstract

The newly elected government in Myanmar is seeking to end more than 60 years of conflict with various ethnic armed organisations in the country. The government is working towards building a stronger democratic system through the strengthening of the rule of law. Based upon mixed methods: qualitative and quantitative fieldwork research in two case villages in Karen State in Myanmar, the thesis examines how authority and legitimacy is built locally in Karen State through the provision of rights and the access to justice in a legally plural setting in order to study the legitimacy of the on-going state-building process. The legal plural setting is characterised by the locals preferring to use informal institutions rather than formal. The judicial system serves as a proxy for studying the state, and the penetration of the state's regulatory efficiency is examined through everyday dispute resolution, local articulation of the state and provision of rights.

Based upon a theoretical framework developed through theories on legal pluralism, the thesis concludes, that the informal institutions in the case areas enjoy high levels of authority and legitimacy as they manage to provide the local citizens with rights. In extension, that the state has not managed to build an institutional connection with the locals due to many years of conflictual relationship, the lack of rights provision and access to the formal judicial system, which can explain the local preference for non-state, parallel institutions. The thesis therefore further concludes, that the state-building process can strengthen its legitimacy through the provision of basic rights at all levels of society.

Acknowledgements

I would like to thank the people and organisations who have made this thesis possible. Thank you to Christian Lund, Helene Maria Kyed and Mikael Gravers for competent and thorough supervision and insights.

A further thanks to the Danish Institute for International Studies and Enlightened Myanmar Research Foundation for making my research in Myanmar from August 2016 to January 2017 possible and from whom I learned a great deal.

Thank you to the EverJust research team in Myanmar – especially Lue Htar and Thang Sorn who are not only very skilled researchers but also very good friends.

My final thanks to all the informants in the two villages in Karen State for all their insights, stories, openness, hospitality and patience.

Abbreviations

BGF	Border Guard Force
BSPP	Burma Socialist Programme Party
DKBA	Democratic Karen Buddhist Army
DKBO	Democratic Karen Buddhist Organisation
EAO	Ethnic Armed Organisation
KNA	Karen National Association
KNLA	Karen National Liberation Army
KNPF	Karen National Police Force
KNU	Karen National Union
KWO	Karen Women Organisation
NCA	Nationwide Ceasefire Agreement
NLD	National League for Democracy
NSAGS	Non-State Armed Groups
VA	Village Administrator
VERP	Village Elderly Respected Person

Maps

Figures

Tables

1. Introduction

"I was satisfied because I could not resolve it myself. So the KNU helped. Because the KNU is the one that governs this country." (Anglican pastor, 14/05-2016)

The Anglican pastor in the village Tayar Lu, in northern Karen State, Myanmar[1] perceives the Karen National Union (KNU), an ethnic armed organisation (EAO) the main governing body in his village. The pastor refers to the resolution process of a land dispute he has experienced, where he needed to involve the KNU judicial system. The statement serves as an example of the local preference for using informal institutions[2] in parts of Karen State, where there has been a history of conflict with the central government.

Myanmar has undergone several political changes throughout time; it has been a kingdom, then a part of the British Empire, gained a parliamentary democracy in 1947, independence from the British in 1948 and suffered a coup d'état in 1962, which marked the beginning of a long-lasting military junta and more than 60 years of civil war. The primary causes of the civil war roots back to the country's independence, when a strong demand by many of the ethnic minorities to become a

Map 1 Myanmar (d-maps.com, 2017)

---

[1] Formerly known as Burma

[2] For the empirical context, the differentiation between formal and informal institutions, building upon Gretchen Helmke and Steven Levitsky (2004), come with limitations, as the institutions within the case areas might be informal or non-state seen from a state-centred perspective, but formal seen from a local perspective. Simultaneously, the formal institutions, here meaning the state institutions, sometimes act rather informally, making the distinction formal/in-formal limiting. However, for the purpose of the study, I adopt this simple distinction along with 'state/non-state institutions' in order to differentiate between the local institutions and the state institutions. I do however recognise, that the institutions I classify as informal might be perceived as state institutions by the locals or have a more formal appearance, than the institutions I classify as formal. The description I choose of the various institutions is therefore relative to a state-centred perspective.

federation was not met. Furthermore, the political power was taken in a military coup in 1962 and the new ruler strived to unify the country into one nationality and religion (Taylor, 2009, pp. 229-240; Metro, 2013, pp. 149-150). The country has ever since, been affected by conflict, mainly in areas populated by ethnic minorities, in a struggle to achieve some level of self-autonomy under a federal structure (South & Joll, 2016, pp. 180-182).

Leading up to both the parliamentary democratic transformation and the subsequent independence in 1947 was a large conference in the city Panglong, hosting the majority ethnic Burmese[3] and the ethnic minority groups from the frontier areas, in an attempt to gain an agreement of joining together in a Union of Burma. The ethnic minorities were promised semi-autonomy by the Burmese leaders but both the British administration and many ethnic leaders were sceptical about the reliability of the Burmese promise. The Burmese General Aung San, a leading figure in the independence negotiations and father of the current leader Aung San Suu Kyi, promised equal treatment of all ethnic groups in the post-independent union. Aung San succeeded in persuading some of the ethnic minority leaders to sign a Panglong Agreement, supporting to form a federal Union of Burma. Not all ethnic groups signed the agreement, but the ones that did; the Chins, the Kachins and the Shans did so under the impression that they would gain autonomy easier by cooperating with the Burmese (Taylor, 2009, pp. 229+288-290). The ethnic Karen[4] were largely unsatisfied with the agreement as they wanted either a larger territory than offered in the agreement or a fully sovereign Karen country independent from the Burmese (Harriden, 2002, pp. 84-86, 108; Gravers, 2014, pp. 184-185).

The independence from the British and the establishment of the Union of Burma instantly caused political issues as the central government struggled to accommodate the many different ethnic minority groups and give them the autonomy they expected. As the ethnic minority groups had already before the establishment of the union been sceptic about the outcome, the political sphere in the country was tense and the country suffered under several insurgencies from various groups, hereunder especially from the Karen that were particularly strong. The civil government was weak and there was little agreement in the country as to which direction the newly established democracy should take. Some groups argued for a communist country, while others instead wanted a socialist state. Further conflicts arose when the Prime Minister announced the adoption of Buddhism as the

---

[3] Also called Burman or Bamar and is the term for the majority ethnic group in Myanmar (Gravers, 2007 p. 16)

[4] Also called Kayin.

official state religion and the requirement of using Burmese in schools throughout the union (Aung-Thwin & Aung-Thwin, 2012, pp. 246-247). Initially the agreement between the ethnic groups and the Burmese entailed some level of decision-making within the local educational systems so that the ethnic groups could teach in and maintain their languages. The government insisted on Burmese as being the only language used at official talks in the Parliament which created further despair among the ethnic groups. Due to the many conflicts and insurgencies in the country after the independence, the Burmese military, the *Tatmadaw*, grew significantly in both size and force throughout the 1950s. The Commander-in-Chief of the military and nationalist Ne Win played a large role in strengthening the military and he managed to seize the power in a military coup in 1962, following years of internal disputes and ended more than a decade of parliamentary democracy. Ne Win, and the government 'the Revolutionary Council', banned all political parties, eventually all political opposition, and articulated a goal for a unitary country and he was of the opinion that a federal state or decentralisation was equal to the dismissal of the union. Simultaneously Ne Win introduced a strong media censorship, banned the use of the English language and nationalised many businesses, hereunder the banks (Gravers, 2014, pp. 184-186; Kipgen, 2016, pp. 36-41). Ne Win replaced the governmental system with a single party system ruled by the Burma Socialist Programme Party (BSPP) whose aim was to transform the country into a socialist democratic state. The Tatmadaw introduced a 'Four Cut Strategy' against the ethnic armed groups. The purpose of the strategy was to cut links between the civilian population and any insurgency group by cutting food, intelligence, funds and recruits. The strategy was especially aimed against the KNU, but the people most effected was the civilian population that suffered under many attacks on their villages and further despair (Harriden, 2002, pp. 118-119). In 1974, the government centralised all power in the country, removing all former agreements of decentralisation with a new constitution that would move the country towards more socialism inspired by the Eastern European and Chinese socialism at the time. The government further abolished all foreign aid and reduced foreign influence, isolating the country and leading to severe poverty (Metro, 2013, p. 149; Aung-Thwin & Aung-Thwin, 2012, pp. 251-253). The government struck down hard on any insurgency group in the country, fighting numerous fights with various EAOs. Many of the EAOs however managed to benefit from the failing national economy by fuelling the black market selling timber, gems etc. and some even managed to tax the black market and maintain and build strong armies and set up parallel administrative systems in the areas they were able to control. These administrative systems provided healthcare, education, judicial systems etc.

and made the central state irrelevant to many people and instead creating strong ethnic institutional systems with high levels of local authority and legitimacy (South, 2007, pp. 59-60).

In the 1980s the economic and conflictual situation worsened and many fled the country. In the late 1980s the government decided to demonetise a lot of the currency without compensation in an effort to shut down the black market, severely hurting the citizens that were already struggling. This led to a violent student uprising in 1988 that was aggressively fought back by security forces leaving thousands of dead and an intensification of the 'Four Cut Strategy'. Thousands more fled their homes, either to become internally displaced or fled into, especially, Bangladesh, India and Thailand. In extension to the uprising and subsequent massacre the military chose to hold an election in 1990 where the opposition party, the National League for Democracy (NLD) under the leader Aung San Suu Kyi, won a landslide victory. But the military did not hand over power (Kipgen, 2016, pp. 20-23; Aung-Thwin & Aung-Thwin, 2012, pp. 266-267+270-271).

In 2008, the country's military leaders initiated a slow process towards change with the introduction of a new constitution, that did not lead to many changes. On November 7, 2010, the country held a general election for a new government. The election was criticised both internationally and domestically due to many groups, hereunder the military's strongest opposition party, the NLD, not being able to participate as the election laws banned imprisoned people from being party members. NLD's leader, Aung San Suu Kyi was at the time of the election held in house arrest and NLD therefore refused to participate (Taylor, 2012, p. 226).

When a new semi-civilian government was formed in March 2011 under the President and former military general U Thein Sein, Myanmar underwent a number of domestic and international reforms. The reforms moved the country towards a transition of the political system, with, among others, the re-introduction of a parliament, the release of thousands of political prisoners and a liberation of the media censorship (Hlaing, 2016, pp. 184-185; Kipgen, 2016, 77-81; South & Joll, 2016, p. 182). Several steps towards a political democratic transition in Myanmar has occurred since the adoption of the new constitution in 2008, the election of a semi-civilian government in 2010 and the election of a civilian government in 2015 led by NLD (South & Joll, 2016, pp. 182-184).

Due to the many years of civil conflict, several ethnic states in Myanmar have developed parallel governing systems outside the formal government's rule, controlled by various EAOs. Some of the

EAO-controlled areas, hereunder Karen State[5], have well-functioning administrative systems with their own police force, military, judicial system, education, healthcare etc. Discussions for semi-autonomy for the ethnic minority regions under a federal system are still ongoing, potentially building upon and integrating the existing ethnic minority de facto government systems, under the assumption that this could secure longstanding peace and legitimacy of the Myanmar government (McCartan & Jolliffe, 2016, pp. 2+22-23).

However, there are still armed conflicts in some regions and studies point to uneven access to justice throughout the country, in both government-controlled, mixed-controlled and EAO-controlled areas. Studies from EAO-controlled areas suggest that the contact points with government officials are few due to long distances, long trial periods, and high costs associated with trying cases through governmental legal systems. In addition, government officials predominantly speak Myanmar, which discourages many rural ethnic minority individuals from pursuing cases through official channels due to poor or no Myanmar language skills (McCartan & Jolliffe, 2016, pp. 49-52). Although the Karen people are fragmented in various linguistic, religious and cultural entities, the KNU has long sought to represent a unified Karen through its own institutions. The political, economic, judicial and educational institutions make the KNU today the most dominant EAO in Karen State, although there are independent splinter groups (Harriden, 2002, pp. 86-88). The KNU institutions enjoy high levels of authority and legitimacy in parts of Karen State, where people, like the Anglican pastor, perceive the KNU as the governing force. This creates a complicated legal plural landscape, where the central government's rule of law does not penetrate all areas and where local citizens do not rely on or engage with Myanmar state institutions for dispute resolution and in general have high levels of scepticism towards the central state.

In connection with this, it becomes relevant to explore how the parallel institutional system in Karen State affects the Myanmar state's authority and legitimacy within the Myanmar state-building process, when many of the local Karen use the parallel governing institutions instead of state institutions. The thesis explores this through studying everyday dispute resolution and articulation of the state in two case villages in Karen State; one EAO-controlled and one government-controlled. As the judicial system is a fundamental institution under a state, this is used as a proxy for studying the central government. Theoretically the thesis operationalises a framework built upon theories on legal

---

[5]Also known as Kayin State.

pluralism, where central concepts of institutions, authority and legitimacy is employed for a thorough analysis of the context. Methodologically, the thesis engages various qualitative methods, including fieldwork, semi-structured interviews, observations and case-tracing that are complimented by a quantitative survey. The thesis adds to a gap in the research on building authority and legitimacy in Myanmar and the research therefore becomes relevant as it contributes to the field in addition to an up-to-date theoretical embeddedness. The thesis is further contributing to a larger field of state-building, political authority and legal pluralism in a post-colonial context from a Southeast Asian perspective.

1.1. Research problem

The main research question is as follows:

> How does the state-building process become legitimate in Karen State when large parts of the local Karen use parallel governing institutions that hold local authority instead of formal government institutions?

In order to answer the problem statement, there are three working questions derived from the theoretical framework that guides the analysis;

- What is the cultural and historical context in which institutional pluralism has developed in Karen State, Myanmar?
- In which forums are disputes resolved in Karen State and which judicial system regulates the behaviour through the communication of rules and norms?
- How is the central state articulated in everyday interactions and which institutions provide the citizens with rights?

1.2. Structure of the thesis

The present chapter of the thesis is an introductory chapter, that outlines the research context, the problem area, the purpose of the thesis including the methodological and theoretical choices and the structure of the thesis.

The second chapter presents the theoretical framework of the thesis that is selected based upon the theories' ability to explain the process of building authority and legitimacy in Karen State, Myanmar.

The chapter presents and discusses theories on legal pluralism that offer various terms and concepts; informal institutions, authority, legitimacy and judicial system, that are helpful for analysing and grasping the complexity of the legal plural setting in Karen State. Based on the theoretical concepts the chapter lastly outlines questions that are relevant to explore in order to analyse the empirical context and answer the research problem and leads to the third chapter discussing the methodological implications.

Chapter three presents the central methodological approaches to the research area, hereunder primarily the qualitative method. The methodological choices are guided by the theoretical framework and includes two case studies in Karen State. The chapter discusses the conducted fieldwork, involving access to the various areas, the interview situations, translation from different languages into English and the challenges in relation to this. The chapter shortly outlines the quantitative method utilised, that tests assumptions derived from the qualitative data about people's relationship with the Myanmar state and finally discusses the limitations of the methodological approach.

Chapter four introduces the historical context of the Karen people and Karen State and takes its point of departure in the empirical working question derived from the theoretical framework: "What is the cultural and historical context in which institutional pluralism has developed in Karen State, Myanmar?". In order to answer the question the chapter is divided in three parts: initially the historical context of the Karen is outlined, followed by an outline of the current situation and lastly a presentation of the specific case sites and the institutional structure.

Chapter five contains the findings and analyses and is divided into three parts, primarily focussing on the working questions:

- In which forums are disputes resolved in Karen State and which judicial system regulates the behaviour through the communication of rules and norms?

- How is the central state articulated in everyday interactions and which institutions provide the citizens with rights?

Finally, chapter six discusses and concludes the findings in order to answer the main problem statement.

2. Theoretical framework

The following chapter presents concepts from theories on legal pluralism and informal institutions. Myanmar is under an ongoing process of state-building and had the first recognised democratic election in 2015, with a constituted government in 2016. The opposition party National League for Democracy, led by Aung San Suu Kyi was elected and her government's primary goals are overcoming conflicts and gaining lasting peace with the many ethnic armed groups, reforming the political, agricultural and legal system, achieving stability and enter the global economy, assisting economic developing in the country. Many of the ethnic states, hereunder Karen State, are dominated by a legally plural institutional landscape where there are both state and non-state institutions delivering rights and access to justice.

In order to understand the presence of multiple competing institutions in Karen State and the process of building authority and legitimacy, the chapter introduces a theoretical framework for analysing the research problem.

The chapter presents and discusses theories on legal pluralism and informal institutions that offers various terms and concepts; legitimacy, justice, state-building and authority[6] that are supportive for analysing and grasping the complexity of the legal plural setting in Karen State in Myanmar. Based on the concepts the chapter leads to the methodological considerations for obtaining the relevant data for answering the research problem.

The first section of the chapter introduces the concepts of legal pluralism and informal institutions that are necessary for analysing the legal setting in Karen State. The concept introduces definitions of various forms of legal pluralism and argues for some the consequences of a legal plural order. The section argues for the use of a narrow definition of legal pluralism, as some definitions claim all societies and social orders as being legally plural which is not useful for the analyses of the specific context in Karen State.

---

[6] Much literature on legal pluralism use the concept 'authority' and 'autonomy' interchangeably. Sally Falk Moore (1973) distinguishes between autonomous and semi-autonomous social fields for more nuances for an analysis of legal plural settings. I have instead chosen to distinguish between the concepts autonomy and authority and solely use 'authority' as this concept refers to a less definitive exercise of authority, whereas 'autonomy' is a definitive term referring to absolute authority in a territory. As the empirical setting is legally plural I argue, that there are multiple parties exercising authority, making full autonomy impossible.

The second section introduces authority as a concept within the social field. The section includes a discussion of achieving political or public authority, and the relationship between rights providing actors and authority and legitimacy. The concept under the theoretical framework of legal pluralism and informal institutions offers an additional tool for analysing the competitive institutional context and its consequences for the authority and legitimacy of the state-building process.

The third section introduces the concept of justice and the judiciary system in relation to state-building within a legal plural setting. Justice and the judicial system can be seen as a proxy for the state, as these institutions constitute some of the most fundamental bodies of the state. The judicial system is the court of law that interpret the law and carry out the administration of justice in the name of the state. The section therefore comes in natural extension to the section on the relationship between rights and authority. The concept of justice, within a legal plural state-building setting is highly relevant for the analysis of the influence of legal pluralism in Karen State on the state-building process.

2.1. Legal pluralism and informal institutions

This section introduces the concept of legal pluralism, primarily focusing on the definitions and theoretical apparatuses developed by Sally Engel Merry (1988), Brian Z. Tamanaha (2008) and Gretchen Helmke and Steven Levitsky (2004).

Defining legal pluralism is at the centre of the debate in the literature on the field. Many scholars have defined the concept as being social orderings within a society but outside the state law, including orderings within the family and various organisations. Merry (1988) argues that this definition is too broad as all societies would consequently be legally plural, making an analysis of legal plural systems impossible, as it becomes difficult to differentiate between plural law systems and social life. Many discussions on the subject have evolved around defining law and customs, but Merry does not recognise these definitions as particularly important. Instead she argues that one should rather begin an analysis by looking at legal or customary orders in relation to the centralised state law as it is within this relationship that the study of legal pluralism becomes interesting (Merry, 1988, pp. 870-872+889).

By examining what legal pluralism is and is not, Merry (1988) has produced some of the most dominant works on legal pluralism by reviewing existing literature, identifying the changes, dominant

positions, disagreements and summarising her findings in an argument towards incorporating a focus on legal pluralism in future sociological research. The relationship between state law and plural law orders should not focus on legal centralism, but instead on the various orders outside the state law, their mutual relationship, that is sometimes even contradictory to each other, and their relation to state law. Legal pluralism offers methodological tools for analysing the relationship between the dominant and the subordinate within a territory, in order to identify limits of the state law and to understand the subordinates' possibilities of resisting state law. Rather than looking at dispute resolution processes isolated, viewing them as legally plural offers an understanding of the cultural background of a set of laws that support the understanding of a social group's understanding of justice and ordering. Further, that in order to analyse and understand legal plural settings one should not solely focus on the abnormal conflicts or the conflictual relationship between social fields, but also focus on everyday interactions within a local social field in order to fully understand the local people's perception of the systems they interact within. Merry's review concludes that analysing legal pluralism needs to happen within a historical context as any system develops over time (Merry, 1988, pp. 872 + 889-892).

Tamanaha (2008) explains that the importance of studying legal pluralism lies in the competing claims for authority and the challenge it creates for the notion of law as the sole ruler of a field. Further that legal pluralism creates both uncertainty or opportunities for people within it as they have the possibility to choose the legal setting that best fit their own interest. Like Merry (1988), Tamanaha argues for a new approach to studying legal pluralism, developed upon reviewing and discussing existing literature on the field and that it is possible to study legal pluralism without defining 'law'. Tamanaha instead offers a simple definition of legal pluralism as being present "…whenever social actors identify more than one source of 'law' within a social arena." (Tamanaha, 2008, p. 396).

In line with a Weberian view of state-making, the notion that the state holds the monopoly of law is a demonstration of the success of the European state-building project in the late medieval age. State-building and legal centralism is in this sense connected, making a successful centralised state system difficult with the presence of legal pluralism. The existence of recent and current legal plural systems can for most countries be traced back to the colonial era where many colonial powers enforced indirect rule over their territories, relying on and preserving already existing indigenous systems which possessed political authority. Especially institutions in areas far from the colonisers primary interests maintained their form and power. When the colonisers sought to expand their legal power they often incorporated some of the customary practises in the official practises in order to expand as easily as possible. However, what was left of the customary practises was often not significant, but

instead what was perceived as being transformed over time while interacting with new legal systems and rulers. The consequence was dual legal systems in the colonial countries that were not as integrated as the colonisers had pursued to achieve. With decolonisation, the customary systems regained strength in many countries, once again transforming their nature. (Tamanaha, 2008, pp. 375-385). This observation is closely linked with Merry's (1988) argument that plural systems need to be analysed and understood as ever-changing within their historical framework and following this argumentation, *customary law* should not necessarily be understood as being customary, but should rather be understood as a term that differentiate these non-state law systems from the centralised systems.

Another way of differentiating these systems is to divide them into formal and informal institutions. Helmke and Levitsky (2004) provide a framework for studying informal institutions, why and how they emerge and what nature the institutions have. Many previous discussions of informal institutions fail to grasp the complexity of their nature and the framework divide informal institutions into four subgroups; complementary -, accommodating -, competing - and substitutive institutions. Informal institutions have an important impact on formal institutions as they help shape the nature of them. This is the case for e.g. political and judicial institutions, which make an analysis of the relationship between informal and formal institutions important. The authors limit their analytical framework to only encompass political institutions, excluding social and economic institutions, and abstaining from defining 'law' (Helmke & Levitsky, 2004, pp. 725-726). Instead they define informal institutions as "…socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels", but informal institutions should be differentiated from shared values, weak institutions, other informal regulated social behaviour and organisation (Helmke & Levitsky, 2004, p. 727).

Their framework is in line with both Tamanaha (2008) and Merry (1988): stressing that the analysis of formal and informal institutions should be of the relationship between these institutions and not of the institutions isolated.

As mentioned, the authors divide informal institutions in four groups, whereas the first two compliment or accommodate formal institutions and the two latter compete against or substitute them. Due to the empirical context, I argue, that it is only relevant to discuss the two latter, as the parallel institutions in the two case sites in Karen State does not complement or accommodate the formal state institutions.

Competing informal institutions are frequently found in post-colonial societies and often contain regulations that are in violation with the formal institutions' regulations. Consequently, one can comply with and at the same time break the rules laid out by the formal and informal institutions. The institutional regulations are in this sense in competition with each other. This concept compliments Tamanaha's (2008) argument that people can navigate different institutions for their own benefit. Substitutive informal institutions arise when the state institutions are weak or have little authority, they can e.g. be informal courts that arise due to the lack of formal courts. This is not necessarily the case for competing institutions, as they might be present regardless of the strength and authority of formal institutions. The motivations for creating or maintaining the informal institutions are manifold, but are - e.g. due to the formal institutions not being comprehensive for their purpose or due to a group deeming their objectives - more likely to succeed in informal institutions as they lack the power to change the formal (Helmke & Levitsky, 2004, pp. 728-730).

This section's outline of legal pluralism and informal institutions offers analytical tools for analysing the legal plural setting in Karen State in Myanmar, although the institutional setting in Karen State could be perceived as formal, the analysis adopts the dichotomy of formal and informal as discussed previously. The three approaches articulate the need to analyse the relationship between institutions, how they interact, for example by looking at everyday interactions. Further, in order to understand the existence of informal or parallel institutions they should be analysed within a cultural and historical context where they have been shaped and changed. Helmke and Levitsky (2004) argue that informal institutions sometimes materialise when formal institutions lack reach or authority and the following section will explore the relationship between legal pluralism and authority to more depth.

2.2. Authority

This section discusses authority and legitimacy within legal pluralism and builds primarily on the works of Christian Lund (2006; 2016). Authority, as discussed previously is distinguished from autonomy which is a more absolute sense of the exercise of power. For the purpose of this study, I define authority as political or public authority that holds the power to enforce laws and jurisdiction within a territory. However, I choose to primarily refer to the public or political authority as 'authority'. Political legitimacy is linked to the political authority, and I define it as the belief in the public or political authority that in extension strengthens the justification of the authority. As with the former concept I refer to political legitimacy as 'legitimacy' and I do not assume that legitimacy

is a concept that is or is not infinitely present, I instead rely on Carola Lentz (1998) view on legitimacy as an open process building on a mutual relationship between the holders and givers of legitimacy (Lentz, 1998, pp. 46-47). Authority and legitimacy are interconnected, but two different concepts that for the purpose of analysing the specific empirical context are used separately. Without legitimacy, an institution cannot hold authority, but instead solely exercise power that is not legitimate. Authority of institutions within a legal plural setting is therefore linked to its claim of legitimacy and the legitimacy in turn gives the institutions authority. Neither of the concepts are eternally given but change over time (Lund, 2006, p. 693).

Tamanaha (2008) points out, that the different normative systems within a legal plural setting compete for authority. Where the state judicial system claim, or strive to hold monopoly of authority, this is not the case, which Helmke and Levitsky (2004) further support. The informal or parallel institutions would hardly exist if they did not possess authority (Tamanaha, 2008, pp. 400-401; Helmke & Levitsky, 2004, p. 729).

Lund (2006) has developed an analytical strategy for understanding authority in institutional plural structures with multiple layers of government and traditional institutions. Built upon research on Africa from various research fields, one of the arguments is that traditional institutions are competing for public authority, and in Africa there are both examples of the governments competing for authority or negotiating alliances to share public authority and control. State institutions are in extension not constant but eternally developing and the legitimacy of various institutions is contextual and varies across time and cultures. Paradoxically many non-state institutions build their authority partially upon the articulation of being outside or opposed to the state. As authority, for non-state institutions, often is established through a reference to the state it is not independent of the state but a part of it, dependent on articulations of the idea of the state. The state is formed through the narrative of the state, hereunder stories of corruption, and through daily encounters with state representatives (Lund, 2006, pp. 685-689). In Rule and Rupture: State Formation through the Production of Property and Citizenship (2016), Lund further develops a framework for understanding and studying the formation of authority. Political authority often arises in extension to ruptures and their ability to give or protect rights, hereunder rights to citizenship or property. Rights and authority is, following this argument, interlinked and authority is not a static concept, but always changing and evolving (Lund, 2016, p. 1200+1218). It is especially useful to examine the development of authority in times of rupture, that means in times of a specific event that disturbs or challenges the status-quo. It is within the rupture it is possible to study the social contracts between citizens' claims of rights and the institution granting

it. Equal to the previous sections argument of studying at the emergence or change of institutions in a historical perspective, studying the development of authority is especially effective in times of colonialization, conflict, fall of a governance systems etc. where the institutional framework by enforcing new institutions and challenging the existing political authority. Property and citizenship rights are connected with institutions that provide these, and while the institutions are supporting these rights they are reversely being invested in, and are therefore recognised for their authority due to the act of recognising. As such, authority is not solely established legally but also as a result of a mutual relationship with the citizens through specific actions. Property rights are defined as a legitimate claim over a valuable subject, sometimes a land plot, protected by a political authority (Lund, 2016, pp. 1202-1204). Citizenship is defined by Lund as "…meaningful membership of an organized political body. Struggles for citizenship are, generally, struggles for the recognition of the very right to have rights in a body politic." (Lund, 2016, p. 1205).

Authority is therefore only present if the institutions claiming authority is providing the citizens in the stated territory with rights, hereunder services. The struggle for authority can consequently arise when multiple institutions claim to provide these and it is especially fruitful to study the coming of authority within this struggle, although the analysis becomes complicated as public authority becomes contested by the various institutions seeking recognised jurisdiction. Authority and legitimacy of an institutions is further closely linked and legitimacy is likewise being produced and reproduced in times of conflict and as the authority is given while the institution secure rights, the legitimacy of that institutions equally rises. Legitimacy is further linked to locality and some forms of legitimate political authority are legitimate only in reference to the territory they exist within (Lund, 2006, pp. 685-686+693-695).

This section outlines the relationship between the deliverance of rights and the development of authority. Lund argues that authority and legitimacy of institutions are changing over time and closely connected to their ability to provide citizens with rights. Further, in extension to the previous section *Legal Pluralism and Informal Institutions,* that it is necessary to look at the development of authority in a historical context, preferably in times of rupture. Authority is further frequently build by non-state within the articulation of being opposed to the state. The state is built upon the narrative of it and within citizens' interaction with its institutions. This has methodological implications for studying authority of institutions, as it then becomes necessary to look at people's perception of and interaction with the state.

2.3. Judicial system

This section discusses the concept of the judicial system within a state-building process in a complex legal setting and builds predominantly on the arguments of Laura Grenfell (2009), Keebet von Benda-Beckmann (1981), Marc Galanter (1981), and Sukanya Podder (2014).

The judicial system is a branch of government, which administers justice and maintains the court of law. The judicial system therefore serves as a proxy for looking at the state and the state's authority and legitimacy as it is one of the core institutions within a state, the one that brings law into practice.

As laid out in the section *Legal Pluralism and Informal Institutions* the notion of law as a monopoly of the state is evidence of the success of the European state-building project. Building on this, state-building and legal centralism is interconnected and a successful centralised state system then becomes difficult with the presence of legal pluralism (Tamanaha, 2008, p. 379).

There prevails an argument that the rule of law holds the key to securing lasting peace and stability within a country and building on this argument it becomes relevant to look at the relationship between the judicial system, legal pluralism and state-building (Grenfell, 2009, p. 157).

Informal institutions are interconnected with formal institutions, meaning that they are partially shaped by and shapes formal institutions in various political areas including state-building. This means that changes within one type of institution affects the other. As informal institutions are endogenous to formal institutions, formal institutional change can have a significant impact on the informal institutions. This can happen if the formal institutions change in design, power or effectiveness, the costs and benefits of using informal institutions potentially change and it can become more or less costly using informal institutions (Helmke & Levitsky, 2004, p. 726 + 732). This approach assumes one direction of change; formal institutions affecting the nature of informal institutions and not vice versa. There is however an opposite relationship, which the previous section on *Authority* argues; that the authority of an institution is linked to the deliverance of certain rights, which means, that informal institutions can hold stronger authority than formal state institutions depending on the access to rights within a system. There therefore exists a complex relationship between informal and formal institutions and the development of both. Where Helmke and Levitsky (2004) claim that informal institutions can become irrelevant when formal institutions change in scope, it can be argued that the expansion of state institutions is difficult when informal institutions already provide access to rights and in consequence enjoy authority and this have an impact on the success of the state-building project of a country, hereunder the development of the rule of law. The

quality of the state or state formation depends on the recognition given by the population, which is connected to authority. The institutions of a given field therefore naturally compete for authority as a claim of authority is a claim of the state (Grenfell, 2009, pp. 157-158; Lund, 2016, pp. 1199-1201). Additional to 'rights' holding the key to authority, provision of justice and dispute resolution facilities equally give access to authority. Where people have the opportunity to shop between different institutions, or forums in a legal plural setting, for the best fit for their specific purpose, the institutions similarly shop for participant or supporters for their given institution according to von Benda-Beckmann (1981). They do this as they are in eternal competition with each other, state – versus non-state institutions and non-state institutions internally. An example is the various court systems that through settling disputes maintain political authority and jurisdiction. The accessibility of local non-state court systems often assists the maintenance power of the non-state actors they represent where state courts in rural areas can be inaccessible due to distance, language barriers, costs etc. often causing them to lose the institutional competition which in addition has consequences for the state formation (von Benda-Beckmann, 1981, pp. 142-145).

Galanter (1981) argues that there is a common understanding among legal professionals, that the forum in which people seek justice are exclusively provided by the state, but that this legal centralist image is inadequate for understanding actual justice forums. Instead many disputes are solved outside the state courts, in local judicial forums that are not necessarily a part of the state judicial system. Courts only solve a minor segment of the total number of disputes in a country, the rest are solved in other forums, which according to Galanter (1981) to a large extent has to do with the costs associated with trying a case or dispute at official courts. The consequence of this is, that is becomes difficult to satisfactorily penetrate a society with the state's legal norms (Galanter, 1981, pp. 1-4). Although not all disputes are settled within a court, the judicial system still guides the dispute resolution outside the court to some extent. The disputing partners know what rules would apply within the court, which therefore partially direct the resolution outside the court. I argue, that in a legal plural setting there are multiple rules of law coming from the various judicial systems, and the dispute resolution both in- and outside these courts therefore become a relevant field to observe in order to obtain information about which judicial system the disputing parties perceive as applying to them. Galanter (1981) supports this argument, as he describes how dispute settlements outside the court happen "in the shadow of the law" which mean that the rule of law has a regulatory effect on a society. (Galanter, 1981, p. 8) The efficiency of the court system further lies in its ability to communicate its rules and laws, and successful communication has a deterring effect on people's behaviour. But in extension,

the communication of laws additionally serves as guidelines for people to know how to act in specific contexts, which rules apply to them in regards to e.g. acquisition of property etc. This means, that the court or judicial system in general, articulate the rule of law of its superior system, the state, and the success of the state and its legitimacy therefore relies on the judicial system's ability to communicate rights and law and control behaviour outside the courts too as only a fraction of cases are brought before actual court and are instead being solved in various forums. It is therefore necessary to look at the context in which the official judicial system tries to exist (Galanter, 1981, pp. 11-14). The context is made up by various behaviour altering orders, hereunder competing legal institutions and cultural norms. Galanter (1981) articulates these orders as "indigenous orderings". These are not to be understood as diffuse local awareness, but as more or less structured and sophisticated independent non-state orders that sometimes enjoy a high degree of legitimacy. There can consequently exist legal pluralism in societies where the non-state institutions regulate behaviour and replace the state judicial system. In such places, the official judicial system is remote and its control mechanisms weak and instead the indigenous legal system create the 'shadow' in which people act. In line with Lund's argument, the non-state judicial system can refer to the official system in a deterring manner, threatening with the cost-inefficient and time consuming official courts in order to articulate themselves as a better alternative and strengthen their own legitimacy (Galanter, 1981, pp. 17-21+24-25). In order to understand the consequences of overlapping judicial systems, sovereignty and authority domains for the centralised state and its state-building process, Podder (2014) argues, that it is important to study the authority of the non-state entities within a society and the historical context behind the establishment of the institutional status quo. Equivalent to the arguments made by Benda-Beckmann (1981), non-state actors and institutions often have a closer link to the citizens in a legal plural, local area and the state-building success is therefore dependent upon the inclination of these particular institutions. Without engaging with local non-state actors that enjoy authority and legitimacy, the state-building process will likely not succeed in achieving legitimate political interventions (Podder, 2014, pp. 1617-1619).

The success of state-building does not solely rely upon the central state's ability to incorporate and negotiate with non-state actors, but also upon the non-state actors' contribution. Podder (2014) distinguishes between two types of non-state actors: Non-State Armed Groups (NSAGS) and traditional and customary authority. There are differences between the two types of actors' typical area of involvement, but for the sake of the analytical framework for this specific empirical context I will only discuss a few of the areas. NSAGS are, among others, involved with the provision of

security and justice and traditional and customary actors are typically involved with conflict and dispute resolution, mediation and customary settlements (Podder, 2014, p. 1620). When NSAGS are involved with providing welfare and justice, instead of solely providing basic security, they are more likely to commit to a state-building process. For traditional forms of authority, the analysis is more difficult as a common assumption, according to Podder (2014) is that collaborating with traditional leaders is essential for state-building. However, Podder argues that there are several potential downfalls with this as the traditional authority often is divided along ethnic ties, which means including one authority can mean excluding another. Neither of the two forms of authority possess an embedded sense of legitimacy, but must equal to any other type of institution earn and protect it. Incorporating the non-state institutions in state-building does therefore not necessarily mean that the central state can inherit the legitimacy and authority of the local actors. Similar to Lund's (2016) argument of providing rights, Podder (2014), perceiving legitimacy as processual, also argues that the legitimacy only persists as long as the institutions are capable of providing benefits and are accountable appropriate to local norms. The outcome of cooperating with non-state institutions is in summary not equal to a successful state-building process if the legitimacy of the political authority does not follow. The transitional institutions need equivalently to legitimise their authority within the institutional competition (Podder, 2014, pp. 1621-1624+1628-1630).

2.4. Operationalisation

The concepts and theories discussed in this chapter are relevant to incorporate in an analysis of the legitimacy of the state-building process in Karen State.

Building on Merry (1988), Tamanaha (2008) and Lund (2006; 2016), it is necessary to take the historical and cultural context into consideration when analysing a legally plural setting. Further, in order to understand the existence of multiple authorities, Tamanaha (2008), Helmke and Levitsky (2004) and Galanter (1981) argue, that it is necessary to look at everyday interactions between people within a society, including the interaction between competing institutions, their narrative and the rights they provide.

As Lund (2016) argues, rights are connected to the development of authority, and in extension authority has an impact on state-building. The judicial system can be seen as a proxy for a state and researching dispute resolution in- and outside the courts offer an insight in which institutions' rules

and norms cast a 'shadow' that regulate citizens' behaviour. This provides an understanding of the states' ability to communicate their rules and norms.

Galanter (1981) argues for various methodological steps to take in order to explore legal pluralism. He argues for an examination of the locality where legal plural systems exist, how they have emerged, how official courts and non-state judicial systems act and how the two relate to each other. Further, how the judicial systems work, what are the costs associated with them, their legitimacy and how do they manage to articulate rules and norms and control behaviour outside the courts (Galanter, 1981, p. 31). This point is shared by Lund (2006; 2016), who argues that non-state institutions are dependent upon the state and their relationship to the state. Furthermore, studying the change of institutions and their authority needs to be done within a historical context, preferably in times of rupture; colonialization, conflict, expansion or fall of a governance systems etc. where competing institutions can evolve.

The theories therefore lead to specific questions in order to analyse and understand the empirical context in Karen State, where there exist multiple parallel institutions:

- What is the cultural and historical context in which institutional pluralism has developed in Karen State, Myanmar?
- In which forums are disputes resolved in Karen State and which judicial system regulates the behaviour through the communication of rules and norms?
- How is the central state articulated in everyday interactions and which institutions provide the citizens with rights?

The next chapter will discuss which methodologies are necessary to apply in order to obtain the relevant information, derived around the theoretically guided questions.

3. Methodology

This chapter will present the methodological considerations for answering the research question. The methodological choices are made based upon the discussed theories in chapter two as several of the theories provide methodological considerations for studying the research field.

The chapter begins with an argumentation for the use of qualitative methodology in relation to the research area, including a discussion of performing a case study. Additionally, it provides a description of the collection of data in Myanmar and discusses the interview situations, the interview guides, the use of field assistants and translation from Burmese, Ploung Karen and Sgaw Karen to English. The chapter briefly outlines the use of quantitative methodology, here a survey and its relevance for the research area and finally discusses limitations in relation to methodological choices.

3.1. Qualitative Methods and the Case Study

In order to answer the research question the thesis uses a mixed-method approach, but primarily builds on a variation of qualitative methods that is complimented by quantitative data obtained through a survey.

The methods utilised include an extensive literature review that was produced prior to initiating the thesis, that assessed literature on Myanmar, ethnic armed actors in both international and Myanmar perspective and theories primarily on state-building and legal pluralism. The literature review guided the theoretical framework for the thesis and in extension the methodological choices. Consequently, the thesis primarily uses a qualitative case study and fieldwork that includes a large range of semi-structured interviews along with participant observation and case tracing. There is only a limited amount of documented research on the topic in Myanmar due to many years of isolation and restricted access and it is therefore necessary to conduct qualitative research in order to answer the research question and gain in-depth knowledge on the topic. I have conducted a case study that takes point of departure in research performed in the period August 15, 2016 to January 15, 2017 during an internship in Myanmar under the research project EverJust, coordinated by Danish Institute for International Studies and Enlightened Myanmar Research Foundation.

The EverJust research project is primarily a qualitative case study on access to justice and security provision in three different areas in Myanmar; Yangon Region, Mon State and Karen State. The

EverJust project's main research question is: *Given the condition of contested statehood in Myanmar, how, and by whom, are everyday justice and security provided, and upon which sources of legitimacy and networks do the providers draw to produce authority?*

The objective for my participation was to focus on a specific area under the larger research project, and the main focus of the Master's Thesis is the Karen State as a case study. During my internship, I had the opportunity to take part in the research conducted in Karen State, which has supplied me with valuable insight from this area. The case study in Karen State covers two different areas; one government-controlled area a small village one hour from the state capital Hpa An (marked with a star) and one EAO-controlled village in the north of the state governed by the KNU (marked with a circle). The areas are a part of the EverJust project's research areas and have been selected based on accessibility and the security situation in 2015 and 2016.

Map 2 Myanmar and Karen State (d-maps.com, 2017)

The case study of Karen State, hereunder the two different case study areas, are chosen in order to compare the Myanmar government's institutions' authority and legitimacy in various areas in Karen State, with competing non-state institutions. The two case areas are typical cases and are selected based upon their expected level of information, as a strategy to gain comprehensive, in-depth knowledge about the Karen people's relationship with state and non-state institutions and the authority of the local institutions (Flyvbjerg, 2012, pp. 473-476; Flyvbjerg, 1988, p. 1). The research in the two localities in Karen examine justice and security provision locally through extensive

interviews, participant observation and case-tracing. The perception of justice and security and of the local legitimate authorities have been examined through an extensive fieldwork from 2015-2017, whereas I have participated in a six-month period in the end of 2016. The Master's Thesis therefore draws upon both knowledge gained prior to my arrival in Myanmar in August 2016, and on information that I have obtained through conducting fieldwork during my stay. The fieldwork has specifically looked at individual person's dispute resolution processes, their preference for and access to various legal stakeholders. Furthermore, the fieldwork has been focused around the articulation of the central state in the case areas and on the local history. This means that the case study has been focused on legal processes in relation to conflicts and dispute resolution in a legal plural setting. According to the theoretical framework, political authority and legitimacy is developed through the provision of rights and as rights are secured through the judicial system, the case study thus demonstrates of the authority of the local institutions and makes it possible to analyse institutional competition and authority and discuss how Myanmar state-building process builds authority and legitimacy in Karen State (Lund, 2014, p. 225).

In the following section I will present the methodology behind the fieldwork, hereunder the choice of informants, the interview situations, transcription of the interviews and a reflection of the methodological approach.

3.2. The fieldwork methodology

The fieldwork consisted of a variation of information gathering techniques: semi-structured interviews, stakeholder mapping, case-tracing, document analysis and participant observation and the research is therefore characterised by triangulation in order to be able to verify evidence from multiple sources. In this section I will primarily outline the interview methods, including stakeholder mapping, case-tracing, translation and transcription.

Qualitative interviews

The thesis' empirical data primarily consists of knowledge obtained during the fieldwork in Karen State and comprises of large number of interviews conducted in the period 2015-2017 with a range of stakeholders and individuals from the case areas. The research team and I had a range of elite interviews with local leaders and judges on different levels and narrative interviews with local people combined with conceptual interview to examine people's perception of justice and security. We have further had a few spontaneous focus group interviews when the opportunity arose. Both the elite,

narrative and focus group interviews were characterised by a semi-structure in order to be open to new information, create natural conversations that allows for many follow-up questions and for the conversation to contribute with further knowledge and understanding. There were various interview guides developed by the EverJust project to be followed for the various types of interviewees; justice providers (judges, household leaders, ward/village administrators, etc.), security providers (fire brigade, police, ward leaders, armed groups, etc.) and ordinary citizens, including victims and perpetrators. (See Appendix A) The interview guides build largely on a theoretical foundation from the literature on legal pluralism and were important as we were several people in the research group performing interviews and the guides assured some level of structure to assist with the later comparativeness and analysis (Kvale & Brinkmann, 2009, pp. 151-152). The interview questions are characterised by a low level of abstractness and a high number of questions relating directly to the interview person's own experiences and opinions. The questions directed to the interviewees were a sub-section of questions needed to answer larger and more abstract research question. As an example, one of the research questions in the interview guides was developed for justice providers; "What Norms and Procedures do the justice providers apply?" But the actual questions asked in order to answer this were of a simpler character and did not contain a high amount of abstract terms.

However, some the interview questions contained the concepts "justice" and "security" as the interviewees perception of these concepts were important for the overall understanding of the relationship between the local citizens and the various institutions providing these (Kvale & Brinkmann, 2009, pp. 171-173).

The choice of case villages in Karen State, relied on the security situation and permission from various stakeholders in the different areas. Gaining permission to visit and perform research in the villages was often a long process that required many phone calls to a large variation of people. This was the case for both EAO-controlled and government-controlled areas. Some people served as gate-keepers, and through them we gained access to areas and interviewees, otherwise not accessible to us. These stakeholders typically held different administrative or justice positions within their local communities which were among others judges, VAs, ward administrators etc.

In the villages, we initiated each of our stays with interviewing or paying a curtesy visit to the VA, village tract leader or ward administrator in order to reassure that our presence was acknowledged and that we could continue our research. These initial elite interviews helped us map out important stakeholders in the area and gain a fundamental impression of the institutional structures of the

specific village or ward. The elite interviews normally took place at the specific interviewee's office or at another official location in the area. Few times they took place privately, but it was up to the interviewee to choose the location they found most natural and comfortable. The narrative interviews however almost always took place in the interviewees private home. This was primarily out of convenience and comfortability for the interview person as the interviews often had a private character. It was important for me and the rest of the research team to create interview situations that were private to create the best possible environment for open and honest interviews.

Picture 1: Local street vendor selling sticky rice and vegetables around Hlaing Kone.

Picture 2: Villager during a narrative interview outside her house in Hlaing Kone.

To motivate trust between the interviewees and the research team, there were typically 1-3 from the research team present and each interview started with an introduction of the research and of the team. During the briefing, we informed the interviewees about confidentiality and anonymity as many people often were concerned about any of their information being handed to over to government officials or local authorities. Throughout the interviews, some of the interviewees would get nervous

about the character of their answers and we would have to reassure them of the purpose of the research. Creating safe and trustworthy connections to our interviewees were therefore of great importance for the quality of the interviews (Kvale & Brinkmann, 2009, pp. 148-150).

Equal to the elite interviews, the narrative and focus group interviews included stakeholder mapping in order to gain insights in the institutional landscape in the respective area and people's possible varying understandings of this.

We further made use of case-tracing during our fieldwork. When coming across information and stories about various cases happening in the area we would try to follow up with the people involved in the case. The cases included theft, rape, violence, humiliation etc. and when possible we would interview both perpetrator and victim and get information about which steps, if any, the parties had taken in order to solve the case. If any institutions mediating parties had been involved, we would also attempt to interview justice providers that had helped with the case.

Through tracing the various cases, we often gained a great understanding of and insights into how cases get solved in the case areas and in the difference between what people claim to do and what they actually do. The case tracing therefore improved the quality of the interviews and empirical data. Participant observation further complimented the interviews significantly. The interview notes contain many observations including peoples' living conditions, reactions to the questions, structure of the case area, hereunder the location of important buildings, e.g. ward office. In some instances, participants from the research teams had the opportunity to sit in the ward or village office and observe when villagers approached the village administrator (VA) or ward administrator and villagers' interaction with local leaders contained a lot of valuable information. As an example, leaders would regularly not inform us about norms for corruption or "thank you money" as it was typically referred. Furthermore, some villagers would not necessarily perceive or articulate it as corruption and therefore would not inform us about it during the interviews, but in praxis we could observe or hear rumours about such interactions in many of the EverJust project locations. The observations and the field notes were of great importance, as they contained information not available through the interviews. They were further especially important for the understanding the transcripts of interviews performed by others from the research team (Raudaskoski, 2010, pp. 82-86).

In summary, many methods were utilised during the fieldwork in order to get nuanced, validated and reliable empirical data.

Translation and transcription

The interviews were performed in the interviewees main language in order for the person to be comfortable with the situation. Only very few people in the case areas spoke English, and no one at a sufficient level to perform interviews. The main languages in the two case areas were Burmese, Ploung Karen and Sgaw Karen. None

Picture 3: Interviewing a VERP with a translator in Hlaing Kone.

of the languages were similar which had impacts on the translation. The interview guides were primarily developed in English and Burmese and then had to be translated to Sgaw and Ploung Karen subsequently. Some terms and concepts in English might not exist in one or more of the other languages which made the translation process challenging. During the fieldtrips in Karen State we would hire translators for translating into Sgaw or Ploung. Ideally, we would use the same translators for each trip but this was not always possible. There was therefore a need for preparation and briefing of the translator, including going through the interview guides and making sure that the concepts used in the interview guide were understood by the translator. When the interviewees spoke fluent Burmese, we were able to use our own research assistants, but often this was not the case.

The EverJust project had prior to my arrival in Myanmar made a decision not to tape any interviews but to write thorough notes throughout the interviews instead. This was due to scepticism from the informants towards this. As mentioned earlier, some interviewees needed reassurance that we would not redistribute their information to any government officials. The quality of the interviews and the amount of information gathered from not recording them was higher than if we would record them. It was possible to write thorough notes during the interviews as there were relatively long sessions were the interpreter would translate questions and get the answers. In order to avoid losing important knowledge in the translation I would reassure that my understanding of the answer was correct. I would furthermore have a follow-up session with the translator after the interviews and go over the information. By doing this the interpreter was able to correct any miscommunication and add on

information if anything was missing or incomplete. I would ask the interpreter to write his or her own notes during the interviews, as a further measure to get complete material. The debriefing with the interpreter also often gave me insights into cultural understandings and customs going beyond what was possible to ask during the interviews. As an example from the case village outside the capital of Karen, magic and black magic was well-used and the interviewee would frequently refer to such acts as if they were truisms not even worth elaborating on. Sometimes it was possible for me to ask follow up questions when it happened, but other times I assessed it as inappropriate or disruptive to the interview process and would not ask them to explain. This was only possible because our translators were familiar with local customs so that I could ask follow-up questions about cultural acts that I did not fully understand from the interviews (Kvale & Brinkmann, 2009, pp. 164-165; Hastrup, 2010, pp. 63-67).

The full transcription of the interviews, to a large extent, took place same evenings as the interviews had taken place, or at least the following days in order to secure the highest level of information from the interviews. When we were several people from the research group present at the interviews one of us would write the full transcription, and hand it to the others for them to add information or discuss any misinterpretations.

Coding

The notes on the two research sites have accumulated to encompassing more than 400 pages of interviews and observations. Prior to the analysis, it has been necessary to code the notes in order to create an overview of data, recurrences of cases, detect descriptions of processes and institutions etc. In order to code the large dataset, I have used the software program NVivo, that assists coding of various types of data. The program allowed me to code the two locations individually and combined and it assisted the creation of an overview of case types, procedures and institutions involved in case solving and negotiation.

Initial coding was conducted searching for "cases" in the dataset. When getting an overview of the various types of cases these have been coded in the following terms: adultery, alcohol related, divorce, domestic violence, sexual assault/rape, pre-marital sex, drugs, witchcraft, theft, public nuisance, fighting, quarrelling, inheritance disputes, murder.

The program allows one to search for various words simultaneously, meaning that I as an example could search for witchcraft, black magic, magic, 'lower level[7]', spiritual and witch at the same time, making sure I would detect all cases that belong in the category.

Some of the case codes have been combined with each other when it became evident that the terms were used interchangeable, e.g. pre-marital sex and rape were put in the same category as many would refer to pre-marital sex as rape. The same became evident for public nuisance, quarrelling and fighting, which were not possible to distinguish from each other.

The data was further coded the various case example and discussions in justice provider and facilitator categories and identified the occurrence of various state and non-state institutions, hereunder KNU, BGF, DKBA, astrologers, religious justice providers etc.

Quantitative survey

During the internship, we developed a questionnaire in order to test some of the preliminary findings from the qualitative findings of the EverJust project. The survey was conducted in October 2016 in the same areas as the qualitative studies were carried out and included 602 answers from various religious and ethnic groups as well as both men and women. The Master's Thesis incorporates results from the survey to some extent in order to quantify the most dominant conflicts and cases within the case areas, outline the most frequent use of institutions and conflict resolutions actors.

The survey was carried out in two ethnic states; Karen and Mon and in one urban quarter in Yangon. The EverJust project researched access to justice and security within these two locations. The Master's Thesis includes the demographic findings from all locations in order to gain insight into the respondent's backgrounds. The thesis additionally focuses on relevant findings from Karen State isolated where it is deemed relevant.

---

[7] 'Lower level' is a term used to describe the sort of magic used. In Myanmar magic and other spiritual rituals are often categorized as 'upper level' and 'lower level', where the lower level is a sort of black magic used to create negative consequences. Upper level spiritual rituals are used for positive results, e.g. heal an ill person, assist in getting better exam results, etc.

Limitations of the methodological approach

In this section I will outline some of the limitations in relation to the methodological approach and the Master's Thesis.

The thesis builds upon an extensive research in Myanmar conducted over a longer timespan than the six-month period I spent in the country. The fieldwork, conducted interviews, etc., provide substantial in-depth knowledge on the area of legal pluralism in Karen State, however, it must be recognised that the research area is significantly more complex than what is possible to analyse in this thesis. This both relates to the limited time I spent in the country, and also to the fact, that legal pluralism takes many forms and it is only possible to illuminate parts of it and its consequences for the legitimacy of the Myanmar state-building and formal institutions.

As mentioned in the previous sections, our access to the villages, especially in the north, was determined by gatekeepers who were simultaneously people in central positions. This established confidence between the local informants and the research team, as there was someone in higher positions who referred us. But at the same time, I argue, that this created a biased position for the research team and me, however, such a bias is almost impossible to eliminate when doing fieldwork in an area not accessible for anyone. As the scepticism towards the research was high in some areas due to years of conflict with the government and the fear that the research team were government informants, the gatekeepers were an important asset for us along with the translators who could explain our presence to locals who had questions.

There are some limitations in relation to the internal validity of the data produced as the interviews were not recorded and fully transcribed, which consequently implies that some information could have been lost or misunderstood. Further, that the interviews were not all performed by me, why I miss out on important observations of body language and interview setting that could have an impact on my understanding of some interview answers. There are of course several steps that has been taken in order to strengthen the validity of the results, some of which were mentioned in previous sections. The research group recorded as many observations as possible, took pictures, went over interviews several times, etc., which increased the validity significantly.

The reliability of the conducted methodology is on the other hand high, as there has been a high level of triangulation in order to strengthen exactly this.

This chapter has presented some of methodologies applied, derived from the theoretical framework.

The next chapter will outline the historical context in which the plural institutional landscape in Karen State has developed.

4. The Karen

This chapter introduces the historical background of the Karen people and Karen State and takes point of departure in the empirical working question derived from the theoretical framework *What is the cultural and historical context in which institutional pluralism has developed in Karen State, Myanmar?*

The chapter is divided in three parts; the first section outlines the historical context of the Karen, the second section outlines of the current situation in the area, including a presentation of some of the parallel institutions that have been created. The final section presents the two case sites: Tayar Lu and Hlaing Kone.

4.1. Historical context: Who are the Karen?

Although ethnicities have existed in Myanmar before colonial times. The colonial era in the country marked the official classification of ethnicities based upon racial, religious and cultural differences and the division into official ethnicities entailed a mapping and territorialisation by the British in 1826. Ethnicity became highly politicised after this period due to a classification of the majority Burmese and minority ethnic groups, and further of the Buddhist and non-Buddhist, here especially Christians. The British further divided the country into a low-land ministerial Burma and secluded, high-land areas out the reach of direct control. This meant that the ethnic groups in secluded areas lost out on influence as they were excluded from the political and administrative centre, while at the same time being under direct control by the British. The exclusion and derogative denomination of the ethnic groups as being secluded hill tribes suggested that the non-Burmese were less sophisticated than the Burmese, but this merely created an initiative for some of the ethnic groups to claim a level of autonomy within the colonially decided ethnic states and the British further reinforced this idea leading up to the Panglong Conference in 1947. The ethnic Karen were without a mandate in the Panglong Conference, but still expected to gain autonomy. The terms and specificities of autonomy following the creation of a federal state were never agreed upon and after full independence and the

establishment of a new constitution the ethnic states did not receive the autonomy they were anticipating which further fuelled ethnic divides and dissatisfaction (Gravers, 2007, pp. 9-19).

Pre-independence Karen history and the opposition of a union

Many Karen converted into Christianity due to the American missionaries' presence during the British colonial rule and a wish to differentiate themselves from the 'oppressive' Buddhist Burmese. Religion became an additional reason for division between the Karen and primarily Buddhist Burmese and Christianity held the key for many Karen to gain access to economic and social benefits that they were otherwise excluded from living mainly in the Eastern hills of the country. The Christian Karen managed to tie ties with the British rulers and the American missionaries and were loyal towards the British in exchange for more power and the promise of eventual autonomy (Harriden, 2002, pp. 88-92).

In 1881, the Karen National Association (KNA) was created with the purpose of uniting the various Karen fractions despite of religious, cultural or linguistic differences. There are varying statements on how many sub-groups the Karen consists of, but the numbers range between 10 and 20. The largest are the Sgaw and Ploung Karen that speak very different languages. Not all Karen were equally positive toward the Christian converts and the Ploung were not as willing to convert as the Sgaw. Large parts of the Karen were animists prior to being either Buddhist or Christian and the animist traditions persists today in many areas of Karen State. Although KNA main purpose was un-religious and to work towards a common identity of the Karen and possible sovereign state, it was supported by the American missionaries and the leaders were consequently primarily Christian. The KNA became powerful and gained political influence in the British administrative system (Harriden, 2002, pp. 97-98; Gravers, 2014, pp. 178-182). In the 1920s the Burmese national movement grew stronger and collaborated with the British colonial powers towards gaining more self-government in the country. This lead to greater differences between the Burmese and the Karen and to a new fear by the Karen that their language and culture would be overlooked and that they would not gain autonomy or power in a system dominated by the Burmese. During the second world war, the Karen fought on the side of the British against the Japanese and Burmese, leading to larger differences between the ethnic groups in the country. The KNA was weakened in the period and there were many discussions within the Karen political leaders inspired by the Western ideals of a nation state. Within the various Karen groups, the fractions became clearer as some Buddhist Karen identified more with the Burmese than the KNA, and the Buddhist Ploung Karen for example were further not unquestionable for the

KNA as a Karen national movement. The KNA did not manage to reclaim their power and in 1947 Karen National Union (KNU) was formed, a more militant organisation replacing the KNA.

Independence and the post-1948 Karen movement

The KNU were strongly against any integration with Burma and articulated a wish for an independent Karen State, called Kawthoolay, which they expected the British to support (Seekins, 2006, pp. 27-29+241-242) Kawthoolay included todays Karen State, areas further west of the current border and areas in the delta region of the country, where many Karen also reside. Instead the British cooperated with the Burmese, led by general Aung San, the current leader of Myanmar's father. Many ethnic groups and the British believed that Aung San would be the only person capable of unifying the country into a union and overcome conflicts after gaining independence from the British. The Karen were once again not a unity when discussing the possibilities for the future. Large parts of the Buddhist Karen wanted to negotiate with Aung San and end conflicts while the Christian Karen predominantly pushed for Kawthoolay. KNU gained a growing support within the Karen populations within their first years, especially as it became apparent that the different ethnic groups would gain varying levels of autonomy within Aung San's union, and the Karen did not live up to the requirements for autonomy; shared language, religion and culture. Consequently, the KNU refused to recognise any political agreement made with the Burmese and after the independence in 1948, a civil war broke out between the Karen and Burmese, lasting until today. Due to the civil war, the Burmese institutions were not able to manifest in large areas of Karen State and KNU set up alternatives to the Burmese government in the hilly regions (Harriden, 2002, pp. 103-111; Seekins, 2006, pp. 27-29). The KNU succeeded in declaring a northern part of the current Karen State KNU-controlled, fuelling the wish for and believe in an independent sovereign Karen State. From there the KNU were able to gather in political conferences and in 1950 make four primary goals of the Karen Revolution: no surrender, full recognition of the state of Karen, maintain their arms and self-determination of their political destiny (Harriden, 2002, pp. 113-114). The Burmese government, in an attempt to weaken the Karen movement established territorial boundaries of the Karen State in 1951 that only incorporated a quarter of the total Karen population and gave the Karen an ultimatum of choosing between the Burmese government and enjoy protection under a minority status or Karen State and not enjoy any benefits from the central government. This statement further separated the Karen and Burmese people as the Karen feared that cooperating with the Burmese would mean cultural, lingual and ethnical dissolution into a centralised, Burmese common identity. With the military coup in 1962 where Ne Win seized power, he additionally increased the country's ethnic

conflicts and unrests as he abolished a multi-party political system placed to secure ethnic rights, and turned the government into a single-party system whose goal was to eliminate ethnic conflicts and unify the country under one common identity, language and religion. Ne Win further isolated the country from international political and economic influence and led the country into strong poverty and many internal wars. However, the country's worsening situation in all parts, led many Karen living in other parts of the country to join the Karen insurgency groups in Karen State and ultimately bringing together larger parts of the Karen. Further, due to Karen State's geographical position bordering Thailand the KNU, hereunder the military division Karen National Liberation Army (KNLA), especially succeeded in benefitting from the country's stagnating economic situation by controlling large parts of the black market, trading with particularly Thailand and thereby strengthening their political, military and economic situation (Harriden, 2002, pp. 117-120). In the early 1980s KNU were a strong force, but Ne Win launched a major offensive, following the 'Four Cuts Strategy' on especially the Karen in 1983-84 in order to hurt them both financially, politically and militarily. The attack caused a large outflow of refugees fleeing into Thailand and the KNUs previously strong military defence and tactics changed into guerrilla war. Simultaneously the Tatmadaw intensified their use of human mine sweepers and porters that they kidnapped among the ethnic groups. Ne Win's aggressive strategies towards the ethnic opposition groups and his political and economic politics led many other ethnic groups than the Karen to flee the country and the frustration to grow bigger. The ethnic Burmese also suffered under Ne Win's politics and in 1988, the country experienced an important large student rise against Ne Win and his government lasting several months resulting in mass slaughters of many opposing critiques. Aung San Suu Kyi, daughter of general Aung San and a national independence hero among most ethnic groups, founds the opposing party National League for Democracy (NLD) and initiates "the second struggle for independence". Many of the Karen living in the delta region and other anti-Ne Win activists fled into Karen State to seek refuge and to join the fight against the violent, oppressive ruling of the country. The uprising that was strongly fought back gave life to a new movement of anti-government struggles in Karen State and Ne Win ultimately replaced his government with a new army government, under a new name but with few positive changes (Seekins, 2006, pp. 39-42). In Karen State, institutional structures were well functioning, however the idea of Kawthoolay including the delta region was weakening. Instead the KNU leaders focused on the eastern hills of Myanmar, the current Karen State, where the KNU administrative centre was. The KNU e.g. managed a taxation systems financing schools, hospitals, etc. and, very importantly, the KNLA. However, the Buddhist Karen felt

misrepresented in the Christian dominated KNU system and the Karen split into a Christian and a Buddhist fraction in 1994. Large parts of the Buddhist Karen were further willing to renegotiate with the Burmese government in order to secure peace. The Christian Karen were still not willing to do this, and large parts of the Buddhist fighters in KNLA mutinied against the Christian leaders, established Democratic Karen Buddhist Organisation and Army (DKBO/DKBA) and entered into a ceasefire with the Tatmadaw. The DKBA further supported Tatmadaw in taking over the KNU headquarter in 1995, reducing KNU-controlled territory significantly. The DKBA became an important ally to the military regime for many years. However, the DKBA also split in two parts as the regime forced many of the DKBA brigades to join forces with the government's Border Guard Forces (BGF) and ultimately integrate fully into the Burmese military. Some brigades rejected the integration as they would lose independence and instead changed the name to Democratic Karen Benevolent Army (DKBA), maintaining authority while simultaneously differentiating themselves from the previous DKBA (Gravers, 2014, pp. 187-190; Harriden, 2002, pp. 128-130).

4.2. The current Karen State and judiciary structure

As outlined in the previous sections Karen State have experienced a high level of conflict both internally and with the various central rulers throughout time. Besides the internal splits outlined here, the Karen and especially KNU has had several more smaller splits into other smaller groupings. The KNU however, manage to still have a significant role in Karen State, including managing the KNLA, the various institutions and negotiating with the government for a lasting peace agreement. Karen State has been a zone of armed conflict for more than 60 years and many of the Karen are fatigued by the long struggle. KNU-controlled areas have decreased in Karen State, and more areas are now either controlled by the government or are mixed-controlled/contested areas. In the government and contested areas, the institutional structures are typically legally plural, having both state institutions and KNU institutions. In KNU-controlled areas the Myanmar state typically does not have their institutions represented or the government institutions are weak and primarily present pro forma. Karen State is administratively divided by the KNU in 7 districts corresponding to the 7 KNLA brigades, being strongest in the mountainous areas. The districts, besides encompassing the government defined Karen State, includes some areas in the bordering areas of Bago Region, Mon State and Tanintharyi Region. Following nearly 70 years of armed conflict, the KNU signed their first ceasefire agreement with the central government and Tatmadaw in 2012, and a nationwide

ceasefire agreement (NCA) in 2015. The agreements do however not entail a description of the territorial or judiciary boundaries, and therefore does not overcome mixed-controlled area disputes which, including other factors, make the agreements fragile. Due to improved relations with the DKBA and the ceasefire agreements, KNU have managed to expand or reinstate their governance systems in areas where they have previously been weak or not present. Consequently, the KNU have strengthened their political position and administrative system as their deliverance of services, including security and justice has been re-established. In extension, the DKBA maintains a strong security role in areas of Karen State as their military is stronger than KNLA, but they do not have a strong administrative system and therefore largely accept the KNU's deliverance of various services (Jolliffe, 2015b, pp. vii-ix+45-50; McCartan & Jolliffe, 2016, pp. 1-3+14-19).

Every KNU district is divided into minor administrative townships, which are further divided into village tracts. The administrative system is in short three-fold, which further goes for the KNU justice system. The KNU justice system encompasses a police force and prisons, a justice department and judges on various levels of the administrative system. The KNU judge cases based upon three different laws; criminal, civil and witchcraft. Criminal law includes, among others, violence, rape and murder, civil law includes adultery, divorce, debt cases, etc., and witchcraft law includes cases where black magic or spells have been involved. The central level KNU have the laws in written form, but the local level justice systems do not necessarily have the books, but judge based upon a mixture of customary practices, experience and knowledge of the KNU law. The KNU have official court buildings, but many are rarely used due to long distances between dispute-villages and the actual court. Many of KNU's official buildings are placed in mountainous jungle areas because of the long history of conflict with the Tatmadaw. In the jungle and mountains, it is difficult for the Tatmadaw to find or attack the official buildings. Since the ceasefire in 2012 and more peaceful times, it is not as critical anymore to place buildings in the jungle. The various judges often set up mobile courts in villages and towns where they are judging a case, instead of asking people to travel to the official courts (KNU Township Judge, 11/01/2017; McCartan & Jolliffe, 2016, pp. 19-20). The judges work close together with the Karen National Police Force (KNPF) when working on cases at different levels. The police investigate and gather evidence in most cases, even in relation to divorce cases where the justice system gets involved. In some instances, the police are not able to gather evidence, either because of long distances from the nearest police post to the case area, or due to low amounts of police staff. In such instances, the police can cooperate with the local military post and ask them to gather evidence and investigate (KNU Township Judge, 11/01/2017). The KNU Justice

Department is responsible for training of judges and other staff working on legal issues, making, changing and communicating laws, and offer consultancy on case decisions if necessary. The various courts exist on township level, district level and supreme court level. However, at the village level, local leaders are given authority to solve and judge minor cases; public nuisance, domestic violence, drinking etc. The local leaders are typically village elder respected persons (VERP), the village chairman, representatives from Karen Women Organisation (KWO) or monks, the latter in especially Buddhist dominated villages. If a case cannot be solved locally, by the lowest level, the VAs need to involve leaders on a higher level, e.g. village tract level that will then refer the case to the township court for resolution. If the case is too extensive for the township to deal with, they will further refer the case to the district level courts that can also refer the case to the KNU supreme court. However, in most cases, disputes are solved at either village or township level. Some cases, for example adultery is one of the most serious crimes in the KNU justice system. Adultery releases a 7-year prison sentence and is supposed to be tackled at district level. The township has authority to give sentences up to 3 years, the district level 3-7 years and the supreme court can sentence whatever they find suitable. The district level frequently refers cases back to the township court and gives them authority to handle cases on their behalf. The KNU judiciary system is dominated by a hierarchical structure, but with room for much flexibility among the different levels (McCartan & Jolliffe, 2016, pp. 19-22; KNU Township Judge, 11/01/2017; KWO chairwoman, 09/01-2017).

In the spring 2017, there has been a Panglong 2.0 conference and discussions on the NCA, as it is not likely to last when there are only 8 signatories of the agreement. The 21st century Panglong conference held in late May 2017, was arranged to discuss the future of the political landscape in the Myanmar Union, the terms and rights for the ethnic groups and a potential future federal system. Although the KNU were not satisfied with the outcome of the conference, they signed various agreements on the political, social and land and natural resource sector, in the end of the conference as they do not believe the democratic union would survive without some promises between the many groups in the country. Many other ethnic groups throughout the country refused to participate in conference and sign any agreements, still making the NCA and the future political developments fragile. The KNU is however motivated to create lasting peace, but under which terms remain unclear (S.H.A.N, 2017; Zin Win, 2017).

4.3. Case sites

The following section will outline the two research sites: Tayar Lu and Hlaing Kone[8] and describe the size of the locations, the dominant religions and ethnicities, the local leaders etc.

Tayar Lu

Tayar Lu is officially located in the Bago region, but as explained earlier, the exact territories of KNU and the Myanmar state are not well-defined, and the village is according to the KNU under their rule. However, the village have a VA who is under the Myanmar government and officially reports to them. The leader is an elected villager, and the person often does not wish to become the VA as most villagers identify with and supports KNU and their rules. There is a dual village leadership in Tayar Lu. The Myanmar government VA deals with issues regarding the Myanmar government, and the KNU VA deals with mainly the village affairs and sends cases to the KNU courts. Officially, the lowest level of the Myanmar bureaucracy is the village the village level, where historically local VAs have played a significant role in village matters and both the KNU and Myanmar governments use local VAs in everyday local administrative roles, dispute resolution etc. (Kyed, et al., 2016, pp. 2-3) (Kempel, 2016)

De facto the village is primarily following KNU law and local customs and traditions. This is also due to the fact that the Myanmar government institutions are perceived as being slower than the KNU system. According to the district chairman some people prefer to go to the Myanmar courts if they want to win their cases unfairly using bribes etc. which accordingly is not possible in the KNU courts. The KNU district headquarter, including KNLA, a prison and KNU administration is located a 3-hour drive and 1 day walk away in the mountainous jungle, but as mentioned previously, the KNU institutions are mobile and the judges come to the relevant locations when needed. In Tayar Lu, the VERPs and the KWO also play a role in everyday dispute resolution. The VERPs often decide candidates for the VA positions and they are sometimes present in the local dispute resolution. The KWO on the other hand are involved directly in the case resolution of cases regarding domestic violence, adultery and alcohol related disputes. The KWO follow guidelines given by the KNU in 2014, although they have authority to interpret the rules a little as they see fit. (KWO Chairwoman, 27/09-2016)

---

[8] The names of the villages are changed for the purpose of anonymising the informants.

There is a Tatmadaw camp in the village tract, despite of the cease-fire agreement between KNU and Tatmadaw, and the area can therefore not be said to be completely under KNU control. Some of the villages in the mountains in the area are under complete KNU control. The KNU district chairman that serves as the gatekeeper for the research in the area, the access point to KNU judges, police etc. in the northern KNU areas insists that the KNU will be articulated as 'KNU government' and differentiated from the Myanmar government.

The village is located 1,5-hour drive from Taungoo city, close to the foot of a mountain and is surrounded by rice fields and jungle. The village used to be a battle area between the government and KNU, but is now not a conflict zone. It is not easily accessible and it is necessary to have a relatively big car or truck to get close to the village, from where one needs to either walk the last kilometres or go by bike. In the rainy season the village is especially difficult to reach as the last many kilometres of road leading to the village are dirt roads that either floods or turn muddy during rain, making it difficult to drive on. According to the village tale the village was founded in 1885, and the main livelihood is farming and fishing. A few years after the establishment of the village, a wooden church was build which is still there today and it holds ceremonies every

Picture 4: Dirt road leading towards Tayar Lu in the dry season.

week for the village's Baptist citizens, who comprise two thirds of the villagers, the rest being Anglican. (KNU District Chairman, 11/05-2016)

Hlaing Kone

Hlaing Kone is situated 1 hour drive out of Hpa An, the main city of Karen State. The village is small, only encompassing around 40 households. In the rainy season the village is difficult to reach as the rivers overflow, turning the low rice fields in the area into large lakes instead, flooding the streets or

turning them into muddy roads. The village is situated close to the bottom of mountains, and is mainly Buddhist Karen, some also maintaining animist traditions.

Contrary to Tayar Lu, Hlaing Kone has only one VA elected by the villagers themselves. However, the current VA was not elected, but appointed by the former, who had himself been holding the position for 7 years.

Hlaing Kone is situated in a government controlled area, but was formerly under KNU control where the villagers paid taxes to KNU in exchange for their support. The village does not pay any taxes to the KNU anymore, but the VA still attends annual KNU meetings.

Picture 5: Hpa An, close to Hlaing Kone in the rainy season.

Hlaing Kone used to be within a "brown area" as categorised by the Myanmar government as it was contested area with multiple EAOs and the Tatmadaw. After the ceasefire, the area changed status into a "white area", which means that it is not contested area, but according to the villagers there are still both DKBA, BGF and Tatmadaw present in the area, but it does not cause trouble (Human Rights Watch, 2016, p. 18)(Aung Min, 15/09-

Picture 6: Hlaing Kone

2016). When visiting the village in September 2016, there were primarily older people and children in the village. Most of the young and middle-aged people have migrated to Thailand for work and send back remittances to the village. Most of the houses in the village are therefor in very good conditions, many newly build and some even in concrete. The former and current VA informed that most people invest the remittances in houses or gold. The village has a newly build primary school that was built based solely on village funds and not supported by the Myanmar government. The VA initiated the collection of money for the building and local Monastery provides the electricity. The teachers for the school are hired by the Myanmar government. The village further builds and repairs

their own roads, also from collections of money from the villagers. According to the villagers there is a strong kinship in the village, where people feel like "brothers and sisters. Although the VA claim that the VA position is chosen based upon election, he and the former VA also explains that the position has been held by the same family for 40 years and that the family is a respected family that even the local witch does not dare to bewitch. According to Myanmar and Karen folktale a village can only be established if there are not seven witches living there. But not all village witches are dangerous and most witches do not even realise that they are witches. In Hlaing Kone there is one dangerous witch according to several of the villagers that bewitches people if she gets jealous of them. This witch has previously been expelled from the village by a former VA, because the villagers suspected her of bewitching some villagers. The villagers initially wanted the DKBA to execute her but due to lack of evidence she was only expelled. She is now old and has moved back to the village again and some people are still afraid of her.

The VA is an upper level spiritual healer and many villagers from Hlaing Kone, neighbouring villages and Hpa An uses him for healing purposes and not for black magic. (VA; Former VA; local villager, 12/09-2016)

5. Findings and analysis

This chapter presents the primary findings from the case studies and analyses these findings based upon the theoretical and historical framework presented previously. The chapter is mainly focused around the working questions: "In what forums are disputes resolved in Karen State and which judicial system regulates the behaviour through the communication of rules and norms?" and "How is the central state articulated in everyday interactions and which institutions provide the citizens with rights?".

The chapter is structured in three sections; the first section outlines the primary disputes, conflict and resolution processes as discovered in the empirical data, hereunder the survey, the second section describes two, for the dataset, typical conflict cases and the third section analyses these cases along with the larger data with a focus on the working questions. The theories on legal pluralism will be utilised in order to analyse the presence of non-governmental legal institutions and their authority.

5.1. Primary disputes, conflicts and resolution processes

This section presents the main conflicts and disputes and people's preferred actions when dealing with these. The section is based upon both the qualitative interviews conducted in Myanmar and the quantitative survey. Appendix B, presents the demographics of the respondents from the quantitative survey conducted in Myanmar in the fall 2016, under the EverJust project. The demographics outline the age, religion, gender, literary and financial and educational background of the survey respondents. As the survey is, among other places, conducted within the same areas as the qualitative case studies, the demographics indicate the interview respondents' socio-economic situation. This information is beneficial for the further analysis, as it gives insight into people's possibilities of paying expenses associated with official case resolution and their ability to understand the Myanmar government's case procedures.

The section outlines most occurring conflicts in the two case areas in Karen State based upon the qualitative study.

Occurring cases
The two case areas reported the following cases during the research. The cases are both recent and previous cases and it is therefore not a complete overview, but the overview serves as a guideline in

regards to which cases each area experience. Some of the recorded cases involved several issues, e.g. alcohol offences are often complimented by domestic abuse or public nuisance.

Table 5.1 Occurring cases in Tayar Lu and Hlaing Kone

	VILLAGE		
		Tayar Lu	Hlaing Kone
	Adultery	15	4
	Alcohol	20	1
	Divorce	2	3
	Domestic violence	7	1
	Drugs	3	0
CASES	Fighting/public nuisance	11	0
	Land case	11	0
	Murder	3	0
	Pre-marital sex / Rape	6	1
	Theft	3	3
	Witchcraft	4	4

5.2. Case examples

This section presents two examples of cases from the two study sites. The examples describe the cases from the victim's perspective, the case procedures and thoughts behind the various actions taken.

Gold theft, domestic violence and witchcraft

Daw Lai Kyi is Buddhist, Animist Ploung Karen and 59 years old. She and her husband are both been born and raised in Hlaing Kone, where they work as farmers and they have 5 children and of which three work in Thailand and send back remittances. Lai Kyi believes that a person's living conditions depend on one's luck and karma. "Lucky people have good businesses and unlucky people don't have success with their businesses. And the luck you have in this life depends on your actions in your past life."

Lai Kyi lost her gold in May 2016 which had severe consequences because she and her husband were not able to finish building the house for their daughter that they were working on.

She had kept her gold hidden in her house, and one day when she wanted to wear the gold for a ceremony, she realised it was missing. She immediately informed her neighbours and the VA but no one had seen or heard anything unusual so the VA said that he could not help her solve the theft. She

was very motivated to solve the case so she went to an astrologer that told her that they should appreciate the theft. The thief had according to the astrologer taken away Lai Kyi's bad luck, which meant that either she or her husband would not die. If the gold had not been stolen their bad luck would have killed one of them. The astrologer explained that the theft happened due to Lai Kyi's past life deeds, but that the gold would eventually come back to her one way or another. But at the time of the interview Lai Kyi has not got any gold back.

Lai Kyi explained that neither the VA nor the VTA could help her with the case because no one had seen the perpetrator.

She did not want to report it to the Myanmar police because she was afraid of what the other villagers would think of her and she worried that they would think she made too big of a case out of the gold theft. Instead she believed the astrologer's explanation and thought it was own fault that the gold got stolen because of her past life deeds.

She eventually went to five different astrologers to get help finding out who the thief was but they were not able to tell her precisely. She further went to one 'upper level' spiritual healer and one 'lower level' spiritual healer. Both of them reconfirmed that her husband or herself would have died if the gold had not been stolen. She asked the lower level spiritual healer to perform black magic to make the thief dangerously sick so that the person would die if he or she did not return the gold. But at the time of the interview no one she knew of had gotten sick or died and no one had returned her gold.

The astrologers and spiritual healers charge money for their services and she spent almost 300.000 MMK (approx. 1400 DKK) on their services, which she finds expensive, especially because none of her actions have gotten her gold back.

Lai Kyi said that the only resolution she was dreaming of was to get the gold back so they could finish the house. She did not want the thief to face any punishment, although she had performed black magic in order to harm the thief.

She felt she had done everything she could in relation to the case, although she has made no official complaint. She also felt that the VA had done everything he could to help her, although he did not do anything. Instead she wants to make a donation to the local monastery and see if that would have any impact on the case and help her get the gold back.

"The police should never get involved in any cases unless its murder. Everything else should be solved within the family or at village level. If a man beats his wife it is her own fault because of her own bad luck due to past life deeds. Those cases should not involve anyone."

During the interview, I asked several times for her to explain why she would not involve the police, but she refused to involve the police in any other case than murder. In her case, involving the police would annul that she had paid off her past life deeds and therefore her bad luck. In case of future theft Lai Kyi explains that she would not involve anyone, not even astrologers or the VA, because it would again be her own fault that it happened. The former VA's wife is a relative of Lai Kyi and explained that the VA did try to investigate the theft by asking the villagers, but that he was not successful. She further explained that the Myanmar police charge money to open a case investigation and that it is often very expensive. Therefore, many people do not want to involve the police, as they cannot afford the costs and she believed this was a further reason for Lai Kyi not to involve them.

Despite losing her gold Lai Kyi believes it is very safe to live in Hlaing Kone "…because everyone is Buddhist and know each other." The only exemption is the local witch who most people are scared of because she curses and possesses people. She explained that when her husband goes out at night and drinks alcohol his mind gets more vulnerable to the witch's power and he can easily get possessed which makes him malicious. When he returns home, he gets angry with her and abuses her physically and verbally. She does not believe that anyone can help her solving the abuse, but instead she wears necklaces and bracelets that are blessed by upper level spiritual healers and attend ceremonies in the rainy season to make her and her husband's spirits stronger. In the rainy season, Karen people believe that the spirit easily gets weak and therefore can more easily get possessed by mean spirits that force them to do or say evil things.

The husband's sister passed away because of the witch's magic. The sister was wealthy and the witch wanted to borrow money, but the sister did not want to lend her money. The witch tried to ask three times but his sister did not give in. The witch got angry and started bewitching her. The sister fell seriously ill and according to the doctor, she had tuberculosis. But the family did not believe it was true. They invited a spirit healer and the healer said that her sister was bewitched by the witch. When the mediator was examining the sister, he found out that it was the village witch who had caused the illness. The sister died in the end, but the family did not have enough evidence to punish the witch.

Land case, alcohol and threats

The Anglican pastor in Tayar Lu is 68 years old, and Sgaw Karen and is not native to this village. He came to the village to become a pastor in 1986, and was placed there by the Anglican church.

In 2014, he experienced a case regarding the land on which the church is built on and the case was finally resolved in 2015. A villager claimed the ownership of the church land, as the man's grandfather had previously owned the land. The grandfather had donated the land to the church, when the church was to be built. The man's father and grandfather were involved in building the church, and the father was pastor at the time. But when the father passed away the son, who is not a pastor, wanted the land back. The pastor and the Anglican church committee informed about the dispute to the village leaders, by sending a letter to the KNU village chairman and to the government VA. The pastor and church committee discussed the dispute with the village leaders and the leaders decided, that the case could not be solved at the village level but should involve someone from a higher level of the KNU. They therefore sent a letter to the local KNU battalion captain. This captain initially said that it was not a big enough case for the KNU to deal with, so the parties should negotiate it themselves. But after two months the captain took action in the case. The captain came to the village to hold a meeting at the church where he asked the claimant if the land was really his or if it had been donated by his diseased father. The perpetrator admitted that it had been donated and the captain concluded that when the land was already donated it could not be taken back and all parties agreed.

The man signed a paper, promising not to reclaim the land again. He paid no fine and got no punishment (which we, however later learned that he did). The pastor explained that they both felt ashamed because the case had gone all the way to the KNU.

One year after at Christmas time there was a party at the church where a group of people were cooking food for the event. The perpetrator came and started beating up the whole cooking group. He was drunk, saying: "this is my land. This church is here because of my father". The pastor did not do anything because the perpetrator was drunk so they just stopped him and forgave him and since his father had been an influential pastor in the village and did many good things so they forgave him.

But one month later the perpetrator came back, once again drunk, and threatened the pastor with a knife, saying that he would kill him. The pastor had to run away, hiding in different houses, and did not dare to return to his own house. The next day the pastor sent a letter to the same KNU battalion leader, who had been at the meeting about the case in the village before. The battalion leader did not act immediately, but after a month, a KNU leader called the village leaders and the church leaders to

come to the mountains. During the one month, the KNU has probably been investigating the case, but this has not been confirmed. The battalion leader did not want to resolve it himself, but send it to the district KNU judge. At the court meeting about 10 people attended from the village, including the pastor, the VERPs, the perpetrator and his wife. The court process only took one day as the court was very informed about the details of the case and the perpetrator got two months in the prison, which was not an actual prison, but a KNLA area where he had to carry water, wood, and cook for the soldiers. The perpetrator also signed a document that he would not repeat the offence again. The case processing did not cost anything for the involved.

Now the perpetrator is back in the village but he does still not speak with the pastor and he does not come to church.

The pastor feels a lot of regret and shame about the case, and considers stepping down as a pastor. He feels that all members of the church should respect the pastor, but the perpetrator did not, which causes him shame. He however feels satisfied with the outcome of the case and with the KNU's support "Because the KNU is the one that governs this country." (Anglican pastor, 14/05-2016)

5.3. Legitimacy and authority of behaviour regulating institutions

This section will analyse the two cases presented above taking point a of departure in the questions derived from the theoretical framework. The first part of the section will primarily focus on the question "In what forums are disputes resolved in Karen State and which judicial system regulate the behaviour through the communication of rules and norms?" incorporating the historical and cultural context as outlined in chapter four *The Karen*.

The second part will primarily focus on answering the question "How is the central state articulated in everyday interactions and which institutions provide the citizens with rights?" also encompassing the historical and cultural setting.

In addition to analysing the two specific cases, other examples from the case sites will be integrated in order to achieve a more complex and comprehensive analysis.

Locally preferred dispute resolution forums

Galanter (1981) argues that disputes are not solely solved within the official court systems but in many different forums and that these forums often are guided by the 'shadow' of the local legitimate legal system. Due to this argument, it is relevant to study the specific case resolution processes, taking point of departure in the two above presented cases. As described in the cases, the dispute resolutions are not solely guided by the local legal systems, but by a range of non-state institutional structures, hereunder culture, religion and costs associated with the formal system.

Feeling of shame

In Hlaing Kone, Lai Kyi was faced with a gold theft that had serious consequences for her and her family as it was the family's saving. Interestingly, she did not bring it to the official legal system in order to get it solved. Instead, she only discussed the case briefly with the VA and when he was not able to solve the case or help her in any way, she approached alternative local institutions in order to seek a resolution to the theft and misfortune. The forum in which she and her family sought resolution was informal and customary and not guided by the Myanmar centralised state system. The case processing that the local VA was able to provide is further not guided by the official judicial system and laws, but instead by customary practices that are taught from previous VA's or the VTA's and is the 'traditional' way of solving disputes according to the present and former VA of the village (VA; Former VA, 12/09-2016).

As described previously Lai Kyi further felt embarrassment about the case and restrained from reporting it to the police due to worries about what other people might think or say about it. This feeling of shame, which was also repeated by other informant in the village, is important for understanding the preference for informal institutions in Hlaing Kone and the forums in which disputes are resolved. Shame holds a restraining effect on people and guides the way in which they think about a dispute and the possible solution hereto. From the overall qualitative study in the case areas and the quantitative survey, the feeling of shame plays a significant role in the everyday lives of the villagers in the two Karen case areas. Inflicting shame upon oneself or on others are perceived as serious, and in some instances people can even bring forward a case to the local leaders for negotiation if they have been a victim of humiliation by someone else. As already mentioned, the official judicial system is not utilised in Hlaing Kone, although the village is situated within a government-controlled area which points to the government institutions being weak or lacking authority in this specific area (Helmke & Levitsky, 2004, pp. 728-730). It is shameful to bring cases forward to a higher-level authority in both case villages. Instead of approaching the formal institutions

for resolution, Lai Kyi and the other villagers prefer the use of substitutive institutions that meet their needs, including astrologers and sorcerers as they do not find the official institutions sufficient for their purpose, either because of high costs associated with using them or because the village have a common negative opinion about using higher authorities. For Lai Kyi's case, the fear of being associated with shameful behaviour or feeling shame directs her actions, as the other villagers will think poorly of her if she did approach the government police for case resolution.

Costs

Price is further being mentioned as another primary reason for not involving the police. Hlaing Kone is, as previously mentioned, a relatively small village which means, that all the villagers are well informed about each other and each other's misfortune. Lai Kyi's gold theft case therefore came up several times during other interviews in the village and most people seemed to have an opinion about the case.

> The woman did not inform the police, because if the police gets involved they would ask for money and it is very expensive to get them to help solve a case. So, everyone will always only inform the VA about a case. The VA on the other hand never asks for money so everyone can go there. The VA is there to help the villagers but he can't solve this case so it just ends there. (Thin Kin, 13/09-2016)

Thin Kin expresses a clear understanding of the official judiciary system as being associated with high costs, including corruption or 'thank you money', which not all people might be able to accommodate. Instead, everyone can approach the VA as there are no costs related with this. Thin Kin is the wife of the former VA in the village and she has a clear belief that no one would approach the Myanmar police when they are faced with a case, but that everyone would prefer to keep the case within the village. This perception, supplemented by Lai Kyi's handling of her gold theft, and other informants' information point to a strong preference for local case resolution. There are several reasons for abstaining from using the official system; the costs associated with it and the overall local perception of using them, which can cause shame. The local rules, norms and religious beliefs are instead the main controller of the behaviour of people in times of disputes, not the Myanmar government's. In order to fully understand this preference for local informal resolution, it is necessary to look at the historical context in which the villagers have developed their narrative of the state. The village have a history of clashes with the Myanmar government, and used to be placed within a disputed area. Previously the village paid taxes to and supported KNU, but even after the government

has managed to defeat KNU and gain majority control in the area, they have however not managed to establish well-functioning and representative institutions in the village. Many years of conflict in Karen State, previous government's attempts to suppress ethnic groups and reduce rights for ethnic minorities, has created a strong Karen national identity where the villagers in Hlaing Kone perceive themselves as not being a part of the common Myanmar identity or a part of the central state's institutions. The institutional competition in the area has been high, and with more than 60 years of conflict, the government's judicial system, remain weak, even in the 'white' areas in Karen State like Hlaing Kone (Harriden, 2002, pp. 103-111). Within the many interviews in the village, people articulate the police as the 'Myanmar police', and the government as the 'Myanmar government' maintaining a separate identity from the Burmese. Although not being an official part of KNU controlled areas, the village is also not portraying themselves as being a part of the government. This is not only the case for the ethnic Karen, but also for local Burmese people that also do not use the formal state institutions.

Religious beliefs

As already mentioned, the VA was not able to resolve Lai Kyi's gold case. Instead Lai Kyi and another woman in village who had also been exposed to a gold theft approached astrologers and spiritual mediators. They were told by the astrologers, independently from each other, that the gold theft happened due to their previous life's misdeeds that they had to pay for in this life. They were both informed, that they were surrounded by misfortune because they had themselves been gold thieves in their earlier lives and that this misfortune could have led to their death or to the death of someone in their family. The gold theft should then be considered lucky as they would now survive. Interestingly they were both informed by the astrologer, that their gold would return to them in the future, but none of them had yet experiences this in September 2016, when I interviewed them. Hlaing Kone is a village guided by the Buddhist ideas of karma and past life deeds. In addition to the notion of 'shame' as discussed above, the villager's religious beliefs also regulate behaviour and is used to obtain alternative resolutions for cases. Several of the villagers explained that one should not wish to officially solve a theft as this would reverse the fortune that comes with having paid of past life misdeeds and they would have to face the risk of dying or having other misfortune happen to them (U Nyunt Tin, 13/09-2016).

In the gold theft case that Lai Kyi experienced, she was not able to use the Myanmar government's institutions for the reasons described above. She however still sought to resolve the case, but in informal institutions, hereunder firstly with the VA that was not able to solve the theft and later with

various astrologers and black sorcerers. Although the formal institutions do not form orders in the village there are therefore still non-state orders present that constitute the forum in which cases are brought forward. Equally to Lai Kyi's actions taken towards her case, the other woman in the village who had her gold stolen, also neglected to engage with the formal institutions but also only involved the VA, astrologers and spiritual mediators. Paradoxically, they both explain that by having lost their gold, they have paid off their misdeeds, but they nevertheless approached astrologers and black sorcerers in order to get back their gold. Further, the use of black sorcery is initiated in order to harm the thief, make him or her sick or kill him or her if the gold is not returned. There is therefore a mismatch between the shared beliefs in the village of having responsibility for your own misfortune and the actions taken when facing misfortune. Furthermore, one of the prevailing arguments against the use of the formal Myanmar institutions are the costs associated with it. Lai Kyi, however, estimates that she has used 300.000 MMK for astrologers and spiritual healers. Relative to the average household income of less than 100.000 MMK a month (see appendix B) this is a high cost. The explanation for not using the official system can therefore not be solely based upon cost, and the explanation must be found somewhere else. I argue, that the trust in the resolution success within the official system is lower than the belief in the informal system. The informal system offers specific explanations for misfortune found within the religious belief system in the village. Superstition guides much behaviour in villages, which can also be exemplified through Lai Kyi's belief in the local witch causing her suffering through her husband's drinking and domestic violence and the husband's sister's death. According to Helmke and Levitsky (2004), the motivation for maintaining trust in informal institutions can be many things, hereunder that a person's or group's objectives are considered more likely to succeed within the informal rather than the formal system. Interestingly, most of the informants in Hlaing Kone informed, that they do not want a perpetrator to be punished in case of theft, violence, humiliation etc., but that they would rather that the perpetrator apologised. In some cases, the informants even explained that they would not want to do anything if they had been faced with a dispute because they believed that they would themselves be responsible for it. In extension to this, the astrologers, who the villagers frequently visit, offer explanations to their misfortune which are useful alternatives when there is no trust in the resolution process of the official system. I therefore argue, that there is a relationship between the use of informal institutions in Hlaing Kone such astrologers and spiritual healers on the one side, and the official institutions on the other. The use of informal institutional forums is being upheld due to the lack of authority of the official institutions, which is further caused by a weak presence of the latter (Helmke & Levitsky, 2004, pp.

728-730). Von Benda-Beckmann (1981) argues that simultaneously with people's opportunity to shop between various forums and institutions that fit their purpose best, the institutions can likewise shop for clients. The informal institutions support their own importance and legitimacy. Building on this argument, the astrologers' explanations to people's misfortune uphold their own relevance and the explanations of earlier life's misfortune makes the official institutions irrelevant as their case resolution would cause humiliation for the villagers and annul the positive benefits of experiencing misfortune (von Benda-Beckmann, 1981, pp. 142-145). The VA in Hlaing Kone is in extension himself a spiritual mediator, practicing the 'upper level' healing practices. During an interview, he explained that he would himself not make any complaints if he was a victim of theft because this would be perceived as shameful and could lead to a loss of dignity, as he believes that theft happen due to one's own mistakes in the past (VA, 13/09-2016). The VA holds an important role in the village and his perception of various matters play into the general conception. His argument against involving officials in theft cases further shows how the Myanmar central state's official laws are not casting a shadow that regulate people's behaviour in Hlaing Kone. Instead the villagers are guided by other norms and rules, and seek resolution with astrologers, spiritual healers and black sorcerers. The relationship between informal and formal institutions is however difficult to clarify, as it is not possible to determine if the presence of informal institutions hinders the penetration of formal institutions difficult or if the absence of formal institutions paves the way for the development and maintenance of informal institutions. The two forms of institutions however have an interdependent relationship, where the development of one have an impact on the other. The non-state order in Hlaing Kone is an example of what Galanter (1981) describes as orders with a high degree of legitimacy that are not necessarily well-structured, but which are at the same time sophisticated and independent from the state. Although these orders have few written rules, they cast a shadow that regulates behaviour as seen in Lai Kyi's case and they therefore replace the state judicial system, pushing the official state and its control mechanisms further away (Galanter, 1981, pp. 17-21+24-25). The long history of conflict has made the attitude towards the Myanmar government negative, and simultaneously the expansion of formal institutions difficult. There is a clear preference for local resolution in Hlaing Kone which, building on the arguments above, stem from the long conflictual history with a changing institutional landscape, the notion of involving the formal institutions as causing shame and the religious beliefs that favour non-resolution based on the understanding of misfortune as a result of people's own actions. In addition, both the current and the former VA are detached from the formal institutions, not representing the Myanmar government, and do instead

encourage people not to engage with the government procedures as it "is very confusing (…)" (Former VA, 12/09-2017).

As described in the case, Lai Kyi does additionally not want to involve anyone in her domestic abuse, but instead blames her own misdeeds and the local witch for her husband's violence. This way of handling domestic violence is in stark contrast to how similar cases are handled in Tayar Lu. Tayar Lu has, unlike Hlaing Kone, a more officially articulated set of rules and norms defined by KNU, which regulate behaviour. An example, is the KWO, who are involved with the resolution of domestic violence, fighting, public nuisance etc. and have been given the authority to do so by KNU.

Formal non-state institutions

In the case described previously, that involved a dispute over land, violent threats and alcohol, the case was, unlike Lai Kyi's theft, brought forward and the case practices was guided around KNU procedures. Most cases in Tayar Lu are, like in Hlaing Kone, solved locally in the village and are not brought to the official KNU court system. The KWO and the local village leaders have authority, given by the KNU, to resolve and negotiate minor cases. Most cases in the village revolve around alcohol, quarrelling and fighting, often between married couples. These cases are typically brought to KWO who then, based on training and rules given by KNU, negotiate and decide the consequences. In most instances, in addition to the KWO, the village leaders are present when discussing and negotiating the case. The village judge is almost always present at the hearings along with the KWO, VERPs the KNU VA and the VA elected to take care of business with the Myanmar government is present, but the cases are solved based upon KNU regulations and norms and not the Myanmar government's. Different from Hlaing Kone is therefore the link between the judiciary systems. In Hlaing Kone the village leaders do not have a strong link with the formal judiciary system. In Tayar Lu on the other hand, the local leaders have a strong link to KNUs judiciary system. The informants in Tayar Lu do not perceive the government VA a representative of the Myanmar government and do therefore not distinguish between the leaders. People address the KNU VA, the government VA and the KWO interchangeably as there is no difference in the way they handle the cases (Naw San Day Ka Ri, 26/09-2016; village judge 13/05-2016). Although not all village disputes are solved at the official courts, the local resolution processes are guided by KNU principles and it is the village judge's role to advice the other participants about a proper solution for a case, alongside KWO's case procedures, which they have as written rules given by the KNU. According to the KWO no one is above the law in the village which means, that even the village judge has been given a punishment for drinking in the past, as he got into a fight with his brother whilst drunk. According to the

chairwoman of KWO it is necessary to judge everyone equally according to the KNU law so no one would think that a person could be exempt from the judiciary system based upon their position in the society (KWO chairwoman 27/09-2016). The forums in which disputes are solved are guided by the KNU laws and principles, although the village is officially a mixed-controlled area, with a government VA. In reality the Myanmar government's rules do not apply to any case procedures locally in Tayar Lu and the government VA expresses his loyalty with the KNU and not the Myanmar government. As mentioned, the case procedures do not always involve the official KNU courts, but follow a principle of solving cases at a lowest possible level guided by the overall legal framework. Different from Hlaing Kone, the judicial system in Tayar Lu is not solely present due to weak formal state institutions, but can instead be classified as competing informal institutions, contesting the formal state institutions. The local system recognises the existence of a formal Myanmar government judicial system, but it is not taken into account when resolving local disputes (Helmke & Levitsky, 2004, pp. 728-730). The KNU administrative system constitutes a well-functioning, parallel, institutional system, simulating government institutions, with administrative centres administrating a police force, military and a judiciary system. Where disputes in Hlaing Kone, as discussed above, are largely solved based upon shared Buddhist ideas of past life deeds and paying off debts in order to gain luck in the future, the disputes in Tayar Lu follow a more 'official' non-state judicial system. The institutional framework present in Tayar Lu constitute a state-like nature, simulating and acting like legitimate state institutions, regardless of the presence of a parallel Myanmar state institutional system. This competing relationship between the informal and formal institutions is interesting seen from a state-centred perspective, as the Myanmar state does not manage to penetrate the area with their rules and laws and therefore does not regulate the behaviour of the local residents. Instead the villagers' behaviour is regulated by the competing judicial institutions. In the land dispute case, the case procedure solely followed the KNU prescribed laws, not considering involving the Myanmar government in solving the disagreement. Interestingly, the pastor involved in the case articulates the KNU as the governing powers of 'this country' referring to Karen State as a country. This statement, followed by the actual handling of cases in general in the area, opposes the idea of a centralised state in Myanmar and turns the simple formal/informal dichotomy into a particular challenge as the judicial system is perceived as official locally, but not in the eyes of the central state.

Flexible courts

The KNU provide what the Myanmar government does not manage to do; a physically flexible judicial system that meets the users of the system locally in as many cases as possible and judges

based upon a mixture of written and customary laws (McCartan & Jolliffe, 2016, pp. 19-20). As the KNU have given the local leaders and KWO in Tayar Lu authority to handle and solve minor disputes, they are stretching the judicial system physically, benefitting the cause of articulating the KNU rules and norms. The official KNU court locations are far from the village, and it takes more than one day to access them, which would cause issues in regards to dispute resolutions if the involved parties had to travel to the courts. But instead, the courts are flexible and travel, to a large extent, to the local area of the dispute, making the court more accessible. Although the Myanmar government's judicial system is physically closer, as Tayar Lu can be accessed from government-controlled Taungoo in 1,5 hours, it does not penetrate the area in which Tayar Lu is with its rules and norms. Instead it is difficult for people to get into direct contact with the centralised state, as it would require them to leave the village in order to solve any disputes using the formal system. Much like Hlaing Kone, the villagers in Tayar Lu prefer to solve their cases at the local level, making the formal institutions irrelevant in many cases due to the distances and lack of flexibility. In regards to cases too big to solve locally, the pastor's land dispute case, serves as an example of the extent to which KNU have managed to establish and maintain their judicial system, with various judicial mechanisms, investigations, hearings, trials and punishments, hereunder prison sentences. The illegitimacy of the Myanmar courts causes the Myanmar judicial system to lose the competition to the accessible and locally perceived legitimate non-state actors (von Benda-Beckmann, 1981, pp. 142-145).

Equal to Hlaing Kone there is shame associated with involving people at higher level than the village level when trying cases at a higher level at KNU. However, the religious behaviour regulations are different as the two villages are not dominated by the same religion but are respectively Buddhist and Christian. In the land case, the pastor and the perpetrator both felt shame when the dispute reached the KNU battalion captain that had to travel to the village to assist solving the case and this both points to the success of the KNU behaviour regulating efforts and to the importance of keeping disputes at the lowest possible level. The two case resolutions discussed are both regulated by behaviour altering institutions, although different in nature.

The first case does not involve official institutions, but rely solely on the victim's institutionalised religious beliefs that places the blame with the victim herself. In extension, she reaches out to astrologers and spiritual mediators in order to achieve an explanation and gain some resolution to her misfortune. She further participates in various ceremonial activities in order to gain strength against misfortune, hereunder to gain strength for her husband so he can withstand possession by the witch and she can avoid verbal and physical abuse by him. Her initial response involved informing the VA

about the theft. But as he does not incorporate the government institutions in his everyday practices, but is largely detached from the government judiciary processes, her case remained at the local level.

The second case's resolution process involves the KNU judicial system, but does not involve the Myanmar government's institutions. The pastor approached the local level leaders who decided to bring the case to a higher level in the judicial system due to the severity of the case. All parties of the dispute accepted the process and decision made and did not question the authority or legitimacy of the KNU system. In Tayar Lu most cases are dealt with within the village, with the given authority by KNU and using the KNU norms and laws in the resolution processes. This is despite the relatively close proximity of a government-controlled area and the long physical distance to the official KNU courts. The Myanmar government institutions seem to be far away from the two villages; in Hlaing Kone in a literal sense and Tayar Lu figuratively speaking.

The physical placement, shame and the costs associated with the two judicial systems does not fully explain the reason why people prefer to use non-state institutions for dispute resolution or why the non-state judicial system regulates the behaviour outside the courts and dominate the case resolution processes in the two case areas. In the following section, the articulation of the state and the provision of rights for the locals is analysed in order to get insight into the legitimacy and authority of the institutions in Hlaing Kone and Tayar Lu.

Articulation of the state and provision of rights

In the two cases discussed above, neither of the involved approached the Myanmar judicial system in order to get a resolution but instead made use of alternative institutional mechanisms. In this section I analyse the articulation of the Myanmar government in Hlaing Kone and Tayar Lu, as the state is built upon the articulation of it and interaction with its institutions. Authority and legitimacy are in extension dependent upon the state narrative (Lund, 2006, pp. 685-686+693-695). The section further analyses the provision of rights, as rights according to Lund (2016) are interlinked with authority and the development of authority for an institution depends upon its ability to provide rights for its citizens.

Articulation of the Myanmar government in Hlaing Kone

Lai Kyi acted in relation to her case, based upon shame and shared ideas of not involving the Myanmar government in any private business as her misfortune was caused by her own previous life's misdeeds. This unwillingness of involving the Myanmar judicial system can be found among many other citizens in Hlaing Kone and was a returning subject during the fieldwork. When

interviewing the former VA in the village, he explained that the villagers were dependent upon each other and not on the government, both for judicial services and in relation to obtaining loans for agricultural purposes.

> If you want to get the loan [from the Myanmar government], I will give your name for the list, but the government procedure is very confusing as you know. All the villagers did not want to get the loan from the government because they felt confused about that [agricultural] government department. Also in relation to case resolution, the villagers feel burdened to go to the formal court system. (Former VA, 12/09-2016)

The former VA articulates the government system as confusing and believes that interacting with it becomes a burden for the villagers. In general, the villagers abstain from doing so, on his advice. The informants share his belief and express confusion about the formal procedures relating to the official courts and are afraid to involve them, rearticulating and therefore reconfirming a specific image of the state (Mu Sar Phaung, 14/09-2016; Daw La Khon 13/09-2016). The reluctance to involve the police stems partially from the common notion that it involves high costs. This was the case with Lai Kyi's gold theft according to her relative, and is a reoccurring response when interviewing the villagers. Interestingly Lai Kyi spent around 300.000 MMK for astrologers and spiritual healers, so costs cannot always play an essential role for not engaging with the police. Instead the explanation can, in addition to religious and customary beliefs, be found in the confusion and lack of understanding of what the Myanmar judicial system entails, besides the common belief that it is corrupt and unjust. The villagers, and the VA have little experience with official interactions with the Myanmar governmental institutions, and the lack of familiarity causes a vicious circle of non-engagement. The legal plural setting, institutional competition and the abstention of engaging with the formal system, should, as argued by Merry (1988), Tamanaha (2008) and Lund (2016), be analysed within a historical context. Building on this, Hlaing Kone has a history of conflict with the Myanmar government, being situated in a contested 'brown' area where the village had involvement with the KNU, DKBA and Myanmar government on different times. During the time of many disputes the government had a strict policy towards the village, enforcing high taxes on the villagers causing many robberies and theft cases as many needed to engage in illegal activities to survive (U Aung Min 15/09/2016). The villagers express a common disapproval of the Myanmar government, although the situation in the village has changed to peaceful. The narrative of previous times suppression lies deep within many of the informant, who all remember having to flee into the jungle at times when the Tatmadaw would pass through the village. The informants are largely older

villagers, as large parts of the younger generation work and lives in Thailand due to few local job opportunities. The remaining older generation in Hlaing Kone share the knowledge and memories of the suppressive government rule and the younger generation is geographically detached from Myanmar and have only few connecting points, making it difficult to change the prevailing local narrative. As the KNU have not been able to establish their institutions fully in all parts of Karen State, including the area that Hlaing Kone is a part of, the villagers have been left with fewer institutional alternatives to the Myanmar governments than Tayar Lu. As described in the chapter *The Karen* many Karen abstained from cooperation with the government due to the fear of having their culture and language overruled by the Burmese and the villagers explain their previous misfortune with the long suppressive political culture in Myanmar. Geopolitically Hlaing Kone is situated in the south-eastern part of Karen State, isolating it from KNU's main activities that were strongly established in the 1990s in the north and along the Thai border. At the same time, the KNU had internal crisis, dividing the group into a primarily Christian and a primarily Buddhist fraction. The Buddhist Ploung Karen in the south-eastern parts, to a large extent, joined the DKBA, but as the DKBA suffered internal disputes later, with some parts wanting to join the Tatmadaw and other parts wanting independence from the Tatmadaw, this part of Karen State did not manage to set up as well functioning parallel institutions as seen in the north (Gravers, 2014, pp. 187-190; Harriden, 2002, pp. 128-130). The conflicts with the Myanmar government, that created challenging living conditions for the Karen, and the lack of established alternatives to the government, can help explain the village's abstention from engaging with official institutions and favour local conflict resolution.

Provision of rights in Hlaing Kone

The increase of the legitimacy of authority of institutions can especially materialise in times of crises, and the illegitimacy equally. Building on this, and the previous section I argue, that the Myanmar state has not managed to create legitimate public or political authority in Hlaing Kone, and that the illegitimacy of and lack of trust in the judicial system is a heritage from the village's long negative history with the government, where the government has failed to deliver basic rights, as access to justice and safety. Instead the villagers have maintained or developed alternative institutional mechanisms, incorporating their religion and cultural beliefs in case resolution processes. The mechanisms used within these informal institutions enjoy authority and legitimacy which the Myanmar judicial system has not been able to compete against. The articulation of the Myanmar government plays a significant role in this, as the narrative is still largely negative among the villagers, and even shared by the local village leaders who advice people against engaging with the

government due to unclear and confusing processes. At the same time, fear still plays a significant role to many villagers as they are afraid of the government. During our interviews in the village we came across informants who several times asked if we were government informants sent to the village to spy and arrest people for illegal activities. As the locals do not engage with the formal institutions, these can in extension not provide certain rights for the villagers. As gaining access to a judicial system is ideally connected to gaining access to rights, it is within the judiciary system that people can claim rights or the violation of such. In extension to this it is relevant to discuss the delivery of rights by the local informal institutions in Hlaing Kone. I argue, that the institutional mechanisms are largely built upon customary practices and religious beliefs, both in which do not manage to deliver or protect rights. The authority and legitimacy of the informal institutions are fragile and risk being challenged by the manifestation of competing institutions that manage to deliver this (Lund, 2016, pp. 1200-1204).

The problem with the weak legitimacy and authority of the government judicial system in Hlaing Kone is a consequence of the Myanmar government's inadequate ability to engage in a successful state-building process. As the judicial system can be seen as a proxy for the state, the lack of legitimacy of this means a lack of legitimacy in the state. However, as the legitimacy of an institution is not eternally given, it can change over time, depending upon the historical and cultural context. As Lund (2016) argues, authority is dependent upon the institution's ability to provide rights. The judicial system is one of the core institutions that can provide citizens with rights. As the authority of the institution is dependent upon the deliverance of rights, the absence of the judicial system in Hlaing Kone, makes it difficult for the Myanmar government to establish authority and in extension legitimacy. Further, the negative narrative of the state is particularly strong, but paradoxically the state maintains a position in Hlaing Kone within this narrative. One can therefore not claim, that the state is entirely absent in Hlaing Kone as the state exists within the articulation of it. The articulation of the state in the village lies within being outside the state, discussing the state as complicated and the institutional processes as being difficult. In this articulation, the VA and the villagers maintain their identity of being opposed to the state, which can be explained by the negative historical context, but which simultaneously reconstructs the state. Authority and legitimacy can change over time, especially in times of rupture, and the institutional status quo in Hlaing Kone might not continue to exist in their current shape.

The articulation of the Myanmar state in Tayar Lu varies from Hlaing Kone. In the latter, the institutional alternative is different than in Tayar Lu, where KNU have managed to firmly establish their institutions and regulate behaviour. (McCartan & Jolliffe, 2016, pp. 1-3+14-19) (Jolliffe, 2015b, pp. 45-50) As discussed earlier, KNU were previously fought back by Tatmadaw in the southern regions of Karen State, but managed to inaugurate themselves in the hilly regions of northern Karen state. Although the situation in the northern area is relatively peaceful due to the ceasefire agreements that the KNU have as signed with the central government and the ongoing negotiations for lasting peace, the situation remains fragile as discussed in *The Karen*. The institutional structures in the KNU-controlled areas have been strengthened with the improved relations with DKBA and the Myanmar government in Karen State. KNU is, due to the improved relations, able to act more openly and expand their institutions without the fear of being attacked by the Tatmadaw. As the legal plurality of the north Karen is still present, it is relevant to look at the pastor's land dispute as a starting point for discussing the articulation of the Myanmar government, the rights delivered in the area and in extension the authority and legitimacy of the institutions in Tayar Lu.

As discussed above, the pastor expresses his understanding of the KNU judicial system as being the governing force in Karen State, and therefore not considering the Myanmar government legitimate. The perpetrator further accepted both the process and ruling when he was put in prison. Essential to the authority of the KNU, is the fact that their judicial system was able to provide the pastor with the rights to the property and access to having his rights tried at the court system. The property rights within the KNU and the government system differentiate. Having ownership over land in accordance with the KNU rules, does not necessarily mean that the government system supports this property claim. During the Ne Win ruling period and times before the ceasefire in the area, the military grabbed a lot of land in Karen State for their own purposes. The government further enforced high taxation on harvest so many farmers could not afford to grow their fields. As a consequence, much land grew fallow and the military took the land and gave it to the Burmese, overruling the Karen ownership claims. In the area around Tayar Lu many farmers have been trying to get back their land, but the government land rules are different from the KNUs making some of the locals' land ownership claims invalid. The ownership is however recognised by the KNU that currently try to negotiate with the government to regain property on behalf of the villagers. According to the VA in Tayar Lu the villagers dare not approach the Myanmar government institutions to reclaim their land as they do not understand the central state's land regulations and many do not speak Burmese (VA, 27/09-2016). It

is these past times of conflicts with the government, during the Ne Win rule and prior to the ceasefire, that can be perceived as rupture where the KNU managed to establish their claim of authority by meeting the villagers' property demands. Reversely, the conflicts have weakened the authority and legitimacy of the Myanmar government as they have not met the citizens of Tayar Lu's demands for property rights (Lund, 2016, pp. 1200-2018). As a consequence, many of the villagers, hereunder the Pastor and the perpetrator, prefer to use the KNU judicial system to solve disputes as they speak the language, understand the law and recognise the decision (KNU village chairman, 12/05-2016). The property rights that the villagers claim, are met by the KNU judicial system and this means, that the KNU provide a certain right which gives the system authority. As their rights are met, the villagers invest in the judicial system giving it further authority and legitimacy. When discussing land rights with the informants many articulated the Myanmar land laws as complicated and unfair.

> In the past, the Tatmadaw took the Karen farmers' land and sold it to the Myanmar people, but the Karen people hire this land (…). But they are renting their own land. So I do not trust the Tatmadaw, because still now they did not give back the land. (Ko Ye So, 14/05-2016)

This statement further articulates the lack of trust in Tatmadaw, and the shared belief that the government's land grabbing in the area is unjustified and not yet solved. Only one villager has, according to the VA, tried to get his land back by approaching the Burmese family using his piece of land, but he was unsuccessful and did not regain his ownership.

The linguistic differences between the KNU and government judicial systems further seem to play a large role for people's willingness to engage with the Myanmar institutions. According to the quantitative survey, 43% of the people in the EAO-controlled areas of Karen State are illiterate in Myanmar language (see appendix B). This makes it difficult for the villagers to engage with the official institutions, even if they wanted to. The formal system is dominated by a long history of favouring the Myanmar language, and the system does therefore in general not, so far, accommodate other ethnic languages in the dispute resolutions. The long conflictual situation in Karen State with the government means, that the school system in many areas, hereunder Tayar Lu, is run by KNU and instead of the Myanmar language, teaches is primarily carried out in the various Karen languages. In addition to the school system in Karen State, there is a tendency for the villagers to send their children to school in the refugee camps on the Thai side of the border between Myanmar and Thailand. Here the children can access better education than in Karen State and therefore there are only few contact points between the younger generation Karen in Tayar Lu and the government. In

accordance with the UN, education is a human right, and in Tayar Lu this right is only being delivered and secured by KNU and not by the government, once again reassuring the authority of the KNU. However, without any contact points with the official state, changing the main narrative of the formal system becomes a challenge for the government, and the local institutional investments persists to be in the non-state system.

The government court processing is according to the villagers longer than within the KNU system, having expenditure consequences for the people involved as they need to spend more time solving disputes in the official system. When the villagers have the opportunity to shop between the two judicial systems, they often choose the one that has the best fit for their purpose, including being more efficient. As the formal state institutions are perceived confusing and the land laws difficult to understand, it is rational for the villagers to choose the competing KNU system. The KNU manages better than the official institutions to shop for users of their system in Tayar Lu due to language, provision of rights, costs and the physical placement of the courts as discussed in the previous section. The accessibility on various areas, is easier within the informal institutions which means, that the KNU manage to offer their clients access to justice, achieving local investment in their system and therefore maintain authority in the area (von Benda-Beckmann, 1981, pp. 142-145). This is equally the case with providing the women in Tayar Lu with women's rights. Previously the women in the area were marginalised, had little authority and decision-making power, but KNU empowered the KWO in 2014 by giving them authority to solve cases on their behalf. Women used to have few or no places to go if they were victims of domestic violence or other types of abuse, but the KNU changed their policies on this field in order to address this issue. Currently the KWO hold a strong position within the village and engage in many dispute resolutions regarding alcohol, fighting, domestic violence etc. (VERP, 28/09-2016) Empowering the women and giving the KWO authority to solve cases is another tool used by the KNU to secure the local population easier access to justice resolution, which the Myanmar government does not manage to do on the same level. By giving the women more rights, KNU evidently shop for more clients to invest in their system, strengthening their authority and power in the area.

Articulation of the Myanmar government in Tayar Lu

The narrative of the Myanmar judicial system as the unfair or confusing government processes means, that the villagers in Tayar Lu, hereunder the Pastor, do not perceive the Myanmar judicial system as the forum for their land disputes. In accordance with Tamanaha's (2008) argument, the citizens within a legal plural setting have the opportunity to choose the institutional system that best fit their needs

and that they deem most likely for their purpose to succeed (Tamanaha, 2008, pp. 375-385). When rearticulating the unfairness and difficulties about the Myanmar judicial system it is not likely, that the villagers would approach the formal system as the dominating perception is that the locals' property claims are not met formally but are only met by KNU. This further explains the cooperation by all disputing parties in the Pastor's land disagreement, as neither of the two parties would have the presumption that they would have their claims met by the formal court.

Although the situation in the village is peaceful as a result of the NCA and approved relations with the Myanmar government, the Tatmadaw still remain in the area with a military base, making the villagers doubt the government's intensions and the lasting effects of the current situation. The villagers additionally express distrust in the Tatmadaw due to the long history of conflict where many villagers have been victims of torture and kidnapping by the military in the past. Even the former government VA has been kidnapped and used as a porter around 10 years ago and he has a resentment towards the Myanmar government and government VA position, which he claims no one signs up for voluntarily (Former Government VA, 09/01-2017). The prevailing scepticism towards the Myanmar government is a returning discussion when interviewing the informants in the village. Everyone shares a history of conflict with the government, where there have been times of more or less conflict, but never times of complete peace within the last 70 years. The remaining presence of the Tatmadaw camp maintains the scepticism and is perceived as the military being ready in case the NCA or peace negotiation fail. There are therefore not many people in Tayar Lu who are positive towards the government and since many believe that the peaceful times could change quickly, there are few incentives to engage with the formal institutions.

The institutional competition in Tayar Lu is not high, as the Myanmar government does not succeed to deliver a strong alternative to KNU's judicial system. However, the articulation of being opposed to or better than the Myanmar system is prevailing in the area, maintaining the official state. As described above, many of the villagers replicate a negative narrative of the Myanmar government. This narrative not only preserves the Myanmar government but also has an impact on the position that the KNU hold. They build their authority not independently from, but upon the 'unfair' nature of the official institutions. There are strong parallels to the institutional setting in Hlaing Kone, where the government also is present within its negative articulation sustained by the locals. Another example of this is the repeated story of corruption within the official courts.

> (…)most people prefer to only involve the KNU system because there is no corruption in the case processes. In the government's justice procedures, there is a lot of corruption and it is possible to bribe a judge to give you a better outcome. (KNU Township Judge, 11/01-2017)

The KNU officials along with the villagers in Tayar Lu share the understanding of corruption within the official system, making it difficult to argue for the use of them, and naturally choose the informal judicial system as this then, must be fair (Galanter, 1981, pp. 17-25). There is also a clear narrative of being different from the Burmese living in the area. The Karen villagers perceive them as being richer than the Karen and believe that they then prefer to use the government courts as they have the opportunity to bribe the judge for their benefit. The legitimate authority that KNU enjoy is partially built upon the rights that they provide their citizens and partially built upon the articulation of being an independent, better alternative to the state. The authority and legitimacy of KNU is therefore not eternally given, but needs to be re-established over time. This has been the case for KNU since its establishment, and as described in the chapter *The Karen* it is possible to discover periods where the KNU have had more and less authority, all relative to internal or external crisis. Interestingly, despite of the two case areas being different in terms of the extent of their informal institutions and the formality of these, the areas share comparably articulations of the Myanmar government which in both cases give authority to their respective informal judicial systems (Lund, 2006, pp. 685-689).

Developing legitimate authority for the formal institutions

As already discussed, the authority and legitimacy of both formal and informal institutions are not eternally and naturally given, but changes over time. This means, that change within the formal institutions in northern Karen can challenge the authority and legitimacy that the KNU currently enjoy. The competition for authority in Tayar Lu is, at the time of the field study, not significantly high as the official institutions are almost non-existent in the village, but it is likely that this will change in the near future. As the political landscape in Myanmar in general is changing and has changed dramatically with the democratic election putting Aung San Suu Kyi in power, there is an ongoing process of rupture where it is possible to challenge the institutional status quo as the claim for institutional authority is a claim of the state. (Lund, 2016, pp. 1199-1201) (Grenfell, 2009, pp. 157-158) This means, that if the government does not challenge the legal plural setting by providing people with rights and access to justice, the state-building process becomes difficult as the state norms and laws will not cast a regulating shadow, and it will in extension lack local authority and legitimacy. The judicial system, as a proxy for the state, needs to be accessible for the citizens it is trying to reach for the state-building to be successful. As KNU in Tayar Lu is closer to the citizens in terms of

legitimate authority, the formal institutions are dependent upon KNU's disposition towards the formal institutions. However, although the government negotiates with KNU for their willingness to participate in a change of the institutional landscape it does not secure the legitimacy or authority of the state, if the state does not simultaneously earn authority by providing access to the judicial system and rights. In both case areas, there are nonetheless issues in relation to cooperating or negotiating with the local legitimate institutions as they, to some extent, are built upon ethnic and religious ties. This means that cooperation with these might entail an exclusion of others who do not share the same ethnicity or religion (Podder, 2014, pp. 1621-1624+1628-1630). However, for the process of gaining legitimate authority, the Myanmar government, following the analysis above, should entail expanding the access to rights and the judicial system.

In Hlaing Kone, the negative articulation of the state plays a significant influence on the villager's willingness to engage with the formal institutions. The village leadership is detached from the official system and do therefore not build bridges between the locals and the government. Due to this detachment, the lack of deliverance of basic rights and the long conflictual history with the government, the formal institutions lack authority and legitimacy in Hlaing Kone. This means, that the villagers instead use informal institutions that are largely built upon cultural and religious ideas, that associate involving the formal institutions with shame and lack of repayment of previous misdeeds. However, the Myanmar government continues to exist through the negative local articulation of it. The authority and legitimacy of the informal system in Hlaing Kone is different than for the informal institutions in Tayar Lu. There is a lack of secure deliverance of rights in Hlaing Kone, which is not the case for Tayar Lu, where KNU manages to deliver rights such as education, access to justice and security, women's rights etc. With the deliverance of these rights comes stronger authority due to the investments in the institutions by the local villagers. In the first case, the informal institutions primarily exist due to the lack of formal institutions and their authority is fragile to the development of institutions that manages to deliver rights. In the second case, the informal institutions are developed in competition with the central state and as they manage to deliver rights their authority is more strongly constructed. However, in both cases the institutions are articulated in opposition to the formal institutions, paradoxically making them dependent upon a negative narrative of the state and the failure of the state.

6. Discussion and Conclusions

Myanmar is undergoing a large political transformation and is in the process of establishing lasting peace, building the state and moving towards becoming a democratic country after more than 60 years of conflict. The purpose of this study was to examine legitimisation of the country's state-building process in Karen State, under a legal plural setting. This is a setting, where many local Karen people, abstain from engaging with the formal judicial system, choosing instead to use informal institutions that enjoy a high degree of authority and legitimacy. This chapter points out methodological and theoretical limitations of the study. In extension, it further discusses and concludes the main findings in order to answer the research questions and shortly provides recommendations and outlines potential requirements of successful state-building process in Myanmar, focussing on the nature of the judicial system.

The conclusions and discussion are time constraint and build upon a primarily qualitative methodological study in Karen State, Myanmar. The results are further based upon two isolated case areas and the conclusions might therefore not be representative for the entire Karen State or for an unlimited period of time. The EAO's are throughout Myanmar engaged in various fragile peace negotiating processes which could change the institutional landscape in the country at any time. Further, the conclusions are solely build upon Karen State and do not assume to be adequate for the discussion of state-building in other ethnic states in the country. This taken into considerations, the findings and conclusions are nevertheless important and grant valuable insight, as the penetration of the state-building can be discussed from the two case villages. Theoretically, I cannot conclude whether the official state-building *is* legitimate and holds authority, but the results discuss the *process* of building authority and legitimacy locally in Tayar Lu and Hlaing Kone and further how the process is met with resistance and is challenged by informal institutional competition.

This study contributes to a larger literature on state-building, authority, non-state actors and legal pluralism and to the literature on Myanmar's ethnic institutions parallel to the official state system. The case study can serve as a starting point for future studies on authority and local legitimacy. As the results point to rights being met, not by the state, but by the informal institutions in the two research areas, this knowledge can be further examined and analysed using other theoretical frameworks or methods.

6.1. Legitimacy of the state-building process in Karen State

In both case sites in Karen State, one in the south-eastern part and one in the northern part of the state, cases and dispute resolutions largely remain at the local level, not including higher levels of any judicial system. In the government-controlled village Hlaing Kone, the local conflict resolutions are primarily guided by the local cultural and religious beliefs, which associate involvement of higher institutions with shame. In extension, the villagers are strongly guided by the Buddhist ideas of karma and previous life misdeeds. The villagers therefore often blame themselves for any offences happening to them and this belief is shared by the local astrologers, monks and village leaders. The village leader, in addition to his position as a VA, works as a spiritual medium for people, and holds therefore a high position in the village. As his position is largely detached from the formal judicial system and many people approach him as the first contact point in case of any dispute, he does not transfer or recommend the villagers to engage with the formal judicial system. Instead, the villagers largely engage with astrologers and spiritual mediums for finding relief of their misfortune. The lack of a formal judicial representatives that can provide the villagers with access to a justice system, often leads them to engage in alternative ceremonial activities which is believed to protect from bad spirits.

In the EAO-controlled Tayar Lu the villagers employ other mediating instruments in times of conflict and disputes. The EAO KNU have managed to establish a parallel institutional system, including judicial, educational and health care systems. Although most disputes are handled at the village level, there is access to higher levels of the KNU judicial system if needed. The KNU have stretched their institutions to the local leaders and given them authority to handle cases on their behalf. This means, that the access to rights and justice is easier for the villagers in the north than in the south of Karen State, which has to do with the historical context where many Karen have become detached from the central government and where KNU have managed to establish themselves stronger in the northern, geographically more secluded regions, than in the more accessible south.

Despite not having access to the same KNU institutions in the south, as in the north, the southern villagers do not perceive the formal institutions as fitting for their needs. The explanation for this is partially to be found in the historically conflictual relationship with the government and the shared negative narrative of the state as corrupt, confusing, oppressive and ultimately illegitimate. This articulation was found in both the EAO-controlled and the government-controlled area and has been developed and reshaped throughout more than 60 years of conflict with the government. Besides the negative narrative, the explanation for not engaging with formal institutions is further explained by

the provision or protection of civil rights for the villagers. Where there are not many rights being provided in general for the Hlaing Kone population, the KNU granted the Tayar Lu villagers both property rights, education, women's rights and access to a judicial system in case they need to claim their rights. At the same time, the villagers in Tayar Lu have experienced having their rights broken by the Myanmar government. There has been land grabbing by the military and local property claims are simply overruled by the state judicial system. Through the provision of rights, the KNU enjoys a high level of authority and legitimacy in Tayar Lu and therefore dictates the majority of the laws and rules for the EAO-controlled northern Karen State. Interestingly, the Myanmar government institutions are not unreachable from Tayar Lu, but are essentially in closer geographic proximity than KNU's physical courts and administrative centre. Contrary to the national government, KNU's institutions are reaching even distant villages due to a close engagement with the village leaders, which is something that the formal state institutions have not managed to establish in any of the case areas. Although the citizens are not living under a similar parallel competitive institutional system in Hlaing Kone, the government institutions do not enjoy high levels of authority due to the low provision of rights. This can be seen in the weak 'behaviour-regulating-shadow' that the government laws and norms casts and in the largely customary and religious institutional framework that the informants prefer to engage with. The informants associate involvement with the formal institutions with shame and the lack of repaying previous misdeeds. Legitimate authority is dependent upon the successful facilitation of rights and is essential for citizens' investment in the institutional system and in the state-building process. The problem with the government's judicial system's weak authority and legitimacy in the two case areas lies within the connection between the judicial system and the state. Mistrust towards and lack of authority of the judicial system, that represents a core institution of the state, often results in mistrust and therefore lack of legitimate authority of the state itself, which ultimately creates a lack of legitimacy within the state-building process. The cause is often considered to be a result of a long conflictual relationship with the state and its institutions, experiences of corruption, oppression and unjustness.

6.2. The future state-building process

The state-building process in Myanmar, where the central government is trying to build a politically democratic system, is in a fragile state. The above discussion and conclusions naturally leads back to considering the potential development of a federal system, where the central state builds upon and

accommodate the already existing local institutional systems. The federal debate has been prevalent since the country's independence and it is outside the scope of this study to evaluate if and how this could be achieved. Instead, the study can conclude, that it is essential for the success of the state-building process that it is perceived as legitimate and that the laws and norms of the central state have authority within the entire territory of which it is trying to rule. By accepting the argument, that the rule of law is fundamental for lasting peace and security in Myanmar, it becomes necessary for the Myanmar government to develop the rule of law that can cast a behaviour regulating shadow in all parts of the country. In order to do so, the state needs to deliver basic civil rights, hereunder property rights, citizenship, education and women's rights, if they want the citizens to engage in their institutions and improve their authority and legitimacy. Building on Podder (2014) and the current political debates in Myanmar, the government could build on the non-state systems already in place locally and negotiate and cooperate with non-state actors, although this does not automatically secure sustainable legitimacy or authority. This engagement, however, comes with potential downfalls and also relies on the non-state actor's contributions. The two case villages are largely dominated by strong ethnic ties and common religious grounds. In Hlaing Kone, the behaviour-regulating shadow is built on religious ideas and traditions which means, that if the central state accommodates local traditions and customs and negotiate with the traditional leaders, there is a danger of potentially excluding other ethnic or religious groups.

So far, the central government does not manage to provide rights and therefore there is little incentive for the citizens in the case areas to invest in the formal system. Achieving institutional authority becomes a difficult task. As a core government institution, it is essential to foster engagement with the judicial system to further articulate laws, bringing them into practice and to protect claims of rights. To gain the maximum outcome of a potential institutional investment, in order to benefit the state-building process, it is necessary to take into consideration, that the already existing informal institutions have authority and are legitimate. The villagers in the case sites prefer to have cases solved at the village level, and do not wish to involve higher-level officials. Shame and religious beliefs play a significant role in this preference and it is therefore not enough for the government to invest in already existing institutions, but instead expand their institutional reach and build bridges with the local village leaders who have close ties with the villagers and with whom the villagers feel less shame in approaching. The authority and legitimacy of the KNU in northern Karen State is partially caused by their success in providing local level justice. And building on this, not expanding the formal judicial system locally, means little chance of success of gaining authority as rights should not only

be protected at the central state level, but in all levels of society. The KNU manages to meet some of the cultural needs of the villagers and provide certain rights at the local level. The negative narrative about the government and the formal institutions is prevailing in the case areas and the negative view upon the central state is therefore upheld. The narrative relates, among other things, to previous conflicts, costs, confusion, unfairness, corruption and language differences associated with involving the formal system in disputes. The narrative defies the provision of rights as people do not believe they will necessarily have their rights protected within a system they do not understand, cannot afford or believe in. The authority and legitimacy of local informal institutions remain strong as long as they manage to uphold investments through provision of rights better than the government. For the legitimacy of the state-building process to strengthen, authority and legitimacy needs to be strengthened at the local level through provision of rights.

Literature

Aung-Thwin, M. & Aung-Thwin, M., 2012. *A history of Myanmar since ancient times, traditions and transformations.* 1 ed. London: Reaktion Books.

d-maps.com, 2017. *Burma Myanmar.* [Online] Available at: http://www.d-maps.com/carte.php?&num_car=4164&lang=en [Accessed 31 march 2017].

Flyvbjerg, B., 1988. *Case studiet som forskningsmetode.* Aalborg: Aalborg Universitetscenterr, Institut for Samfundsudvikling og Planlægning.

Flyvbjerg, B., 2012. Fem Misforståelser om Casestudiet. In: L. a. B. S. Tanggaard Pedersen, ed. *Kvalitative Metoder: En Grundbog.* 1 ed. København: Hans Reitzels Forlag, pp. 463-488.

Galanter, M., 1981. Justice in Many Rooms: Courts, Private Ordering, and Indigenous Law. *Journal of Legal Pluralism*, Issue 19, pp. 1-47.

Gravers, M., 2007. Conversion and Identity; Religion and the Formation of Karen Ethnic Identity in Burma. In: M. Gravers & N. I. f. Asienstudier, eds. *Exploring ethnic diversity in Burma.* Copenhagen: NIAS Press, pp. 227-259.

Gravers, M., 2007. Introduction:Ethnicity against State - State against Ethnnicity Diversity?. In: M. Gravers & N. I. f. Asienstudier, eds. *Exploring Ethnic Diversity in Burma.* Copenhagen: NIAS Press, pp. 1-34.

Gravers, M., 2014. Ethno-nationalism and violence in Burma/Myanmar - the long Karen struggle for autonomy. In: M. Y. F. Gravers, ed. *Burma/Myanmar - Where Now?.* Copenhagen: NIAS Press, pp. 173-198.

Grenfell, L., 2009. Legal Pluralism and the Challenge of Building the Rule of Law in Post-Conflict States: A Case Study of Timor-Leste. In: H. C. a. J. F. Brett Bowden, ed. *he Role of International Law in Rebuilding Societies after Conflict: Great Expectations.* Cambridge: Cambridge University Press, p. 157–176.

Harriden, J., 2002. "Making a Name for Themselves:": Karen Identity and the Politicization of Ethnicity in Burma. *Journal of Burma Studies*, 7(1), pp. 84-144.

Hastrup, K., 2010. Feltarbejde. In: S. Brinkmann & L. Tanggaard, eds. *Kvalitative metoder, en grundbog.* 1 ed. København: Hans Reitzels Forlag, pp. 55-80.

Helmke, G. & Levitsky, S., 2004. Informal Institutions and Comparative Politics: A Research Agenda. *Perspectives on Politics*, December, pp. 725-740.

Hlaing, K. K., 2016. Myanmar's Reform: Current Situation and Future Prospects. In: D. Lixi, ed. *Myanmar: Reintegrating into the International Community.* Singapore: World Scientific Publishing, pp. 183-197.

Human Rights Watch, 2016. *"The Farmer Becomes the Criminal" Land Confiscation in Burma's Karen State,* s.l.: Human Rights Watch.

Jolliffe, K., 2014. *Ethnic Conflict and Social Services in Myanmar's Contested Regions,* s.l.: The Asia Foundation.

Jolliffe, K., 2015a. *Conflict and Governance in Myanmar.* [Online] Available at: http://asiafoundation.org/2015/09/09/conflict-and-governance-in-myanmar/ [Accessed 15 September 2016].

Jolliffe, K., 2015b. *Ethnic Armed Conflict and Territorial Administration in Myanmar,* s.l.: Asia Foundation.

Kempel, S., 2016. Village leader or state agent?. *Myanmar Times,* 16 February.

Kipgen, N., 2015. Ethnicity in Myanmar and its Importance to the Success of Democracy. *Ethnopolitics*, 14(1), pp. 19-31.

Kipgen, N., 2016. *Myanmar: A Political History.* 1. ed. s.l.:Oxford University Press.

Kvale, S. & Brinkmann, S., 2009. *InterView, Introduktion Til Et Håndværk.* 2 ed. København: Hans Reitzels Forlag.

Kyed, H. M., Harrisson, A. P. & McCarthy, G., 2016. *Building local democracy in Myanmar is crucial ,* Copenhagen: Danish Institute for International Studies.

Lentz, C., 1998. The chief, the mine captain and the politician: Legitimating power in Northern Ghana. *Africa*, 68(1), pp. 46-67.

Lund, C., 2006. Twilight Institutions: Public Authority and Local Politics in Africa. *Development and Change ,* 37(04), p. 685–705.

Lund, C., 2014. Of What Is This a Case?: Analytical Movements in Qualitative Social Science Research. *Human Organization*, 73(3), pp. 224-234.

Lund, C., 2016. Rule and Rupture: State Formation through the Production of Property and Citizenship.. *Development and Change*, 47(6), pp. 1199-1228.

McCartan, B. & Jolliffe, K., 2016. *Ethnic Armed Actors and Justice Provision in Myanmar,* s.l.: The Asia Foundation.

McCarthy, G., 2016. *Building on What's There: Insights on Social Protection and Public Goods Provision from Central-East Myanmar,* London: International Growth Centre.

Merry, S. E., 1988. Legal Pluralism. *Law & Society Review*, 22(5), pp. 869-896.

Metro, R., 2013. Postconflict History Curriculum Revision as an "Intergroup Encounter" Promoting Interethnic Reconciliation among Burmese Migrants and Refugees in Thailand,. *Comparative Education Review*, 01 February, 57(1), pp. 145-168.

Moore, S. F., 1973. Law and Social Change: The Semi-Autonomous Social Field As An Appropriate Subject of Study. *Law and Society Review*, 7(4), pp. 719-746.

Podder, S., 2014. State building and the non-state: debating key dilemmas. *Third World Quarterly*, 17 November, 35(9), p. 1615–1635.

Raudaskoski, P., 2010. Observationsmetoder (Herunder videoobservation). In: S. Brinkmann & L. Tanggaard, eds. *Kvalitative Metoder, En Grundbog.* 1 ed. København: Hans Reitzels Forlag, pp. 81-95.

Saw, K. P. C. & Arnold, M., 2014. *Administering the State in Myanmar An Overview of the General Administration Department,* s.l.: The Asia Foundation.

S.H.A.N, 2017. Pressure to sign the NCA mounts as Panglong conf gets under way. *Burma News International,* 26 May.

Seekins, D. M., 2006. *Historical Dictionary of Burma (Myanmar).* Lanham, Md: Scarecrow.

South, A., 2007. Conflict and displacement in Burma/Myanmar. In: M. Skidmore & T. Wilson, eds. *Myanmar: The state, community and the environment.* s.l.:ANU Press, pp. 54-81.

South, A. & Joll, C. M., 2016. From Rebels to Rulers: The Challenges of Transition for Non-state Armed Groups in Mindanao and Myanmar. *Critical Asian Stuies*, 07 April, 48(02), pp. 168-192.

South, A. & Lall, M., 2016. *Schooling and Conflict: Ethnic Education and Mother Tongue-based Teaching in Myanmar,* s.l.: The Asia Foundation.

Tamanaha, B. Z., 2008. Understanding Legal Pluralism : Past to Present, Local to Global. *Sydney Law Review*, September, 30(3), pp. 375-411.

Taylor, R., 2012. Myanmar: From Army Rule to Constitutional Rule?. *Asian Affaris*, 12 May, XLIII(2), pp. 221-236.

Taylor, R. H., 2009. *The State in Myanmar.* 1 ed. London: Hurst Publishers.

Taylor, R. H., 2015. Refighting Old Battles, Compounding Misconceptions: The Politics of Ethnicity in Myanmar Today. *ISEAS Perspective*, 2 March.

von Benda-Beckmann, K., 1981. Forum Shopping and Shopping Forums: DIspute Processing in a Minangkabau Village in West Sumatra. *Journal of Legal Pluralism* , Issue 19, pp. 117-159.

XE Currency Converter, 2017. *XE Currency Converter.* [Online] Available at: http://www.xe.com/currencyconverter/convert/?Amount=100000&From=MMK&To=USD [Accessed 25 May 2017].

Zin Win, K., 2017. KNU signs agreements at Panglong Conference. *Eleven Myanmar,* 31 May.

Appendix A: Interview Guides

Interview guide for security providers

Security providers are e.g. fire brigade, police, ward leaders, armed groups security actors etc.

Research Question	Sub- topic question	Interview questions
RQ. 1.1 + 1.2. **What actors provide security and how do they do it**	**What Security strategies are there and what is the work of the security actors?**	1, Could you describe a typical day of your work? (as police, fire brigade officer, local leader and others involved in security)? 2, What are the security measures that you use here in the ward/village? (patrols, arrests, megaphone warnings, advice to people to protect themselves, punishments etc.). 3, Can you give some examples of situations where you had to act to provide security? What was the problem? What did you do first? What did you do next? How did the case end? 4, Has people come to ask you for help with any matters of safety/security? (if yes) Can you give examples? 5, Can you describe in what situations you help people? 6, Could you tell the major difficulties that you encounter while solving the problems? 7, Could you tell us on the situations that hampered the process of solving the problems? (at which stage of the

		case, which government department) For 5 and 6, Can you give examples of how this happened?
		8, Can you describe any risks while solving cases? (moved from further down)
	Collaboration with other actors	1, Do you get help from anyone in handling issues? Are there any groups of people/organizations that you collaborate with in solving the problems in general? Could you describe this kind of collaboration? (At different levels)
		2, Are there any organizations that are not very helpful? Why do you think so?
		3, Do you ever forward cases to other places? Can you give examples?
		4, In what situations do you forward cases to other organizations or persons?
R.Q. 1.2. What Norms and rules and instruments do the security actors use.	**Norms and rules and instruments**	1, How have you learned to help with security matters?
		2, Have you ever received any training? (if yes) By whom? (If yes) Can you describe what kind of training you got?
		3, Can you tell me a little bit more about what guides the way you handle people's issues?

		4, Where do these ideas come from? (tradition/state law/ethnic/religion/human rights) Are there any written documents or books you use?
		4, What do you do when you see someone making problems?
		5. What do you do when you catch someone making problems?
		6, Do you have a uniform? (if yes) Who gave it to you?
		7, Do you have any security instruments that you use (baton, gun, hand cuffs, rope or other things)? (if yes) How did you get these instruments? (If yes) When do you use these instruments?
		8, What type of punishment can you issue here? Can you give example of last time you gave this kind of punishment?
RQ 1.2 How are justice providers organized	**How are the actors organized and how did they come to get the position they have now?**	1, How long have you been in this Job/role/position? 2, How did you get this job/position/role – can you describe how it happened (for example election, appointment, inheritance, spiritual)?

		3, Why do you think that you got this position/job/role? (what qualifications, reputation, prior experiences, relationships in the ward/village)
		4, Do you receive any salary or any compensation?
		5, Do you need to collect contributions for the security measures (pooling money/donations etc.)?
		6, (if not receive anything) Why are you doing this voluntarily? What does it give you/mean for you?
		7, How do you think the community in this ward/village sees you?
		8, What did you do before you took this role/job/position? And where did you live/work
		9, Who is your boss/leader?
		10, Who gives you orders to do the work? And who makes decisions on your work?
		11, Can you tell us a little bit about your family and personal history?
		12, Ask about age, ethnicity, religion, educational level, family position.

RQ 1.3	**Security perceptions and situation**	1, What does the concept of security mean to you personally?
How do people perceive justice and security		2, How do you see the security situation in this ward/village?
		2.a, (if security situation is seen as good) Why do you think that it is peaceful or safe in this village/ward?
		2.b, (if security situation is seen as bad) Why do you think that there are security problems in this ward/village?
		3, Do you think that people in your community have increased security measures in these days? If so why?
	Justice perceptions	1, In your mind, what does the concept of "Justice" mean to you?
		2, Can you give us examples of cases that ended with what you see is justice?
		3, Do people ever show appreciation for resolutions of cases? Can you give examples?
		4, Have you ever received any complaints? Can you give some examples?

		5, Do you serve all the ethnic groups in this ward/village? (if no, ask the person to describe why he does not serve some groups. If yes, ask the person to describe why he serves all groups).
		6, Here in your neighbourhood does everyone get the same treatment in the resolution of cases?
	Security providers. Who make you to feel safe?	9, How do you understand (the concept) justice?
	Procedures or practices of security providers? Justice Perception.	10, Can you describe the situation where the case is solved in a justice way/fair way? Here in your neighbourhood would everyone get the same treatment in resolution of cases?

Interview guide for justice providers

Justice providers are e.g. Household leaders, Ward/village administrators, Astrologers, church leaders etc.

Research questions	Sub- topic question	Interview questions
RQ. 1.1 + 1.2. What actors resolve disputes and how do they do it	How are disputes resolved?	1, Could you describe a typical day of your work? 2, When people come to you with an issue/concern, what is the first thing you do? What is the next thing? Can you give some examples of cases that you received? Can you give other examples?

		3, So this week, what kind of problems did you deal with? Are these typical problems? (include different categories of cases) Can you give more examples?
		4, If there are problems in the ward/village, to whom do people go first? Do they go anywhere else? From whom do they seek help?
		(ask for difference solutions for different categories of cases – crimes, disputes, social breaches)
		5, Please describe in details about the cases that were successfully resolved? Give us one or two examples.
		6, Please describe in detail about the cases that are still ongoing or that are not resolved yet. Give us one or two examples.
		(1 and 2, should include the steps involved, collaboration with other people/groups, asking help from acquaintances or government officials or facilitators, the steps involved at different government institutions)
		7 , Do you ever have to reject cases that are not relevant to you? Can you give an example?
		8, Could you tell the major difficulties that you encounter while solving the problems?
		9, Could you tell us on the situations that hampered the process of solving the problems?(at which stage of the case, which government department) For 5 and 6, Can you give examples of how this happened?
		10, Can you describe any risks while solving cases? (moved from further down)
	Collaboration with other actors	1, Do you get help from anyone in handling issues? Are there any groups of people/organizations that you collaborate with in solving the problems in general?

		Could you describe this kind of collaboration? (At different levels)
		2, Are there any organizations that are not very helpful? Why do you think so?
		3, Do you ever forward cases to other places? Can you give examples?
		4, In what situations do you forward cases to other organizations or persons?
R.Q. 1.2. What Norms and Procedures do the justice providers apply.	Norms and rules	1, How do you know what to do when people come with an issue? From where do you get the knowledge?
		2, Can you tell me a little bit more about what guides the way you handle people's issues?
		3, Where do these ideas come from? (tradition/state law/ethnic/religion/human rights) Are there any written documents or books you use?
		4, Do you get advice from other people to handle the issues?
		5, How did you learn to handle issues here?
		6, What type of resolutions can you make here?
		7, What type of punishment can you issue here? Can you give example of last time you gave this kind of punishment?
		8, Do you keep a register or record of the cases that you have resolved here? (if Yes) How is this register organized? (if Yes) Do you report the case register to anyone? (and if yes whom)
RQ 1.2	How are the actors organized and how did they	1, How long have you been in this Job/role/position?

How are justice providers organized	come to get the position they have now?	2, How did you get this job/position/role – can you describe how it happened (for example election, appointment, inheritance, spiritual)? 3, Why do you think that you got this position/job/role? (what qualifications, reputation, prior experiences, relationships in the ward/village) 4, Do you receive any salary or any compensation? 5, (if not receive anything) Why are you doing this voluntarily? What does it give you/mean for you? 6, How do you think the community in this ward/village sees you? 7, What did you do before you took this role/job/position? And where did you live/work 8, Can you tell us a little bit about your family and personal history? 9, Ask about age, ethnicity, religion, educational level, family position.
RQ 1.3 How do people perceive justice and security	Justice perceptions	1,In your mind, what does the concept of "Justice" mean to you? 2, Can you give us examples of cases that ended with what you see is justice? 3, Do people ever show appreciation for resolutions of cases? Can you give examples? 4, Have you ever received any complaints? Can you give some examples? 5, Do you serve all the ethnic groups in this ward/village? (if no, ask the person to describe why he does not serve

		some groups. If yes, ask the person to describe why he serves all groups).
		6, Here in your neighbourhood does everyone get the same treatment in the resolution of cases?
	Security perceptions and situation	1, What does the concept of security mean to you personally?
		2, How do you see the security situation in this ward/village?
		2.a, (if security situation is seen as good) Why do you think that it is peaceful or safe in this village/ward?
		2.b, (if security situation is seen as bad) Why do you think that there are security problems in this ward/village?
R.Q. 1.1 and 1.2 What actors and strategies are there for security	How is security provided in the Ward/village	1, What are the security measures in your community? (patrols, different forms of protection, physical and spiritual).
		2, Do you think that people in your community have increased security measures in these days? If so why?
		3, Who do you think is helping for security? Who helps you to feel safe in this community?
		4, How do these people try to make the community safe?
		5, What are their regular activities? What do they do when they catch/see/observe someone/sth abnormal or trouble making?
		6, Do you need to collect contributions for the security measures (pooling money/donations etc.)?
		7, who is in charge of making people feel safe in this ward/village?
		8, Do you participate in making this ward/village safe? (if yes, how)?

Interview guide for ordinary citizens

Ordinary citizens including victims and perpetrators.

R.Q.	Sub- topic question	Interview questions
General information	Who is the person interviewed?	1, How old are who and what ethnicity and religion do you belong to? 2, How long have they lived in the ward/village? How did you come to live here? 3, Do you own your house and land? (If no, does he/she rent or otherwise?) 4, What kind of job or income do you and your family have? 5, Where are your family members from (and your parents)?
RQ. 1.3. What problems and security concerns do people have in everyday life?	What are the main problems?	1, Can you describe how it is living in this ward? 2, What kinds of problems or challenges do people have in this village/ward? (and do you also have these problems/issues)? 3, What kinds of criminal cases occur in this ward/village? 4, What kinds of disputes happen in this ward? (family, land, money lending, gambling etc.) 5, Among these problems, which are the common and which are the rare problems in this village ward?
	Which families have common happened these problems? (Gender, Socio-economical, Ethnic group, Age group, socially exclusive)	1, Who in the communities are facing these problems (that you have mentioned)? (Gender, Socio-economical, Ethnic group, Age group, socially exclusive) 2, Why do you think that these people are facing the problems?

	What experiences do people have with problems themselves? (the purpose here is to collect cases from people as examples of what issues there are and how people resolved it)	1. Can you describe to us some challenges or problems that you have experienced yourself? Can you give some more examples that you could share with us? 2, Have you ever experienced this kind of problem (xxx) or some of your family members or relatives? ….local Disputes, Crimes, Social breaches 3, Can you please explain step by step how you handled the problem that you face?
R.Q 1.1 Actors who resolve disputes and how they are resolved	How do you solve the problems?	If people have had a case or problem the following questions can be asked (but you can also ask these same questions to people after you ask them to describe a case that they have heard of in the ward/village, although they were not parties in the case themselves): 1, To whom, did you go to first? Why did you go to him or her? 2, Can you describe further steps you took? 3, (if they went to some justice provider or forum with the case) Who led the problem solving? 4, Who resolved the problem? Who are the one who give the final decision? 5, What kind of the person who solve the problems? 6, What made it possible for him/her to make final decision? (Gov persons or other qualities do they possessed) 7. Can you tell me how the case ended? 8, When the case is resolved, how is it done? Were you allowed to speak your version of the case? Did you need to prepare anything (bring anything- witness or evidence?) 9, Are you satisfied with the outcome of the case?

		10, (If she/he is not seemed really satisfied) What is your preferred resolution? What would you like to have happened?
		11, (If the problem was resolved within the family) Why did you only resolve the problem inside the family?
		12, (If the problem was not reported to the police) Why did you not report the case to the police?
		13, (If the problem was not reported to the Ward/village administration) Why did you not report it to the ward/village administrator?
		14, (If the problem was not taken to court) Why did you not take the case to court?
		15, (If there the problem was left without resolution) Why were you not able to have the problem resolved?
		16, How many expenses/costs did you have in resolving this case?
		17, In trying to resolve your problem, what persons helped you along the way?
	Who solve the problem in the community? {Administrator, 100 HH leader, VER, Religious leader, Police, Lawyer, Court, Women affair, Maternal and child care, Disable group, Child protection group, Armed group, Politicians (who form parties), MP}	1, Who can help people who are facing problems in this village/ward? 2, To whom or where can people go when they want to have the problem resolved? (Any other places they can go?)

	Scenarios – especially for people who have NOT any cases that they want to or can tell about	3.1 If you face a theft what is the first thing you will do?
		3.2. Where would you go for help?
		3.3. What is the next thing you would do, third thing, etc.?
		3.4. Who else can you get help from?
		3.5. For you to feel satisfied what would be the best resolution for you of the theft case? (what would they see as a good resolution)
		3.6. Should the thief be punished if he is found?
		4.1 If you face a domestic fight in the family what is the first thing you will do?
		4.2. Where would you go for help?
		4.3. What is the next thing you would do, third thing, etc.?
		4.4. Who else can you get help from?
		4.5. For you to feel satisfied what would be the best resolution for you of the theft case? (what would they see as a good resolution)
		4.6. Should the thief be punished if he is found?
		5.1 If you face a dispute over your land what is the first thing you will do?
		5.2. Where would you go for help?
		5.3. What is the next thing you would do, third thing, etc.?
		5.4. Who else can you get help from?
		5.5. For you to feel satisfied what would be the best resolution for you of the theft case? (what would they see as a good resolution)
		5.6. Should the thief be punished if he is found?
		6.1 If your wife (man) or daughter (woman) is raped what is the first thing you will do?

		6.2. Where would you go for help?
		6.3. What is the next thing you would do, third thing, etc.?
		6.4. Who else can you get help from?
		6.5. For you to feel satisfied what would be the best resolution for you of the theft case? (what would they see as a good resolution)
		6.6. Should the thief be punished if he is found?
		7.1 If someone in your village or ward humiliate you what is the first thing you will do?
		7.2. Where would you go for help?
		7.3. What is the next thing you would do, third thing, etc.?
		7.4. Who else can you get help from?
		7.5. For you to feel satisfied what would be the best resolution for you of the theft case? (what would they see as a good resolution)
		7.6. Should the thief be punished if he is found?
		6, Who lead the problem solving in this ward/village?
		7, Do they work with others in resolving problems? (if yes: WHOM?)
	How are dispute resolution forums/meeting organized? (Participant observations)	(You have to ask this question for the different justice providers that they mention, as they may be formed and organized very differently) 1, By whom, it is formed? (age, education, occupation, gender) 2, Who usually involve in resolving the case/problems? 3, Do they work together with anyone else? 4, Is there a specific time when you can bring your problem to be solved?

		5, Do you have to pay to have your problems resolved (or give donations)?
	How the forum/group operate (Norms and procedures of dispute resolutions) Do they use state law/ religious laws/traditional or customary laws/ or any principles they use in resolving problems/disputes/case?	1, When the case is resolved, how is it done? Are you allowed to speak your version of the case? Do you need to prepare anything (bring anything- witness or evidence?) 2, Do you need to pay anything (for dispute resolution services)? 3, When you have your case solved at (administrator, village elders etc.), what kind of action can you expect? (here you need to ask about the different providers one by one) 4, What rules do they use when they resolve a case? 5. If you are not happy with the resolution of a problem, what can you do?
RQ 1.3 How do people perceive justice and security	Justice perceptions	1, How do you understand (the concept) justice? 2, Can you describe the situation where the case is solved in a justice way/fair way? Here in your neighbourhood would everyone get the same treatment in resolution of cases?
	Security perceptions?	1, Do you feel safe living in this area? If yes, could you describe what do you mean by feeling safe/unsafe? 2, (If they feel safe) Why do you think that it is safe in this village/ward? 3, (If they do not feel safe) Why do you think that it is not safe in this village/ward? 4, If we compare with the last three years, is there any difference (in the security situation)? 5, Can you describe how the situation changed or is changing?

		6, Who are you afraid of? What are you afraid of? 7, How do you describe the safety of women? 8, In what situation do you think is not safe for women? 9, Can you describe the safety situation of children in this neighbourhood? In what situation do you think is not safe for children? 10, How do you prepare for security of your home?
	Security Strategies	1, What are security measures in your community? 2, Do you think that people in your community have increased security measures in these days? If so why? 3, Who do you think is helping with security? Who helps you to feel safe in this community? 4, How do these people try to make the community safe? 5, Do you need to contribute to these security measures? (pooling money/donation/involving in patrolling etc.) 6, What are their regular activities (of the security actors)? What do they do when they catch/see/observe someone/sth abnormal or trouble making? 7, If you don't feel safe, what measures do you think are needed to do or prepare? 8, Do you ever see anyone do security patrols in this ward/village? If yes, who are they and how do they do it? 9, Have you ever yourself participated in security work in your community? If yes, please describe how.

Appendix B: Demographics of informants

Demographics of the respondents of the quantitative survey, encompassing 602 responses.

Table B.1 Respondents' age and gender

Age	Gender		Total
	Male	Female	
<21	7	7	**15**
21-30	40	47	**87**
31-40	63	69	**131**
41-50	63	81	**144**
51-60	65	72	**137**
61-70	56	28	**84**
>70	3	1	**4**
Total	**297**	**305**	**602**

Table B.2 Respondents' ethnicity and religion

Ethnicity	Religion				Total
	Buddhist	Christian	Hindu	Muslim	
Mon	105	0	0	0	**105**
Karen	116	151	0	0	**267**
Bamar	172	2	0	2	**176**
Mixed Ethnicity	7	2	0	2	**11**
Asian	7	0	4	23	**34**
Other	6	2	0	1	**9**
Total	**413**	**157**	**4**	**28**	**602**

Table 2 shows, that a majority of the respondents are Buddhist, hereunder everyone reporting as Mon and most Bamar. However, a slight majority of the Karen respondents report as Christian.

The respondents were asked to answer questions regarding their educational background. The categories in the survey were; none, grade 1-11 in government school, grade 1-11 in ethnic school, college, vocational training, undergraduate diploma, post-graduate diploma, master's degree, PhD, or other. The categories have subsequently been recoded into five categories; no education, grade 1-5 (government and ethnic), grade 6-11 (government and ethnic), high level of education (undergraduate diploma, post-graduate diploma, master's degree, PhD), and vocational training and other. The results are visualised in table 3.

Table B.3 Respondents' educational levels

Education	Gender		Total
	Male	Female	
No Education	33	41	**74**
Grade 1-5	86	108	**194**
Grade 6-11	138	128	**266**
High level of education	24	26	**50**
Vocational Training and other	16	2	**18**
Total	**297**	**305**	**602**

Table B.4 Literacy in Myanmar language

Karen State			**Write**		**Total**
			Yes	No	
Read	EAO-controlled	Yes	43	3	**46**
		No	0	35	**35**
	Government controlled	Yes	153	6	**159**
		No	0	41	**41**
Total			**196**	**85**	**281**

Table 4 shows, that in Karen State, there is a difference in literacy in Myanmar language between EAO and government controlled areas. In the EAO-controlled areas 35 out of 81 or 43% does not read or write in Myanmar language. In the government controlled areas only 41 out of 200, or 20,5% does not read and write. More than twice as many in the EAO-controlled areas are illiterate in Myanmar language.
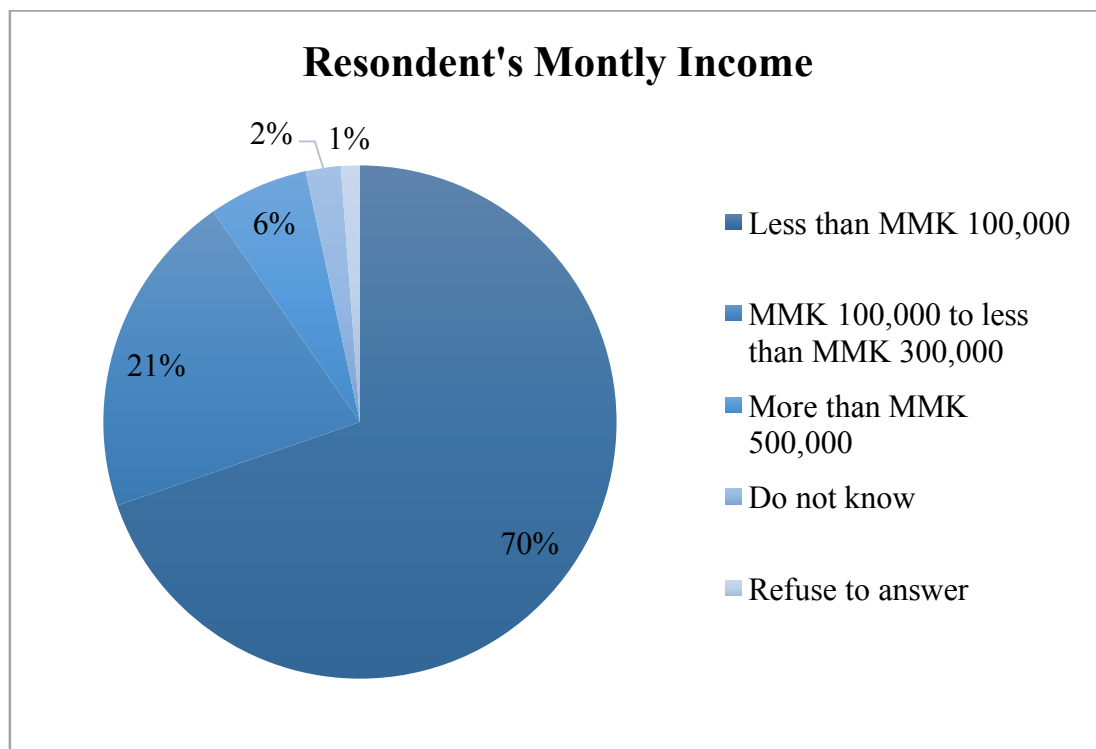
Resondent's Montly Income

- Less than MMK 100,000
- MMK 100,000 to less than MMK 300,000
- More than MMK 500,000
- Do not know
- Refuse to answer

2% 1%
6%
21%
70%

Figure B.1 Respondents approximate monthly income for entire household.

As visualised in figure 5.1, 70% of the respondents earn less than MMK[9]. 100,000 per month for the entire household and 6% earn more than MMK. 500,000 per month.

The demographic data serves to provide an overview of the main respondents in both the survey and the qualitative interviews.

---

[9] Myanmar Kyat, (MMK). 1$=1367 MMK. Which makes 100,000 kyat=73,2$. (XE Currency Converter, 2017, 25/05/17 at 12.20)